IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOHN TIMOTHY GROVER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 25-1229-EFM-ADM
	)	
JACOB WELSH,	)	
	)	
Defendant.	)	

REPORT AND RECOMMENDATION

This is the second lawsuit that plaintiff John Timothy Grover ("Grover") has filed in this court against defendant Jacob Welsh ("Welsh"). Both cases arise from Grover's allegations that he is in an ongoing custody battle with Rachel DeCou ("DeCou") over their son and that Welsh—who is the Chase County Sheriff and a family friend of DeCou—helped DeCou obtain a protection order against Grover by giving false statements to the court. After the court dismissed Grover's first complaint for failure to state a claim, Grover filed this second case. Grover's second complaint appears to be an attempt to fix the flaws in his prior complaint, but the gist of his case remains the same and his allegations still do not state any actionable claim. Accordingly, the court again recommends that the district judge dismiss this case pursuant to § 1915(e)(2)(B)(ii) because Grover's current complaint still fails to state a claim on which relief may be granted.

I. THE COURT RECOMMENDS THAT THE DISTRICT JUDGE DISMISS GROVER'S CLAIMS.

When a plaintiff proceeds IFP, the court may screen the complaint under § 1915(e)(2)(B). The court may dismiss the complaint if it determines that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). The purpose of § 1915(e)(2) is to "discourage the filing of, and waste of judicial and private resources upon,

baseless lawsuits that paying litigants generally do not initiate." *Buchheit v. Green*, 705 F.3d 1157, 1161 (10th Cir. 2012).

A. LEGAL STANDARD

Dismissal under § 1915(e)(2)(B)(ii) is governed by the same standard that applies to motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). *Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007). To withstand dismissal, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements," are not sufficient to state a claim for relief. *Id.* Dismissal of a pro se plaintiff's complaint for failure to state a claim is "proper only where it is obvious that the plaintiff cannot prevail on the facts . . . alleged and it would be futile to give [plaintiff] an opportunity to amend." *Curley v. Perry*, 246 F.3d 1278, 1281 (10th Cir. 2001). The court must "accept the facts alleged in the complaint as true and view them in the light most favorable to the plaintiff." *Mayfield v. Bethards*, 826 F.3d 1252, 1255 (10th Cir. 2016).

Because Grover is proceeding pro se, the court construes his pleadings liberally and holds them "to a less stringent standard than those drafted by attorneys." *Johnson v. Johnson*, 466 F.3d 1213, 1214 (10th Cir. 2006). In doing so, the court does not "assume the role of advocate for the pro se litigant." *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). The plaintiff still bears "the burden of alleging sufficient facts on which a recognized legal claim could be based." *Id.*

B. ANALYSIS

As mentioned above, the court dismissed Grover's first complaint (Case No. 25-1131-EFM-ADM) for failure to state a claim. He then filed a second complaint on October 20, 2025. His current complaint appears to be an attempt to fix the fatal flaws in his first complaint, although the overall gist of the case is similar. According to Grover, in late December 2024, DeCou took their son from his home in Ohio and moved him to Kansas, where DeCou's father and brother live. In February 2025, Grover filed for custody because of DeCou's alleged physical, mental, and emotional abuse and neglect of their son. Grover contends that DeCou "retaliated by filing for a protection order" against Grover in April 2025 with the help of Welsh, who is the Chase County Sheriff and also a family friend. Grover alleges that DeCou gave false statements (e.g., statements indicating he can read her text messages on her phone and that he could see her location) in order to obtain the protection order. (ECF 1-1, at 1.) Because of the protection order, Grover has not had communication with DeCou or his son since DeCou took their son from Ohio to Kansas. (*Id.* at 2.)

Grover's complaint purports to target Welsh's actions in helping DeCou obtain the protection order. The complaint alleges that Welsh is liable for "police corruption, police misconduct violating [Grover's] civil and constitutional rights, and conspiracy to commit felony perjury." (ECF 1, at 3.) Broadly construed, Grover purports to assert claims against Welsh under 42 U.S.C. § 1983. To state a § 1983 claim, a plaintiff must allege (1) a deprivation of a right, privilege, or immunity secured by the U.S. Constitution or laws of the United States (2) that was caused by a person while acting under color of state law. *See Flagg Bros. v. Brooks*, 436 U.S. 149, 155-57 (1978). Here, Grover alleges violations of the First, Fourth, Fifth, and Fourteenth

Amendment by Welsh acting under color of state law[1] and seeks $5,000,000 in damages for "mental distress and loss of income due to mental distress." (ECF 1, at 3-4.) Grover claims that he has tried to contact, by email, the Kansas Governor, the Kansas Attorney General's Office, the Kansas Bureau of Investigation, the Kansas Highway Patrol, and the Kansas Commission on Peace Officers' Standards and Training, but all have "refused to act on the reports" he filed. (*Id.* at 5.)

Grover requests the following remedies: (1) dismissal of the protection order; (2) charges filed against Welsh and DeCou for felony perjury; and (3) charges filed against Welsh for official misconduct ("failing to perform his duties" as sheriff), obstruction of justice ("attempting to impede a legal investigation into Felony Perjury by Rachel Decou" and "influenc[ing] the court" into granting the protection order), conspiracy to commit perjury ("by providing false statement on an Sworn Court Order"), tampering with a witness (by instructing Decou to lie under oath), dereliction of duty, and abuse of discretion (insofar as "Welsh made improper and or bias decisions while exercising his authority"). (ECF 1-1, at 4.)

For the following reasons, all of Grover's § 1983 claims are deficient.

1. First Amendment Violation

The complaint does not allege any facts supporting a violation of Grover's five fundamental freedoms under the First Amendment—namely, religion (no establishment, free exercise), speech, press, peaceful assembly, and the right to petition the government for

[1] Grover's complaint cites KAN. STAT. ANN. §§ 75-7503 and 19-817 as grounds for this court's jurisdiction, but these statutes do not apply. A person who violates the Kansas False Claims Act, KAN. STAT. ANN. § 75-7503, "shall be liable to the state or any affected political subdivision thereof." Only the Kansas Attorney General may bring a civil action for a violation of the False Claims Act. *See* § 75-7504(a). Likewise, KAN. STAT. ANN. § 19-817 does not apply because it merely allows for lawsuits against a sheriff or other law enforcement personnel to continue against their executors or administrators after the officer has passed away or left office. KAN. STAT. ANN. § 19-817 ("Any action for default or misconduct of any sheriff, his undersheriff, jailer, or any of his deputies, may be prosecuted against the executors or administrators of such sheriff.").

grievances. Grover's complaint therefore fails to state a claim for a First Amendment violation because he does not state which such rights he contends Welsh violated, nor can the court discern any viable theory in this regard.

2. Fourth Amendment Violation

Grover alleges that Welsh's actions violated his Fourth Amendment right to freedom from "unreasonable searches and seizures" because the protection order DeCou obtained, which prohibits Grover from being near or communicating with his son, is an unreasonable seizure that imposes a restriction on his "freedom or [sic] movement and association." (ECF 1-1, at 2.) Grover alleges that the seizure is unreasonable because the protection order is based on "false information" and lacks "the necessary legitimate justification." (*Id.*) Grover alleges he went to Welsh to report DeCou's felony perjury during the process of obtaining the protection order against Grover, but Welsh refused to investigate the felony perjury allegations. (*Id*. at 2-3.) Grover's complaint alleges that Welsh's refusal to investigate DeCou's perjury "allows the purportedly unlawful protection order, which restricts [his] Liberty, to continue unabated" and, by Welsh not investigating, "the Sherriff's office allegedly hinders a process that could potentially reveal the Felony Perjury and lead to the Protection's order termination. Thereby ending the 4th amendment seizure." (*Id*. at 3.)

Grover has not plausibly alleged a Fourth Amendment violation against Welsh because the complaint does not allege any action by Welsh that could constitute an unreasonable search or seizure. The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *Torres v. Madrid*, 592 U.S. 306, 311 (2021). As applied to a person, "[t]he word 'seizure' readily bears the meaning of a laying on of hands or application of physical force to restrain movement, even when it is ultimately unsuccessful." *Id*. at 312. In other words, "[a] seizure requires the use of force with

intent to restrain." *Id*. at 317. Here, Grover's complaint does not allege that Welsh laid hands or used physical force on Grover.

Grover also does not plausibly allege an unreasonable seizure of his property by Welsh. The complaint seems to allege that the protection order itself is an unreasonable seizure because it places "restrictions on [Grover's] freedom or [sic] movement and association" to the extent that it does not allow him "to see and talk with [his] son, in the way [he] would be without the false statements within the Protection order that was issued." (ECF 1-1, at 2.) But a "seizure" of property occurs when there is some meaningful interference with an individual's possessory interests in that property. *Soldal v. Cook County*, 506 U.S. 56, 61 (1992). Here, Grover's child was taken from him pursuant to a court's valid protection order. The protection order that prevents Grover's contact with his child does not qualify as an "seizure" of Grover's property, nor does Welsh's discretionary decision not to pursue an investigation of DeCou for felony perjury qualify as a "seizure" under the Fourth Amendment. Accordingly, Grover's complaint does not state a plausible claim for a Fourth Amendment violation.

3. Fifth Amendment Violation

Grover also alleges that Welsh's actions violate his due process rights under the Fifth Amendment. U.S. CONST. amend. V, § 1 (stating that no person shall "be deprived of life, liberty, or property, without due process of law"). Specifically, Grover alleges that Welsh's refusal to investigate DeCou's felony perjury, "especially when it results in a False Protection Order and impacts [his] parental rights, constitutes a deprivation of 'Liberty' and potentially 'Property' without Due Process of Law." (ECF 1-1, at 5.) However, the Fifth Amendment's Due Process Clause applies only to action by the federal government, while the Fourteenth Amendment's Due Process Clause applies to actions by state governments. *Koessel v. Sublette Cnty. Sheriff's Dep't*, 717 F.3d 736, 748 n.2 (10th Cir. 2013). Grover's complaint alleges claims against a state official

(Welsh), not a federal official. Grover's complaint therefore fails to state a Fifth Amendment due process claim.

4. Fourteenth Amendment Violation

The Fourteenth Amendment guarantees that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV, § 1. Grover alleges that Welsh's actions violate the Due Process Clause and the Equal Protection Clause. (ECF 1-1, at 8-14.)

As to Grover's claim that Welsh violated the Due Process Clause, Grover alleges that a parent's "right to the care, custody, and management of their children is a fundamental liberty interest" that is protected by the Due Process Clause of the Fourteenth Amendment and that the protection order obtained by DeCou "directly infringes upon this fundamental parental liberty" by imposing "restrictions that limit [his] ability to see, contact, or parent [his] son" and by restricting his "general freedom of movement and association." (ECF 1-1, at 8-9.) Grover also alleges that he has been deprived of his property interest in the child custody proceedings because the protection order issued in Kansas, that DeCou allegedly obtained via felony perjury and false statements, can be used as evidence in the ongoing child custody proceedings in Ohio, thereby "taint[ing] the evidence presented" in that proceeding and "potentially prejudicing the outcome" against him and "impacting [his] legal standing regarding his son." (ECF 1-1, at 9.)

But the Fourteenth Amendment does not protect against all deprivations of liberty. It protects only against deprivations of liberty accomplished "without due process of law." *Baker v. McCollan*, 443 U.S. 137, 145 (1979). Here, Grover's allegations do not state an actionable due process claim. The essence of due process is notice and the opportunity to be heard before any

liberty or property interest is taken. *Matthews v. Eldridge*, 424 U.S. 319, 332-34 (1976). As such, court proceedings that provide notice and an opportunity to be heard generally provide due process. *See, e.g., Machalowicz v. Village of Bedford Park*, 528 F.3d 530, 535-36 (7th Cir. 2008) (finding state court proceedings provided due process); *Matter of Caranchini*, 160 F.3d 420, 424 (8th Cir. 1998) (finding no due process violation where there was full opportunity to litigate in court). Grover does not allege facts to suggest that he was deprived of notice and opportunity to be heard during the state court proceedings that resulted in the issuance of the protection order. Rather, Grover appears to allege that Welsh's refusal to investigate DeCou's felony perjury, which led to the protection order in state court, "could be argued as a deprivation of property without Due Process." (*Id*. at 10.) The complaint does not adequately explain Grover's due process claim. Although the court liberally construes pro se pleadings, it "will not supply additional factual allegations to round out a plaintiff's complaint or construct a legal theory on plaintiff's behalf." *Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997). Accordingly, Grover has not plausibly alleged a due process claim against Welsh.

Turning next to the Equal Protection Clause, this clause "is essentially a direction that all persons similarly situated should be treated alike." *Requena v. Roberts*, 893 F.3d 1195, 1210 (10th Cir. 2018) (quoting *City of Cleburne v. Cleburne Living Ctr*., 473 U.S. 432, 439 (1985)). To state a § 1983 equal protection claim, a plaintiff must allege that the state actor defendant treated her differently than similarly situated individuals, i.e. individuals who "are alike 'in all relevant respects.'" *Id*. (quoting *Coal. for Equal Rights, Inc. v. Ritter*, 517 F.3d 1195, 1199 (10th Cir. 2008); *see also Ebonie S. ex rel. Mary S. v. Pueblo School Dist. 60*, 819 F. Supp. 2d 1179, 1190 (D. Colo 2011) ("To be 'similarly situated' the individuals 'must be prima facie identical in all relevant respects or directly comparable in all material respects; although this is not a precise

formula, it is nonetheless clear that similarly situated individuals must be very similar indeed.'" (citing *U.S. v. Moore*, 543 F.3d 891 (7th Cir. 2008))).

Here, Grover alleges that Welsh, acting under color of state law, refused to investigate and file charges against Decou for felony perjury "while similar complaints from other American Citizens would typically lead to an investigation, and possibly criminal charges being filed." (ECF 1-1, at 10.) But this allegation is too conclusory to show that these other complaining individuals are similarly situated. It is insufficient to simply allege that other, unidentified complaints are "similar" to Grover's—the allegation must be supported by specific facts plausibly suggesting that complainants are similar in all material respects and that, unlike here, Welsh investigated their complaints, which led to criminal charges. *Kansas Penn Gaming, LLC v. Collins*, 656 F.3d 1210, 1220 (10th Cir. 2011). Because Grover does not plausibly allege any facts to support that Welsh treated him differently than similarly situated individuals, his complaint also fails to state a Fourteenth Amendment equal protection claim against Welsh.

5. § 1983 Conspiracy Claim

For a § 1983 conspiracy claim, "a plaintiff must show 'at least a combination of two or more persons acting in concert and an allegation of a meeting of the minds, an agreement among the defendants, or a general conspiratorial objective.'" *Frasier v. Evans*, 992 F.3d 1003, 1024 (10th Cir. 2021) (quoting *Brooks v. Gaenzle*, 614 F.3d 1213, 1227-28 (10th Cir. 2010)). Furthermore, "a plaintiff must allege specific facts showing an agreement and concerted action amongst the defendants." *Id*. (quoting *Tonkovich v. Kan. Bd. of Regents*, 159 F.3d 504, 533 (10th Cir. 1998); *see also Salehpoor v. Shahinpoor*, 358 F.3d 782, 789 (10th Cir. 2004) (a plaintiff must allege by direct or circumstantial evidence that defendants had meeting of minds or agreement). Because the typical nature of a conspiracy often makes detailed pleadings difficult, *Brever v. Rockwell Int'l Corp*., 40 F.3d 1119, 1128 (10th Cir. 1994), courts are to read such claims liberally.

Dismissal remains appropriate, however, if the claims are based on nothing more than mere conclusory allegations lacking any supporting factual averments to show agreement and concerted action. *Tonkovich*, 159 F.3d at 533 ("Conclusory allegations of conspiracy are insufficient to state a valid § 1983 claim.").

Here, Grover does not plausibly allege that Welsh participated in a § 1983 conspiracy. The complaint states that Welsh "coached" and/or "instructed Rachel DeCou on what False Statements to make" to the judge in order to obtain the protection order against Grover. (ECF 1-1, at 12-13.) The complaint contains no specific facts showing that Welsh and DeCou had an agreement or took concerted action against Grover. Rather, the complaint contains only conclusory conspiracy allegations, based on Grover's assumptions that Welsh and DeCou were conspiring against him because Welsh is a family friend. Therefore, his § 1983 conspiracy claim should be dismissed.

6. Purported Criminal Actions

Grover's complaint also purports to assert claims against Welsh for violations of KAN. STAT. ANN. §§ 21-5906 (criminal disclosure of a warrant), 21-5904 (interference with law enforcement), 21-5905 (interference with the judicial process), and 21-5903 (perjury)—all of which are Kansas criminal statutes. (ECF 1, at 3.) "Generally, criminal statutes, state or federal, do not create a private cause of action. Instead, they are enacted to protect the public at large and provide a penal remedy for their violation." *Mondonedo v. Henderson*, 2012 WL 3245440, at *4 (D. Kan. Aug. 9, 2012) (citing *Kaw Nation v. Springer*, 341 F.3d 1186, 1186 (10th Cir. 2003)); *see also Cort v. Ash*, 422 U.S. 66, 80 (1975) (stating that a private right of action may not be inferred from a criminal prohibition). Therefore, to the extent Grover seeks to allege violations of criminal laws and/or seeks the initiation of criminal charges against Welsh, the complaint fails to state a claim upon which relief may be granted. As a private citizen, Grover has no authority to prosecute criminal charges. *See Noel v. Elliot*, No. 12-3116-SAC, 2012 WL 2120761, at *1 (D.

Kan. June 12, 2012) (citing *Andrews v. Heaton*, 483 F.3d 1070, 1076 (10th Cir. 2007) (criminal statutes that do not provide a private right of action are not enforceable through a civil action), and *Mamer v. Collie Club of America, Inc*., 229 F.3d 1164, at *2 (Table) (10th Cir. 2000) ("private citizens cannot prosecute criminal actions"). Therefore, these purported claims should be dismissed.

C. CONCLUSION

For the reasons explained above, the court recommends that the district judge dismiss this case pursuant to § 1915(e)(2)(B)(ii) because Grover's complaint does not state a claim on which relief may be granted.

* * * * *

Pursuant to 28 U.S.C. § 636(b)(1), FED. R. CIV. P. 72(b)(2), and D. KAN. RULE 72.1.4(b), plaintiff may file written objections to this report and recommendation within fourteen days after being served with a copy. If plaintiff fails to file objections within the fourteen-day time period, no appellate review of the factual and legal determinations in this report and recommendation will be allowed by any court. *See In re Key Energy Res. Inc.*, 230 F.3d 1197, 1199-1200 (10th Cir. 2000).

IT IS THEREFORE RECOMMENDED that Grover's complaint be dismissed.

IT IS FURTHER ORDERED that the clerk's office mail a copy of this Report and Recommendation to Grover via regular mail and certified mail, return receipt requested.

IT IS SO ORDERED.

Dated July 31, 2026, at Kansas City, Kansas.

s/ Angel D. Mitchell
Angel D. Mitchell
U.S. Magistrate Judge