UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

Karen M. Fusilier, Plaintiff, v. Wichita, Kansas, City of, Police Department, et al., Defendants.	Case No. 25-cv-1292-AJP-GEB

NOTICE AND REPORT AND RECOMMENDATION OF DISMISSAL

This matter is before the Court on Karen M. Fusilier's Motion to Proceed *in forma pauperis* ("IFP Motion") (ECF No. 3, *sealed*). The Court simultaneously granted Plaintiff's IFP Motion and directed the Clerk to stay service of process pending the District Judge's review of this Report and Recommendation, which, for the reasons stated below, **recommends dismissal** of Plaintiff's case under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon which relief can be granted.

I. Notice

Within fourteen (14) days after a party is served with a copy of this Report and Recommendation, any party may, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2), file written objections to this Report and Recommendation. A party must file any objections within the fourteen-day period if the party wants to have appellate review of the proposed findings of fact, conclusions of law, or recommended disposition.

II. Recommendation of Dismissal

A. Background[1]

On December 22, 2025, Plaintiff commenced this action by utilizing the Court's Civil Complaint form and naming the Wichita Police Department and 26 individuals as Defendants.[2] While Plaintiff states her claims arise under 42 U.S.C. § 1983 for alleged violations of the Fourth, Fifth, and Fourteenth Amendments,[3] her lack of a factual narrative makes it extremely difficult for the Court to tell who most of these Defendants are and how each are allegedly involved. Plaintiff does list "WPD" by some Defendants' names and what may be badge numbers by other names.[4] Thus, as far as the Court can discern, the individual Defendants appear to be law enforcement officers of some sort, including Jeff Easter, who the Court recognizes as Sherriff of Sedgwick County, Kansas.[5]

When asked by the form Complaint to provide a statement of her claim and describe what each defendant did that violated her rights, including dates and places of such conduct, Plaintiff only states: "The Wichita Kansas have violated my civil rights under Fourth Amendment[,] Fith [sic] Amendment[,] Fourteenth Amendment[,] Attempted Murder WPD 4-2022."[6] For relief, Plaintiff seeks actual and punitive damages in the

[1] The information in this section should not be construed as judicial findings or factual determinations.

[2] ECF No. 1 at 1-3

[3] *Id.* at 4.

[4] *Id.* at 2-3.

[5] *See id*.

[6] *Id.* at 4.

amount of $1,500,000 for "civil rights violations under the color of law," "attempted murder and curroptness [sic]," "Hippa [sic] violations," and "false arrests."[7]

B. Legal Standard for Screening IFP Complaints

When a party, such as Plaintiff, seeks to proceed without the prepayment of fees ("IFP"), 28 U.S.C. § 1915(e)(2)(B) requires the Court to screen that party's complaint. The Court must dismiss the case if it determines that the action (1) is frivolous or malicious, (2) fails to state a claim upon which relief may be granted, or (3) seeks monetary relief from a defendant who is immune from suit.[8] The purpose of § 1915(e)(2)(B) is "the prevention of abusive or capricious litigation."[9]

In determining whether dismissal is appropriate under § 1915(e)(2)(B), IFP complaints are analyzed by the Court under the same sufficiency standard as a Fed. R. Civ. P. 12(b)(6) motion to dismiss for failure to state a claim upon which relief can be granted.[10] To properly state a claim for relief, Fed. R. Civ. P. 8(a) requires every complaint to contain (1) a short and plain statement of the grounds for the Court's jurisdiction; (2) a short and plain statement of the claim showing entitlement to relief; and (3) a demand for the relief sought. The purpose of this is "to give opposing parties fair notice of the basis of the claim against them so that they may respond to the complaint, and to apprise the court of sufficient allegations to allow it to conclude, if the allegations are proved, that the claimant

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[7] *Id.* at 5.

[8] 28 U.S.C. § 1915(e)(2)(B)(i)–(iii).

[9] *Harris v. Campbell*, 804 F. Supp. 153, 155 (D. Kan. 1992) (internal citation omitted) (discussing similar language contained in § 1915(d), prior to the 1996 amendment).

[10] *Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007).

has a legal right to relief."[11] In other words, to state a claim in federal court, "a complaint must explain what each defendant did to [the pro se plaintiff]; when the defendant did it; how the defendant's action harmed [the plaintiff]; and, what specific legal right the plaintiff believes the defendant violated."[12]

But, the court "will not supply additional factual allegations to round out a plaintiff's complaint or construct a legal theory on a plaintiff's behalf."[13] Additionally, a complaint "must allege sufficient facts to state a claim which is plausible—*rather than merely conceivable*—on its face."[14] In conducting this analysis, the Court will accept as true all well-pleaded facts and draw all reasonable inferences from those facts in favor of Plaintiff, but need not afford such a presumption to legal conclusions.[15]

"'Well-pleaded' allegations are those that are facially plausible such that 'the court [can] draw the reasonable inference that the defendant is liable for the misconduct alleged.'"[16] "A conclusory allegation is one in which an inference is asserted without stating underlying facts or including any factual enhancement."[17] Thus, while Rule 12(b)(6) does not require detailed factual allegations, a complaint must state more than

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[11] *Monument Builders of Greater Kansas City, Inc. v. Am. Cemetery Assn. of Kansas*, 891 F.2d 1473, 1480 (10th Cir. 1989) (citation omitted).

[12] *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007).

[13] *Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997) (citation omitted).

[14] *Fisher v. Lynch*, 531 F. Supp. 2d 1253, 1260 (D. Kan. Jan. 22, 2008) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)) (emphasis added).

[15] *Rhone v. Schmanke*, No. 24-4060-EFM, 2025 WL 743976, at *2 (D. Kan. Mar. 7, 2025), *aff'd on other grounds*, No. 25-3062, 2026 WL 83306 (10th Cir. Jan. 12, 2026).

[16] *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

[17] *Rutila v. Buttigieg*, No. 23-6157, 2024 WL 5153942, at *2 (10th Cir. Dec. 18, 2024) (internal quotations marks and citations omitted).

"labels and conclusions" and "[f]actual allegations must be enough to raise a right to relief above the speculative level."[18]

Because Plaintiff proceeds pro se, the court construes her pleadings liberally and holds them "to a less stringent standard than those drafted by attorneys."[19] In doing so, the Court does not "assume the role of advocate for the pro se litigant."[20] A pro se plaintiff still bears "the burden of alleging sufficient facts on which a recognized legal claim could be based."[21] However, a pro se plaintiff's pleading of conclusory statements is insufficient to state a claim because "no special legal training" is required to "recount the facts surrounding [an] alleged injury[.]"[22] If this Court finds, after construing the allegations in Plaintiff's Complaint liberally, that Plaintiff has failed to state a claim upon which relief may be granted, the Court is compelled to recommend dismissal.[23]

C. Discussion

After a careful review of Plaintiff's Complaint and the above legal screening standard, the undersigned **recommends dismissal** of Plaintiff's case for failure to state a claim upon which relief can be granted for two reasons. First, Plaintiff fails to allege any, let alone sufficient, facts to state a plausible claim for relief under 42 U.S.C. § 1983.

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[18] *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007).
[19] *Johnson v. Johnson*, 466 F.3d 1213, 1214 (10th Cir. 2006).
[20] *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).
[21] *Id.*
[22] *Id.*
[23] *Chain v. GBW LLC, No.* 25-1111-TC-BGS, 2025 WL 2260148, at *2 (D. Kan. July 23, 2025), *report and recommendation adopted,* No. 25-CV-01111-TC-BGS, 2025 WL 2322483 (D. Kan. Aug. 12, 2025).

Second, Plaintiff's § 1983 claims appear to be barred by the applicable two-year statute of limitations.

1. Plaintiff's Complaint Contains No Facts

As stated earlier, Plaintiff's Complaint purports to bring claims under 42 U.S.C. § 1983 for alleged violations of her Fourth, Fifth, and Fourteenth Amendment rights. Section 1983 provides a cause of action against "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State[,]" deprives someone of a federal constitutional or statutory right.[24] Thus, to survive screening under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim, plaintiffs must provide sufficient facts showing how each defendant, while acting under color of state law, deprived them of a federally protected right.[25] While detailed factual allegations are not required, complaints must state more than "labels and conclusions" and "[f]actual allegations must be enough to raise a right to relief above the speculative level."[26]

Plaintiff's Complaint falls woefully short of meeting these standards. She provides no facts other than to state, in a conclusory manner, that her constitutional rights were violated. The entirety of the statement of her claims is as follows: "The Wichita Kansas have violated my civil rights under Fourth Amendment[,] Fith [sic] Amendment[,]

[24] 42 U.S.C. § 1983.

[25] *Martinez v. City of Aurora, Colorado,* 174 F.4th 745, 754 (10th Cir. 2026) ("The two elements of a Section 1983 claim are (1) deprivation of a federally protected right by (2) an actor acting under color of state law.") (citing *Schaffer v. Salt Lake City Corp*., 814 F.3d 1151, 1155 (10th Cir. 2016)).

[26] *Bell Atl. Corp.*, 550 U.S. at 545.

Fourteenth Amendment[,] Attempted Murder WPD 4-2022." This statement provides no factual allegations describing any event or conduct. Moreover, the Complaint fails to explain what each named Defendant did, where it occurred, or how their actions allegedly violated Plaintiff's rights, leaving the Court and Defendants to guess at the nature of the dispute.[27] When a complaint fails to include specific allegations tying individual defendants to particular acts, it does not state a claim for relief and is subject to dismissal.[28]

Furthermore, Plaintiff fails to allege any facts establishing that any Defendant is a state actor. "The traditional definition of acting under color of state law requires that the defendant in a § 1983 action have exercised power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law."[29] The state-action requirement thus precludes § 1983 liability for "merely private conduct, no matter how discriminatory or wrongful[.]"[30] "The purpose of this requirement is to assure that constitutional standards are invoked only when it can be said that the State is responsible for the specific conduct of which the plaintiff complains."[31]

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[27] *See Nasious*, 492 F.3d at 1163 ("[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant's action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated. After all, these are, very basically put, the elements that enable the legal system to get weaving—permitting the defendant sufficient notice to begin preparing its defense and the court sufficient clarity to adjudicate the merits.").

[28] *See, e.g., Wenger v. Johnson*, No. 6:24-CV-01100-HLT-BGS, 2024 WL 4625541, at *7 (D. Kan. Oct. 30, 2024) (dismissing claims because there were "no specific allegations referring to the remaining defendants"); *Marshall v. Burnley*, 2017 WL 6406864, at *4 (D. Kan. 2017) (complaint that "refer[ed] generically to 'defendants' without [otherwise] making clear what particular defendants are alleged to have done" failed to state a claim).

[29] *Martinez,* 174 F.4th at 754 (internal quotation marks and citation omitted).

[30] *Id.*

[31] *Id.* at 755.

Even if the Court were to assume the individual Defendants are state law enforcement officers, Plaintiff pleads no facts showing any of them were acting in this capacity, as opposed to private conduct, at time of Plaintiff's alleged claims of constitutional violations.[32] Additionally, Defendant Wichita Police Department is not a proper defendant because, as a subunit of the City of Wichita, it is not considered a governmental entity with the capacity to be sued.[33]

2. Statute of Limitations Issue

As stated above, the entirety of Plaintiff's claim is as follows: The Wichita Kansas have violated my civil rights under Fourth Amendment[,] Fith [sic] Amendment[,] Fourteenth Amendment[,] Attempted Murder WPD 4-2022." The Court is uncertain as to whether "4-2022" is a reference to April of 2022 or the year 2022, but if so, any acts complained of, whatever they may be, are likely barred by the applicable two-year statute of limitations.

Courts look to state law to determine the applicable timeframe to file a § 1983 action because § 1983 does not contain an express statute of limitations.[34] As most § 1983 actions are actions for injury to a personal right, courts "apply the statute of limitations applicable

[32] *See id.* (stating that state action does not exist when state officials act "in the ambit of their personal pursuits[.]").

[33] *See Schroeder v. Wichita Police Dep't*, No. 20-1216-DDC-GEB, 2021 WL 678136, at *5-6 (D. Kan. Feb. 22, 2021); *Lipsey v. Wichita Police Dep't*, No. 23-1012-EFM-GEB, 2023 WL 2951560, at *4 (D. Kan. Apr. 14, 2023), *report and recommendation adopted*, No. 23-1012-EFM, 2023 WL 11872624 (D. Kan. May 19, 2023).

[34] *McGuire v. Allen*, No. 24-2047-EFM-GEB, 2025 WL 2996777, at *3 (D. Kan. Oct. 24, 2025), reconsideration denied, No. 24-2047-EFM-GEB, 2026 WL 503253 (D. Kan. Feb. 24, 2026) (internal citations omitted).

for personal injury actions in the state where the claim accrued."[35] In Kansas, the statute of limitations for an action for "injury to the rights of another" is two years.[36] Here, Plaintiff filed her Complaint on December 22, 2025, making any alleged claims arising in 2022 barred by the statute of limitations.

Accordingly, **IT IS THEREFORE RECOMMENDED** Plaintiff's case be **dismissed** in its entirety pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon which relief can be granted.

IT IS SO ORDERED.

Dated: August 19, 2026, at Wichita, Kansas.

s/Gwynne E. Birzer
GWYNNE E. BIRZER
United States Magistrate Judge

[35] *Id.* (quoting *Keith v. Koerner*, 843 F.3d 833, 850 (10th Cir. 2016)).

[36] K.S.A. 60-513(a)(4); *see also Keith*, 843 F.3d at 850–51 (quoting *Cameron v. Stotts*, 1994 WL 697385, at *1 (10th Cir. 1994)) ("The two-year statute of limitations for injuries to the rights of others . . . applies to civil rights actions brought pursuant to section 1983.").