FILED
U.S. District Court
District of Kansas
10/06/2026
Clerk, U.S. District Court
By: SND Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTHONY ANDREW LUTCHKA,

Plaintiff,

v. **CASE NO. 26-3380-JWL**

SHAWNEE COUNTY, KANSAS, BOARD OF COMMISSIONERS, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff Anthony Andrew Lutchka brings this pro se civil rights action under 42 U.S.C. § 1983 based on events that occurred in November 2024 while he was in custody at the Shawnee County Adult Detention Center ("SCADC") in Topeka, Kansas. (Doc. 1, p. 1.) With his complaint, Plaintiff filed a motion for leave to proceed in forma pauperis (Doc. 3) and a motion for limited early discovery (Doc. 5). For the reasons explained below, the Court will grant Plaintiff's motion for leave to proceed in forma pauperis, deny without prejudice his motion for limited early discovery, and direct the clerk to issue summons for and undertake service upon the Shawnee County, Kansas, Board of Commissioners.

I. Motion for Leave to Proceed In Forma Pauperis (Doc. 3)

Under 28 U.S.C. § 1915(a)(1), this Court "may authorize the commencement . . . of any suit, action or proceeding, civil or criminal, . . . without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all [the person's] assets . . . [and shows] that the person is unable to pay such fees or give security therefor." Proceeding without payment of fees under this statute is referred to as proceeding in forma pauperis ("IFP"). The Tenth Circuit has explained that "in order to succeed on a motion to proceed IFP, the movant must show

a financial inability to pay the required filing fees, as well as the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised in the action." *See Lister v. Dept. of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). Whether the Court grants or denies leave to proceed in forma pauperis—meaning without payment of fees—under this statute is a matter of discretion. *Id.* ("[T]he language of § 1915(a)(1) . . . gives a district court discretion to grant permission to proceed IFP . . . .").

The Court has considered the information Plaintiff provides in his motion for leave to proceed in forma pauperis (Doc. 3) and affidavit of financial status (Doc. 4) and finds that Plaintiff has shown he is unable to pay the filing fees for this case. Additionally, the Court finds that Plaintiff presents in his complaint "a reasoned, nonfrivolous argument on the law and facts in support of the issues raised" therein. *See Lister*, 408 F.3d at 1312. Therefore, the Court will grant Plaintiff's motion for leave to proceed in forma pauperis.

II. Initial Screening

Because Plaintiff will be granted leave to proceed in forma pauperis, "the litigation process begins with the court screening his complaint." *See Murnahan v. Roberts*, 2011 WL 1793801, *1 (D. Kan. May 11, 2011) (unpublished memorandum and order). This is because under 28 U.S.C. § 1915(e)(2), this court must dismiss a case proceeding in forma pauperis "at any time if the court determines that . . . (B) 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." The Court liberally construes a pro se complaint and applies "less stringent standards than formal pleadings drafted by lawyers." *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 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." *Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997).

After careful review, the Court concludes that the complaint is sufficient to pass the statutorily required screening. Because the Court so concludes, 28 U.S.C. § 1915(d) requires that "[t]he officers of the court shall issue and serve all process, and perform all duties in [this] case[]." *See also* Fed. R. Civ. P. 4(c)(3).Therefore, the Court will direct the clerk to issue a summons for the Board of County Commissioners of Shawnee County, Kansas ("the Board") at the address provided in the complaint. (Doc. 1, p. 1.) Service of the summons and complaint will then be made upon the Board by a United States Marshal or Deputy Marshal or by a person specially appointed pursuant to Federal Rule of Civil Procedure 4(c)(3).

III. Motion for Limited Early Discovery (Doc. 5)

As Plaintiff acknowledges in his complaint, he has not yet discovered the precise identities of the remaining defendants, who are described in his complaint by their roles in the events underlying his claims. Plaintiff explains that as soon as he discovers the names and addresses of the remaining defendants, he intends to promptly amend his complaint to reflect that information. To that end, Plaintiff has filed a "Motion for Limited Early Discovery to Identify Unknown Defendants and Preserve Evidence." (Doc. 5.)

In his motion, Plaintiff seeks leave to conduct discovery under Federal Rule of Civil Procedure 26(d)(1) to identify the John/Jane Doe defendants he describes in his complaint. *Id.* at 1. Plaintiff asserts that his prior efforts to learn the identities of these defendants have been unsuccessful and he acknowledges that he cannot obtain service on them without this information. *Id.* Plaintiff seeks an order authorizing early discovery because the applicable statute of limitations expires relatively soon. He seeks only a narrow class of information regarding staff who interacted

with Plaintiff at the SCADC from November 25, 2024 to November 27, 2024. Plaintiff expressly asks the Court to permit this discovery "after the Board has appeared or been served." *Id.* at 2. Additionally, Plaintiff seeks an order directing "the Board, once served, to preserve the records described" in his motion. *Id.*

As Plaintiff acknowledges, his requests for discovery cannot immediately succeed, as he is currently the only party to this case—the Board has not yet been served. Therefore, the Court will deny the motion for limited early discovery without prejudice as prematurely filed. Plaintiff may re-file his motion at an appropriate time. *See* Fed. R. Civ. P. 26(d).

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff's motion for limited early discovery (**Doc. 5**) is **denied without prejudice**.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to proceed in forma pauperis (**Doc. 3**) is **granted**. The Clerk shall issue summons for the Board of County Commissioners of Shawnee County, Kansas, at the address provided in the complaint. (*See* Doc. 1, p. 1.) Service of the summons and complaint will then be made upon this Defendant by a United States Marshal or Deputy Marshal or by a person specially appointed pursuant to Federal Rule of Civil Procedure 4(c)(3).

IT IS SO ORDERED.

Dated October 6, 2026, in Kansas City, Kansas.

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