

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

FAHEEM L. BOWERS,

Plaintiff,

v.

CASE NO. 21-3224-SAC

SAMUEL ROGERS, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff proceeds *pro se* and *in forma pauperis* in this civil rights case. At the time of filing, Plaintiff was detained at CoreCivic Leavenworth Detention Center in Leavenworth, Kansas (“CoreCivic”). Plaintiff has since been released from custody.

On November 5, 2021, the Court entered a Memorandum and Order and Order to Show Cause (Doc. 6) (“MOSC II”), granting Plaintiff until December 3, 2021, in which to show good cause why his claims against the CoreCivic defendants, his claims under the FTCA, and his official capacity claims, should not be dismissed for the reasons stated in the MOSC II. On December 6, 2021, the Court entered a Memorandum and Order (Doc. 14) dismissing these claims. The only remaining claim in this case is Plaintiff’s individual capacity claim against Mr. Burgss, the Onsite Marshal.

The MOSC II also directed the officials responsible for the operation of CoreCivic, in cooperation with the USMS, to submit a *Martinez* Report regarding Plaintiff’s individual capacity claims against the federal officials. The MOSC II provides that the Report shall be limited to the issue of whether or not the USMS, through an onsite marshal or otherwise, retains control over the day-to-day operations and/or has policy making authority at CoreCivic.

The *Martinez* Report has now been filed, and Plaintiff has been provided with a copy of the Report and the sealed exhibits. (Docs. 18, 22, 26.) Based on the Report, the Court entered a Memorandum and Order (Doc. 27) finding that Plaintiff's remaining claims were subject to dismissal. The Report shows that no USMS agent or employee controlled the day-to-day operations at CoreCivic or had the ability to control the development or implementation of the internal policies and procedures at CoreCivic. The Court granted Plaintiff an opportunity to respond to the Report and to show good cause why his remaining claims should not be dismissed. Plaintiff has failed to respond by the Court's deadline and has failed to show good cause why his remaining claims should not be dismissed.

IT IS THEREFORE ORDERED THAT this matter is **dismissed** for failure to state a claim.

IT IS SO ORDERED.

Dated May 16, 2022, in Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
SENIOR U. S. DISTRICT JUDGE