

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

TONY ALLEN COOLEY,

Plaintiff,

v.

CASE NO. 22-3149-SAC

**DOUGLAS COUNTY SHERIFF,
et al.,**

Defendants.

MEMORANDUM AND ORDER TO SHOW CAUSE

Plaintiff Tony Allen Cooley, an inmate now housed at Osawatomie State Hospital (OSH) brings this pro se civil rights action pursuant to 42 U.S.C. § 1983 based on events that occurred while he was incarcerated in the Douglas County Jail (DCJ). He filed his initial complaint on July 20, 2022. (Doc. 1.) The Court screened the complaint, as required by 28 U.S.C. § 1915A(a) and (b)(1)–(2), and issued a Memorandum and Order to Show Cause (MOSC) directing Plaintiff to either show cause why this action should not be dismissed due to deficiencies in the complaint or file an amended complaint. (Doc. 7.) Plaintiff filed a complete amended complaint on August 11, 2022. (Doc. 10.)

The Court screened the amended complaint and, in a second MOSC issued and mailed to Plaintiff at the DCJ on August 15, 2022 (Doc. 11), directed Plaintiff to show cause why this action should not be dismissed due to deficiencies in the amended complaint. In the alternative, the Court granted Plaintiff the opportunity to file a complete and proper second amended complaint curing these deficiencies and it advised Plaintiff that if he failed to respond by September 15, 2022, this matter might be dismissed. Plaintiff filed a change of address notice dated August 19, 2022, that informed the Court he had been transferred to OSH. Although Plaintiff has also filed two additional motions, he has neither responded to the second MOSC nor filed a second amended complaint.

The Court notes that in a separate action, an order mailed to Plaintiff on August 16, 2022 was returned undeliverable; it appears that the DCJ received the order after Plaintiff transferred to OSH. *See Cooley v. Douglas County Sheriff's Department, et al.*, Case No. 22-cv-3169-JWL-JPO. Since the returned order in that action was mailed only one day after the second MOSC in this case, the Court is concerned that Plaintiff may not have received the second MOSC. Thus, in an abundance of caution, the Court will direct the clerk to resend to Plaintiff at his current address the second MOSC (Doc. 11) and the Court will extend the time to respond to the second MOSC and/or file a second amended complaint to and including October 24, 2022. If Plaintiff fails to timely respond or file a second amended complaint, this matter will be dismissed without further prior notice to Plaintiff.

IT IS THEREFORE ORDERED THAT Plaintiff is granted to and including **October 24, 2022**, in which to respond to the Court's second Memorandum and Order to Show Cause (Doc. 11) by filing a second amended complaint or by showing good cause, in writing, why the amended complaint should not be dismissed. The clerk is directed to send Plaintiff a copy of the Memorandum and Order to Show Cause (Doc. 11) and the appropriate forms.

IT IS SO ORDERED.

Dated September 22, 2022, in Topeka, Kansas.

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