UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JEREMY K. VALADEZ, Plaintiff, v. WICHITA POLICE DEPARTMENT, Defendant.	Case No. 26-cv-01023-AWM-GEB

NOTICE AND REPORT AND RECOMMENDATION OF DISMISSAL

This matter is before the Court on Plaintiff Jeremy K. Valadez'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 Plaintiff's Complaint (ECF No. 1) be DISMISSED** 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

On January 30, 2026, Plaintiff filed a Complaint (ECF No. 1) against the Wichita Police Department alleging violations of his Fourth and Fourteenth Amendment rights and seeking $5,000,000 in damages. The Court is unclear on how Plaintiff is alleging the Wichita Police Department violated the aforementioned constitutional rights because the Complaint is devoid of any facts.

B. Legal Standard

The Court granted Plaintiff's request to proceed without prepayment of fees. However, the authority to proceed without prepayment of fees is not without limitation as 28 U.S.C. § 1915(e)(2)(B) requires a court to screen the complaint. As such, *sua sponte* dismissal of the case is required if a court determines the action (1) is frivolous or malicious, (2) fails to state a claim upon which relief may be granted, or (3) seeks relief from a defendant who is immune from suit.[1] The purpose of § 1915(e)(2)(B) is "the prevention of abusive or capricious litigation."[2]

This Court uses the same standards for considering a motion to dismiss under Fed. R. Civ. P. 12(b)(6) when reviewing complaints for failure to state a claim under § 1915(e)(2)(B).[3] Plaintiff "must allege sufficient facts to state a claim which is plausible—

[1] 28 U.S.C. § 1915(e)(2)(B)(i)–(iii).

[2] *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).

[3] *Kay v. Bemis,* 500 F.3d 1214, 1217-18 (10th Cir. 2007).

rather than merely conceivable—on its face."[4] Pursuant to Fed. R. Civ. P. 8(a)(2), a complaint must provide a "short and plain statement of the claims showing that the pleader is entitled to relief." Additionally, the complaint must state more than "labels and conclusions" and "[f]actual allegations must be enough to raise a right to relief beyond the speculative level."[5] Plaintiff proceeds pro se, thus his Complaint must be construed liberally.[6] However, he still bears the burden to allege "sufficient facts on which a recognized legal claim could be based"[7] and the Court cannot "take on the responsibility of serving as [his] attorney in constructing arguments and searching the record."[8] Rule 8 "demands more than naked assertions."[9]

Every complaint must contain three minimal pieces of information: 1) the pleading should contain a short and plain statement of the claim showing Plaintiff is entitled to relief; 2) a short and plain statement of the grounds for the Court's jurisdiction; and 3) a statement of the relief requested.[10] If any of these requirements are absent, even after providing a liberal construction to Plaintiff's Complaint, the court "is compelled to recommend that the action be dismissed."[11]

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[4] *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).

[5] *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 545 (2007).

[6] *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

[7] *Id*.

[8] *Mays v. Wyandotte County Sheriff's Dep't*, 2010 WL 6032763, at *2 (10th Cir. 2011) (citing *Garrett v. Selby Connor Maddux & Janer,* 425 F.3d 836, 840 (10th Cir. 2005)).

[9] *Cohen v. Delong*, 369 F. App'x 953, 957 (10th Cir. 2010) (citing *Ashcroft v. Iqbal,* 556 U.S. 662 (2009)).

[10] Fed. R. Civ. P. 8(a).

[11] *Snider v. Burton*, No. 15-1043-JTM, 2015 WL 867423, at *2 (citing requirements under Rule 8), *report and recommendation adopted,* No. 15-1043-JTM, 2015 WL 1442096 (D. Kan. Mar. 30, 2015).

C. Discussion

Here, the only Defendant is the Wichita Police Department. However, the Wichita Police Department is a subunit of the City of Wichita, and not a separate entity subject to suit.[12] "Kansas courts have consistently held that subordinate government agencies do not have the capacity to sue or be sued in the absence of statutory authorization."[13] Additionally, Tenth Circuit courts have also held that city police departments are subunits of city governments, and thus, are not governmental entities subject to suit.[14]

In a recent case in this Court, District Judge Toby Crouse dismissed all claims brought against a city police department, finding as follows:

> The capacity of a party to be sued is determined by state law. Fed. R. Civ. P. 17(b)(3). The state of Kansas, as a sovereign, is immune from suit without its consent. *Hopkins v. State*, 702 P.2d 311, 317 (Kan. 1985). And subordinate government agencies, in the absence of statutory authorization, may not be sued in Kansas. *Lindenman v. Umscheid*, 875 P.2d 964, 977 (Kan. 1994).
>
> The Derby Police Department lacks the capacity to be sued. Kansas has passed no statute permitting suits against police departments. *See Fugate v. Unified Gov't of Wyandotte Cnty./Kansas City, KS.*, 161 F. Supp. 2d 1261, 1266 (D. Kan. 2001) ("Absent a specific statute, subordinate governmental agencies do not have the capacity to sue or be sued."). That means [Plaintiff]'s claims fail. *See Hopkins*, 702 P.2d at 316 (holding that the

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[12] *See 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).

[13] *Gaylord v. Kansas*, No. 25-2194-EFM-RES, 2025 WL 2023479, at *5 (D. Kan. June 25, 2025), *report and recommendation adopted*, No. 25-2194-EFM, 2025 WL 2022809 (D. Kan. July 18, 2025), *aff'd*, No. 25-3127, 2025 WL 2977080 (10th Cir. Oct. 22, 2025) (citing *Ayesh v. Butler Cnty. Sheriff's Off.,* No. 19-cv-1183-EFM-KGG, 2019 WL 6700337, at *3 (D. Kan. Dec. 9, 2019) (quoting *Mays v. Wyandotte Cnty. Sheriff's Dep't*, 2016 WL 81228, at *1 (D. Kan. 2016))); *see Hopkins v. State of Kansas*, 237 Kan. 601, 606, 702 P.2d 311, 316 (1985); *Mason v. 26 Judicial District of Kansas*, 670 F. Supp. 1528, 1535 (D. Kan. 1987).

[14] *Lipsey,* 2023 WL 2951560, at *4 (citing *Whayne v. Kansas*, 980 F. Supp. 387, 391 (D. Kan. 1997)).

> Kansas Highway Patrol lacks the capacity to be sued); *Whayne v. State of Kan*., 980 F. Supp. 387, 392 (D. Kan. 1997) ("[T]he Topeka Police Department is not a governmental entity subject to suit."); *Wright v. Wyandotte Cnty. Sheriff's Dep't*, 963 F. Supp. 1029, 1034 (D. Kan. 1997) (holding that the Wyandotte County Sheriff's Department is not capable of being sued).[15]

The undersigned recommends the District Judge do the same here and dismiss Plaintiff's Complaint in its entirety because the Wichita Police Department lacks the capacity to be sued.

Additionally, Plaintiff fails to allege any, let alone sufficient, facts to state a plausible claim for relief. Plaintiff's Complaint provides no facts other than to state, in a conclusory manner, that his constitutional rights were violated (*see* ECF No. 1 at 3). When a complaint fails to include specific allegations tying a defendant to particular acts, it does not state a claim for relief and is subject to dismissal.[16]

Accordingly, **IT IS THEREFORE RECOMMENDED** Plaintiff's Complaint (**ECF No. 1**) be **dismissed** under 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 at Wichita, Kansas this 11th day of September 2026.

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

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[15] *O'Neill v. Derby Police Department, et al*, No. 25-cv-01193-TC-GEB, ECF No. 24 at 3-4 (D. Kan. July 24, 2026).

[16] *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").