

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RICARDO MAGANA VIVEROS,

Plaintiff,

vs.

Case No. 21-3228-SAC

SUMNER COUNTY DETENTION CENTER,
LT. ANDREW YODER, OFFICER STEPHAN
GARCIA, DEPUTY S. NASH, and NURSE
WHITNEY,

Defendants.

MEMORANDUM AND ORDER

On September 29, 2021, the court filed an order requiring the plaintiff Ricardo Magana Viveros (“Viveros”) to show good cause, in writing, to this court why this action should not be dismissed due to the deficiencies in the plaintiff’s complaint as there discussed. ECF# 4. Incarcerated at the Sumner County Detention Facility in Wellington, Kansas, Viveros’s *pro se* civil rights action under 42 U.S.C. § 1983 alleged violations of his constitutional rights and “HIPAA” (Health Insurance Portability and Accountability Act) from the wrongful administration of a hepatitis test and from the defendants being present during his subsequent medical care and treatment. ECF# 1. The court gave Viveros to October 20, 2021, to file either a memorandum showing why his complaint should not be dismissed for failure to state a claim or an amended complaint curing all the pleading deficiencies discussed in the court’s order. ECF# 4. The court’s order also cautioned that the plaintiff’s failure to respond within this prescribed time would result in dismissal of the action without further notice.

Viveros has not filed any response to the show cause order, and the court ordered deadline for filing the same has passed. The court adopts its findings and conclusions set out in its prior order as the reasons for now ruling that the plaintiff's complaint fails to state a claim for relief.

IT IS THEREFORE ORDERED that the plaintiff's complaint fails to state a claim for relief, and the case is dismissed with prejudice.

Dated this 25th day of October, 2021, Topeka, Kansas.

s/Sam A. Crow
Sam A. Crow, U.S. District Senior Judge