FILED
U.S. District Court
District of Kansas
09/28/2026
Clerk, U.S. District Court
By: SND Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MALIK W. DORSEY,

Plaintiff,

v. **CASE NO. 26-3343-JWL**

KAIDEN MATTHEW BUNGER, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff and Kansas pretrial detainee Malik W. Dorsey brings this pro se civil rights action under 42 U.S.C. § 1983. He is in custody at the Saline County Jail ("SCJ") in Salina, Kansas and he has been granted leave to proceed in forma pauperis. (Doc. 3.) The Court has conducted the statutorily required review of the complaint and identified deficiencies that are set forth below and that leave the complaint subject to dismissal in its entirety. The Court will grant Plaintiff time in which to file a complete and proper amended complaint that cures the deficiencies identified in this order. If he fails to do so, this matter will be dismissed without further prior notice to him.

I. Nature of the Matter before the Court

Plaintiff names as Defendants in this matter Officer Kaiden Matthew Bunger and Corporal MacManigal, both of whom work at the SCJ. (Doc. 1, p. 1-2.) In Count I of the complaint, Plaintiff asserts that Defendant Bunger violated his Fifth Amendment rights through the use of excessive force. *Id.* at 3. As supporting facts for Count I, Plaintiff alleges that between 9:00 and 11:00 a.m. on April 26, 2026, he and Defendant Bunger were in a cell and Defendant Bunger bashed or forced Plaintiff's head into the ground, making his nose bleed and knocking him unconscious "for a second." *Id.* at 3-4. Plaintiff asserts that he was not moving when Defendant Bunger pushed his

head into the ground. *Id.* at 4.

In Count II, Plaintiff asserts that Defendant MacManigal violated his rights under the First and Third Amendments. *Id.* at 3. As supporting facts for Count II, Plaintiff alleges that on April 25, 2026 at 8:32 a.m., Defendant MacManigal "refused [Plaintiff his] right to practice [his] religious beliefs by telling [Plaintiff] we are not giving you a Bible over smart communications."[1] *Id.* (all errors in original). In Count III, Plaintiff asserts the violation of his First and Fifth Amendment rights by the use of excessive force and retaliation. *Id.* at 5. As supporting facts for Count III, Plaintiff alleges that on the morning of July 5, 2026, "in response to [Plaintiff] spitting on him allegedly," Defendant MacManigal dug his index finger into Plaintiff's ear, popping Plaintiff's eardrum. *Id.* As relief in this case, Plaintiff seeks an order placing all of Defendant Bunger's assets in Plaintiff's name, directing Defendant Bunger to "pay [Plaintiff's] bond if he is guilty," and awarding Plaintiff $800,000,000,000.00. *Id.* at 6.

II. Screening Standards

Because Plaintiff is a prisoner and proceeds in forma pauperis, the Court is required by statute to screen his amended complaint and to dismiss it or any portion of it that is frivolous, fails to state a claim on which relief may be granted, or seeks relief from a defendant immune from such relief. 28 U.S.C. § 1915A(a) and (b); 28 U.S.C. § 1915(e)(2)(B). During this screening, the Court liberally construes this pro se complaint and holds it to "less stringent standards than formal pleadings drafted by lawyers." *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In addition, the Court accepts all well-pleaded allegations in the complaint as true. *Anderson v. Blake*, 469 F.3d

[1] The wording of the complaint leaves this Court unclear on the nature of the interaction at issue in Count II. The Court cannot tell whether (1) Defendant MacManigal told Plaintiff over a tablet or some other form of "smart communication" that he would not provide Plaintiff with a Bible"; (2) Plaintiff had requested the ability to access a Bible on a tablet or some other form of "smart communication" and Defendant MacManigal told Plaintiff he would not be given this type of access; (3) Defendant MacManigal told Plaintiff that he would not be given a Bible because Plaintiff had engaged in some form of "smart communication"; or (4) another situation occurred.

910, 913 (10th Cir. 2006). On the other hand, the Court "will not supply additional factual allegations to round out a plaintiff's complaint or construct a legal theory on plaintiff's behalf." *See Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997).

"To state a claim under § 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); *Northington v. Jackson*, 973 F.2d 1518, 1523 (10th Cir. 1992). "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief," dismissal is appropriate. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 558 (2007). Furthermore, a pro se litigant's "conclusory allegations without supporting factual averments are insufficient to state a claim upon which relief can be based." *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). "[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action." *Twombly*, 550 U.S. at 555 (citations omitted.)

The Court must determine whether Plaintiff has "nudge[d] his claims across the line from conceivable to plausible." *See Smith v. United States*, 561 F.3d 1090, 1098 (10th Cir. 2009) (quotation marks and citation omitted). "Plausible" in this context refers "to the scope of the allegations in a complaint: if they are so general that they encompass a wide swath of conduct, much of it innocent," then the plaintiff has not met his or her burden. *Robbins v. Okla.*, 519 F.3d 1242, 1247 (10th Cir. 2008) (citing *Twombly*, 550 U.S. at 570).The applicable screening standards are set forth in detail in the M&O and will not be repeated in full here. (*See* Doc. 8, p. 3-4.) It is sufficient to again note that during the screening, the Court must determine whether Plaintiff has "nudge[d] his claims across the line from conceivable to plausible." *See Smith v. United States*,

561 F.3d 1090, 1098 (10th Cir. 2009) (quotation marks and citation omitted). "Plausible" in this context refers "to the scope of the allegations in a complaint: if they are so general that they encompass a wide swath of conduct, much of it innocent," then the plaintiff has not met his or her burden. *Robbins v. Okla.*, 519 F.3d 1242, 1247 (10th Cir. 2008)(citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

III. Discussion

A. Count I

Count I is subject to dismissal because it fails to state a plausible claim of excessive force. Although Plaintiff asserts that the excessive force violated his Fifth Amendment rights, the Fifth Amendment protects *federal* pretrial detainees from excessive force. A claim of excessive force by a *state* pretrial detainee, like Plaintiff, arises under the due process protections of the Fourteenth Amendment. *See Porro v. Barnes*, 624 F.3d 1322, 1326 (10th Cir. 2010) (holding that a plaintiff in a similar position to "an arraigned pre-trial detainee" is "protected by the due process claims (in this case, the Fourteenth Amendment's due process clause, given that [the plaintiff's] complaint is against state officials)").

In any event, as this Court has previously explained to Plaintiff:

> To demonstrate excessive force, a pretrial detainee must provide objective evidence that shows the challenged use of force was not rationally related to a legitimate governmental objective or that it was excessive in relation to that objective. [*Geddes v. Weber County*, 2022 WL 3371010, *4 (10th Cir. 2022) (unpublished)] (quoting *Colbruno v. Kessler*, 928 F.3d 1155, 1163 (10th Cir. 2019), which quoted *Kingsley v. Hendrickson*, 576 U.S. 389, 398 (2015)).

Dorsey v. United States of America, 2026 WL 2321401, *4 (D. Kan. Aug. 11, 2026) (unpublished); *see also Rowell v. Bd. of County Comm'rs of Muskogee County, Okla.*, 978 F.3d 1165, 1171 (10th Cir. 2020) ("A defendant violates the Fourteenth Amendment by purposely or knowingly using force against a pretrial detainee that is 'objectively unreasonable.' *Kingsley*, 576 U.S. at 396-97.").

Determining whether force was objectively reasonable "turns under the facts and circumstances of each particular case." *Kingsley*, 576 U.S. at 397. The Court may consider, among other things:

> (1) "the relationship between the need for the use of force and the amount of force used,"
> (2) "the extent of the plaintiff's injury,"
> (3) "any effort made by the officer to temper or to limit the amount of force,"
> (4) "the severity of the security problem at issue,"
> (5) "the threat reasonably perceived by the officer," and
> (6) "whether the plaintiff was actively resisting."

Rowell, 978 F.3d at 1171-72 (quoting *Kinglsey*, 576 U.S. at 397).

Liberally construing the facts set forth in the complaint to support Count I, Plaintiff alleges that he was in his cell on the morning of April 26, 2026 and was not moving. Defendant Bunger then forced Plaintiff's head into the ground, causing Plaintiff's nose to bleed and rendering him unconscious for a second. (Doc. 1, p. 3-4.) Standing alone, these facts are not sufficient to state a plausible claim of excessive force. As the Court has previously explained to Plaintiff, he must provide at least some context for the use of force in order for this Court to conclude it is plausible that the force was excessive. *See Dorsey*, 2026 WL 2321401 at *4 (explaining that detailing the amount of force used but not explaining the circumstances surrounding the use of force is insufficient to state a plausible claim). Plaintiff will be granted time to file an amended complaint, on the required form, that alleges sufficient facts to state a plausible claim that Defendant Bunger used excessive force on Plaintiff on April 26, 2026.

B. Count II

In Count II, Plaintiff asserts that on April 25, 2026, Defendant MacManigal violated his First and Third Amendment rights by refusing to give him a Bible. (Doc. 1, p. 3.) The Third Amendment states: "No Soldier shall, in time of peace be quartered in any house, without consent

of the Owner, nor in time of war, but in a manner to be prescribed by law." U.S. Const. Amend. III. In the absence of any explanation from Plaintiff about how the denial of a Bible violated the Third Amendment, the Court concludes that Count II fails to state a plausible Third Amendment claim. Thus, to the extent that Count II asserts a Third Amendment claim, it is subject to dismissal.

To the extent that Count II refers to the First Amendment claim, however, the Court liberally construes it as asserting a violation of the First Amendment's Free Exercise Clause, which "protects religious exercises." *See Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 523 (2022). "Under the First and Fourteenth Amendments, inmates are entitled to the reasonable opportunity to pursue their sincerely-held religious beliefs." *Gallagher v. Shelton*, 587 F.3d 1063, 1069 (10th Cir. 2009) (citation omitted). In order to state a plausible claim that the constitutional right to free exercise of religion was denied, a prisoner must allege that defendants "substantially burdened his sincerely-held religious beliefs." *Id.* In addition, he "must assert conscious or intentional interference with his free exercise rights to state a valid claim under § 1983." *Id.* at 1070.

Plaintiff's failure to allege specific facts is fatal to his First Amendment claim in Count II. Even liberally construing the pro se complaint, Plaintiff does not explain *how* Defendant MacManigal "telling [Plaintiff] we are not giving you a Bible over smart communications [*sic*]" substantially burdened Plaintiff's sincerely-held religious beliefs. (*See* Doc. 1, p. 3.) Thus, Plaintiff has failed to state a plausible free exercise claim under the First Amendment. Thus, to the extent that Count II asserts a First Amendment claim, it is subject to dismissal.

C. Count III

In Count III, Plaintiff asserts that Defendant MacManigal's use of retaliatory excessive force violated his First and Fifth Amendment rights. (Doc. 1, p. 5.) As explained above with respect to Count I, this claim properly arises under the Fourteenth Amendment because Plaintiff alleges

excessive force by a state actor. In any event, Plaintiff has failed to allege sufficient facts to show a plausible claim for excessive force by Defendant MacManigal.

Even liberally construing the complaint and taking all well-pleaded facts therein as true, Plaintiff alleges only that on the morning of July 5, 2026, Defendant MacManigal believed Plaintiff had spit on him, so Defendant MacManigal pushed his index finger into Plaintiff's ear, "popping" Plaintiff's eardrum. (Doc. 1, p. 5.) This information, by itself, is not enough for the Court to conclude that Plaintiff has stated a plausible claim of excessive force. The Court is not clear what Plaintiff means by "popping" an eardrum. And Plaintiff provides no further details about the interaction. Accordingly, the excessive force claim in Count III is subject to dismissal. Plaintiff will be given time to file an amended complaint in which he may allege sufficient facts to support this claim.

Count III also raises a First Amendment retaliation claim. *Id.* As the Court has explained to Plaintiff:

> To state a First Amendment retaliation claim, Plaintiff must show:
>
> > (1) that [he] was engaged in constitutionally protected activity; (2) that the defendant[s'] actions caused [him] to suffer an injury that would chill a person of ordinary firmness from continuing to engage in that activity; and (3) that the defendant[s'] adverse action was substantially motivated as a response to [his] exercise of constitutionally protected conduct.
>
> *Hinkle v. Becham County Bd. of County Comm'rs*, 962 F.3d 1204, 1226 (10th Cir. 2020) (quoting *Worrell v. Henry*, 219 F.3d 1197, 1212 (10th Cir. 2000)).

Dorsey, 2026 WL 2321401 at *5.

Plaintiff has not alleged in Count III that Defendant MacManigal's use of force was substantially motivated as a response to Plaintiff engaging in constitutionally protected activity. Simply put, Plaintiff does not have a constitutional right to spit on people. Therefore, even if

Defendant MacManigal dug his finger into Plaintiff's ear because Defendant MacManigal believed Plaintiff spit on him, Defendant MacManigal did not engage in retaliation that violates the First Amendment. Thus, the retaliation claim in Count III is subject to dismissal for failure to state a plausible claim.

D. Relief Requested

As relief in this case, Plaintiff seeks an order placing all of Defendant Bunger's assets in Plaintiff's name, directing Defendant Bunger to "pay [Plaintiff's] bond if he is guilty," and awarding Plaintiff $800,000,000,000.00. (Doc. 1, p. 6.) As the Court has previously informed Plaintiff, it knows of no legal authority that would allow it to order the transfer of assets or direct Defendant Bunger to pay Plaintiff's bond if Plaintiff is successful in this action. *See Dorsey v. United States of America*, 2026 WL 2483233, *6 (D. Kan. Aug. 25, 2026) (unpublished) ("Plaintiff's request for Defendants' 'taxes' and assets and his request that Defendants be required to 'bond [him] out' are subject to dismissal because, as with the nontraditional forms of relief Plaintiff sought in his initial complaint, the Court knows of no authority under which it could grant such relief in a 42 U.S.C. § 1983 action."). Therefore, Plaintiff's requests in this case for relief in the form of Defendant Bunger's assets and an order that Defendant Bunger pay Plaintiff's bond are subject to dismissal.

E. Joinder

Setting aside the deficiencies identified above that leave the complaint subject to dismissal in its entirety, the Court notes that the complaint contained improperly joined claims and parties. As previously explained to Plaintiff:

> Federal Rule of Civil Procedure[2] 20(a)(2) governs permissive joinder of defendants and provides:

[2] Pro se litigants must "follow the same rules of procedure that govern other litigants." See *Kay v. Bemis*, 500 F.3d 1214, 1218 (10th Cir. 2007); *McNeil v. United States*, 508 U.S. 106, 113 (1993) (federal rules apply to all litigants,

> (2) Defendants. Persons . . . may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.

Rule 18(a) governs joinder of claims and provides: "A party asserting a claim . . . may join . . . as many claims as it has against an opposing party."

While joinder is encouraged for purposes of judicial economy, the "Federal Rules do not contemplate joinder of different actions against different parties which present entirely different factual and legal issues." *Zhu v. Countrywide Realty Co., Inc*., 160 F. Supp. 2d 1210, 1225 (D. Kan. 2001) (citation omitted). The Court of Appeals for the Seventh Circuit has explained that under "the controlling principle" in Rule 18(a), "[u]nrelated claims against different defendants belong in different suits." *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). In other words, under Rule 18(a), "multiple claims against a single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2. Unrelated claims against different defendants belong in different suits." *Id.*; *see also Gillon v. Federal Bureau of Prisons*, 424 F. App'x 722, 725 (10th Cir. 2011) (unpublished) (where amended complaint combined separate and unrelated claims, many of them arising out of different alleged incidents against multiple defendants, court rejected plaintiff's argument that his claims were related because they all allege constitutional violations relating to his overarching allegation of retaliation by prison officials).

In sum, under Rule 18(a), Plaintiff may bring multiple claims against a single defendant. Under Rule 20(a)(2), he may join in one action any other defendants who were involved in the same transaction or occurrence and as to whom there is a common issue of law or fact. He may not bring multiple claims against multiple defendants unless the prescribed connection in Rule 20(a)(2) is demonstrated with respect to all defendants named in the action.

Dorsey, 2026 WL 2483233 at *3.

In the complaint now before the Court, Plaintiff's multiple claims do not involve all named Defendants nor do they all arise from the same transaction or occurrence and involve common questions of law or fact. Rather, Count I alleges excessive force by Defendant Bunger on April 26, 2026; Count II alleges that Defendant MacManigal violated Plaintiff's religious rights on April

including prisoners lacking access to counsel).

25, 2026 by refusing to provide him with a Bible; and Count III alleges excessive force and unconstitutional retaliation by Defendant MacManigal on July 5, 2026. (Doc. 1, p. 3-5.) Thus, the complaint appears to violate both Rule 18(a) and 20(a)(2) because it brings claims against two defendants based on three separate incidents, two involving one defendant and one involving the other.

The Federal Rules authorize the Court, on its own initiative at any stage of the litigation, to drop any party and sever any claim. Fed. R. Civ. P. 21; *Nasious v. City & Cnty. of Denver Sheriff's Dept.*, 415 F. App'x. 877, 881 (10th Cir. 2011) (holding that to remedy improperly joined claims or parties, the court has two options: (1) misjoined parties may be dropped or (2) any claims against misjoined parties may be severed and proceeded with separately). Because the current complaint fails to state a plausible claim for relief against either Defendant, severance is not a possible option. Plaintiff is cautioned, however, that if he files an amended complaint in this case that contains misjoined claims or parties, the misjoined claims or parties may be severed without further prior notice to him.

IV. Amended Complaint Required

For the reasons set forth above, this action is subject to dismissal in its entirety for failure to state a claim on which relief could be granted. Plaintiff is therefore given the opportunity to file a complete and proper amended complaint upon the required, court-approved form that cures all the deficiencies discussed herein. Plaintiff is advised that an amended complaint does not supplement the initial complaint; an amended complaint completely replaces the initial complaint. Therefore, any claims or factual allegations not included in the amended complaint will not be before the Court. Plaintiff may not refer to or incorporate by reference his initial complaint. The amended complaint must contain all allegations, claims, and exhibits that Plaintiff intends to

pursue in this action, including those to be retained from his initial complaint and the attachment thereto.

Plaintiff should not attempt to supplement either the initial complaint or any amended complaint he may file by way of later-submitted piecemeal documents. Plaintiff must submit to this Court in one mailing the amended complaint, on the required form that will be provided to him, and any necessary attachments to the amended complaint. Any attempts to supplement or amend the amended complaint must comply with Rules 15 of the Federal Rules of Civil Procedure; subsection (a) of Rule 15 governs amending a pleading and subsection (d) governs supplementing a pleading. *See Dorsey*, 2026 WL 2483233 at *1-2 (explaining Rule 15 as it applies to amending a supplementing a complaint).

Plaintiff must write the number of this case (26-3343) at the top of the first page of his amended complaint. He must name only defendants who may be sued under § 1983 and he must allege sufficient facts to show that each defendant personally participated in a federal constitutional violation. Plaintiff must include in the amended complaint only properly joined claims and parties.

For each Count, he must clearly identify the constitutional right or rights he believes was violated and he must identify the specific facts that support each alleged violation. Plaintiff must provide enough facts for the Court to conclude that if the facts alleged are true, Plaintiff has stated a plausible claim for relief. Plaintiff must follow the instructions on the required, court-approved complaint form and set forth the information requested therein. He may attach additional pages to the required form as necessary, but he must clearly label any additional pages so that the Court and opposing parties can determine which portion of the form they are intended to supplement.

If Plaintiff fails to timely file an amended complaint, the Court will proceed on the current complaint, which will be dismissed without further prior notice to Plaintiff for failure to state a

claim on which relief could be granted. If Plaintiff timely files an amended complaint, the Court will conduct the statutorily required review of the amended complaint and issue further orders as necessary.

V. Conclusion

The Court has screened the complaint and concludes that it contains misjoined claims and parties and it fails to assert a plausible claim for relief. Thus, it is subject to dismissal in its entirety. Plaintiff will be granted time to file a complete and proper amended complaint that cures these deficiencies. If Plaintiff timely files an amended complaint, the Court will screen it and issue further orders as necessary. If Plaintiff fails to timely file an amended complaint, this matter will be dismissed without further prior notice to him.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff is granted until and including **November 5, 2026,** to file a complete and proper amended complaint that cures all the deficiencies identified in this order. If Plaintiff fails to do so, this matter will be dismissed without further prior notice to Plaintiff. The clerk is directed to send 1983 forms and instructions to Plaintiff.

IT IS SO ORDERED.

DATED: This 28th day of September, 2026**,** at Kansas City, Kansas**.**

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