

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

TONY ALLEN COOLEY,

Plaintiff,

v.

**DOUGLAS COUNTY SHERIFF'S
DEPARTMENT, ET AL.,**

Defendants

Case No. 22-3165-JWL-JPO

MEMORANDUM & ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983. On August 10, 2022, the court reviewed the complaint, directed plaintiff to submit page 3 of the complaint on or before August 19, 2022, and advised him that if he failed to do so, the court would screen the incomplete complaint. Plaintiff has not responded to the order.

A federal court must conduct a preliminary review of any case in which a prisoner seeks relief against a governmental entity or an officer or employee of such an entity. *See* 28 U.S.C. §1915A(a). Following this review, the court must dismiss any portion of the complaint that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary damages from a defendant who is immune from that relief. *See* 28 U.S.C. § 1915A(b).

“To state a claim for relief under Section 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States and must show that the alleged deprivation was committed by a person acting under color of state law.” *West v. Atkins*, 487 U.S. 42, 48 (1988)(citations omitted).

To avoid a dismissal for failure to state a claim, a complaint must set out factual allegations that “raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

The complaint contains a single count which states that Diamond Medical fills the plaintiff’s prescriptions and hands out medication each day at 5 a.m. and 6 p.m. (Doc. 1, p. 3.)

Because this statement does not allege the violation of a federal right or explain how plaintiff was injured, the complaint fails to state a claim for relief.

THE COURT THEREFORE ORDERS that the complaint is dismissed for failure to state a claim for relief.

IT IS SO ORDERED.

Dated: August 25, 2022

/s/ John W. Lungstrum
JOHN W. LUNGSTRUM
UNITED STATES DISTRICT JUDGE