

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 31, 2024

**Christopher M. Wolpert
Clerk of Court**

VINCENT DEWAYNE GAYLORD,

Plaintiff - Appellant,

v.

STATE OF KANSAS,

Defendant - Appellee.

No. 23-3075
(D.C. No. 5:23-CV-04018-KHV-RES)
(D. Kan.)

ORDER AND JUDGMENT*

Before **TYMKOVICH, McHUGH**, and **CARSON**, Circuit Judges.

Plaintiff Vincent DeWayne Gaylord, appearing pro se, appeals the district court's dismissal of his suit against the State of Kansas. The district court dismissed the complaint because sovereign immunity insulated the State and Plaintiff failed to state a claim upon which the district court could grant relief. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

I.

On March 16, 2023, Plaintiff filed a form complaint for pro se litigants, twelve pages of exhibits, and a second form complaint for pro se litigants for employment discrimination claims. The district court construed these three documents as the complaint. Plaintiff asserted claims for defamation, false-light invasion of privacy, an employment discrimination violation under Title VII of the Civil Rights Act of 1964, and a civil rights violation under 28 U.S.C. § 1343. The district court—agreeing with the magistrate judge’s recommendations—dismissed the complaint on two grounds. First, the district court dismissed three of the four claims under 28 U.S.C. § 1915(e)(2)(B)(iii) because the Eleventh Amendment provides the State of Kansas sovereign immunity from suits for monetary damages. Second, the district court dismissed the remaining claim for a failing to state a Title VII claim under § 1915(e)(2)(B)(ii). Plaintiff appeals.

II.

“Questions involving Eleventh Amendment immunity are questions of law that this court reviews de novo.” Cornforth v. Univ. of Oklahoma Bd. of Regents, 263 F.3d 1129, 1131 (10th Cir. 2001) (citing Sturdevant v. Paulsen, 218 F.3d 1160, 1164 (10th Cir. 2000)).

We also review the district court’s dismissal for failure to state a claim under § 1915(e)(2)(B)(ii) de novo. See Kay v. Bemis, 500 F.3d 1214, 1217 (10th Cir. 2007) (citing Perkins v. Kan. Dep’t of Corr., 165 F.3d 803, 806 (10th Cir. 1999)).

“Dismissal of a pro se complaint for failure to state a claim is proper only where it is

obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend.” Id. (quoting Curley v. Perry, 246 F.3d 1278, 1281 (10th Cir.2001)). Just as with Federal Rule of Civil Procedure 12(b)(6) dismissals, “we must accept the allegations of the complaint as true and construe those allegations, and any reasonable inferences that might be drawn from them, in the light most favorable to the plaintiff.” Id. (quoting Gaines v. Stenseng, 292 F.3d 1222, 1224 (10th Cir.2002)). And “we liberally construe pro se filings” though “we do not ‘assume the role of advocate.’” Yang v. Archuleta, 525 F.3d 925, 927 n.1 (10th Cir. 2008) (quoting Ledbetter v. City of Topeka, Kan., 318 F.3d 1183, 1187–88 (10th Cir. 2003)).

III.

Liberally construing Plaintiff’s brief, Plaintiff objects to the district court’s dismissal of his claims. While Plaintiff does not clearly appeal the dismissal of each cause of action, he references the total damages for which he pleaded in his complaint and reiterates the same general facts from his complaint. Thus, we presume he appeals the dismissal of each cause of action.

The district court dismissed most of Plaintiff’s claims pursuant to § 1915(e)(2)(B)(iii) because the Eleventh Amendment provides the State sovereign immunity from suits for monetary damages. Under the Eleventh Amendment, a plaintiff may not sue a state in federal court unless the state consents to the suit in unequivocal terms or if Congress unequivocally abrogates the state’s immunity.

Collins v. Daniels, 916 F.3d 1302, 1315 (10th Cir. 2019) (quoting Muscogee (Creek) Nation v. Oklahoma Tax Comm’n, 611 F.3d 1222, 1227 (10th Cir. 2010)).

Here, Plaintiff demands two million dollars in damages and requests no other form of relief. Because this is a suit for monetary damages, sovereign immunity blocks Plaintiff’s claims if no exception exists. One claim—the employment discrimination claim—survives as we have recognized that Congress abrogated sovereign immunity for Title VII claims. Crumpacker v. Kansas Dep’t of Hum. Res., 338 F.3d 1163, 1169 (10th Cir. 2003) (citing Fitzpatrick v. Bitzer, 427 U.S. 445, 449 n.2 (1976)). But Plaintiff cites no unequivocal consent to suit or congressional abrogation of sovereign immunity for his other claims. And we see no exception. So sovereign immunity bars Plaintiff’s claims of defamation, invasion of privacy, and a civil rights violation under 28 U.S.C. § 1343. Thus, we address only his Title VII discrimination claim on the merits.

Plaintiff alleges that Defendant engaged in employment discrimination in violation of Title VII because Defendant prevented him from obtaining a teaching job. “Title VII makes it unlawful ‘to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.’” Khalik v. United Air Lines, 671 F.3d 1188, 1192 (10th Cir. 2012) (quoting 42 U.S.C. § 2000e-2(a)(1)). Essential to this claim is an employment relationship with Defendant. See Williams v. Meese, 926 F.2d 994, 997 (10th Cir. 1991) (“Since plaintiff has no employment relationship with defendants, he

cannot pursue a claim for discrimination against them under [] Title VII. . .”) Even under the most liberal reading of the complaint, Plaintiff pleaded no such employment relationship. And without that relationship, Plaintiff states no Title VII claim against Defendant upon which relief may be granted.

For these reasons, we conclude that the State is immune from suit on all but one of Plaintiff’s claims and that Plaintiff failed to state a claim upon which a court may grant relief on the other. Thus, we AFFIRM the district court’s dismissal.

Entered for the Court

Joel M. Carson III
Circuit Judge

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
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Clerk of Court

Jane K. Castro
Chief Deputy Clerk

January 31, 2024

Mr. Vincent Dewayne Gaylord
3710 SW 30th Street
Topeka, KS 66614

RE: 23-3075, Gaylord v. State of Kansas
Dist/Ag docket: 5:23-CV-04018-KHV-RES

Dear Appellant:

Enclosed is a copy of the order and judgment issued today in this matter. The court has entered judgment on the docket pursuant to Fed. R. App. P. Rule 36.

Please contact this office if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Wolpert', with a long horizontal line extending to the right.

Christopher M. Wolpert
Clerk of Court

CMW/at

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

VINCENT DEWAYNE GAYLORD,

Plaintiff,

v.

STATE OF KANSAS,

Defendant.

Case No. 23-4018-KHV-RES

REPORT AND RECOMMENDATION

Because Plaintiff proceeds in forma pauperis (“IFP”), his complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). For the reasons explained below, the Magistrate Judge recommends that the District Judge dismiss Plaintiff’s claims under 28 U.S.C. § 1915(e)(2)(B) because Plaintiff’s complaint does not state a claim upon which relief may be granted and because at least some of Plaintiff’s claims are barred by Eleventh Amendment immunity.

I. BACKGROUND

Plaintiff filed this case on March 16, 2023, naming the State of Kansas as the only Defendant. ECF No. 1. In his initial filing, Plaintiff filed: this District’s form complaint for pro se litigants, *id.*; 12 pages of exhibits, ECF No. 1-1; and a second form complaint for pro se litigants for employment discrimination claims, ECF No. 1-2. Although Plaintiff should not have filed two separate form complaints and a series of exhibits that are not directly discussed in or incorporated by either complaint, because this is a pro se Plaintiff, the Court construes and refers collectively to these three documents as “the complaint.” The first-filed complaint describes Plaintiff’s claims as follows:

I have been wrongfully identified by the State of Kansas. The police department have been slandering me. The discrimination continues on and on. I have been treated as though I am a criminal and I am not. They have slandered my name. I have been called [a derogatory term and racial slurs] and defamation of character. All this is for me to do something to someone. I am not that kind of person because not all white people are behind the type of action.

ECF No. 1 at 3-4. The complaint states that Plaintiff seeks two million dollars in damages and references his prior lawsuit in this District, *Gaylord v. U.S. Department of the Army*, No. 20-4058-HLT-ADM, explaining that he “had to file a suit against the US Gov for this action and to get the retirement I so well deserve[.]” ECF No. 1 at 5.¹

Attached as an exhibit to the complaint is his second complaint—specifically, the District’s form complaint for pro se employment discrimination claims. *See* ECF No. 1-2 at 1. Plaintiff has checked a box on that complaint indicating that he asserts a claim under Title VII of the Civil Rights Act of 1964, and he alleges discrimination based on race. *Id.* at 1, 3. As to the facts giving rise to the claim, the employment complaint states:

I want punitive damages in the amount of 2 million dollars because my name was slandered (defamation of character) and false accusation which stopped me from becoming a teacher that I wanted to be. The lies that I am a pedophile and that I am [a derogatory term]. This has caused me to not have a relationship and other life. The people here in Kansas has treated me as if I am a criminal and I am not. They put this in the eyes of the American people.

¹ Because some of the filings in this case refer to Plaintiff’s prior case, the Court summarizes that case briefly. On September 29, 2020, Plaintiff filed a complaint naming the U.S. Department of the Army (“the Army”), asserting employment discrimination claims and seeking a review of the Army’s decision to deny him combat-related special compensation (“CRSC”) and retirement pay. *Gaylord*, 20-4058-HLT-ADM, ECF No. 10. The Court dismissed Plaintiff’s employment discrimination claims, finding that Title VII, the Americans with Disabilities Act and the Rehabilitation Act do not provide a private remedy for military personnel, and Plaintiff had alleged he was a uniformed armed service member. *Id.*, ECF No. 10 (recommending dismissal); *id.*, ECF No. 16 (overruling Plaintiff’s objections and adopting the Report and Recommendations). The Court subsequently transferred the remainder of the case to the U.S. Court of Federal Claims pursuant to the Tucker Act. ECF No. 34.

ECF No. 1-2 at 4.

Plaintiff has attached additional exhibits to his complaint including:

- a photograph of a man in military uniform with the words, “Black Lives Matter,” “[t]his is all about that I got army retirement due to discrimination,” and other verbiage written beneath the photo;
- an article from the *Military Times*;
- an investigative request Plaintiff made to the Kansas Attorney General’s Office alleging that Topeka police officers have surveilled his home and that he reported the discrimination and harassment to both the Topeka Police Department and “Forbes Air Base” (now known as the Topeka Regional Airport);
- a supplemental investigative request made to the Kansas Attorney General’s Office explaining that Plaintiff believes that someone on the air base is flying airplanes over his home and sending signals that are death threats;
- a document signed by Plaintiff stating that the “Kansas Attorney General is not doing anything about this” and making additional allegations against the current Attorney General;
- another document that appears to be written by Plaintiff directed at an unnamed agency that repeats the same allegations of discrimination and harassment;
- a 2020 receipt from Office Max for a fax sent;
- a printout from the Kansas Attorney General’s Office’s Consumer Protection Division; and
- a document captioning the case and reiterating that Plaintiff seeks two million dollars in punitive damages for defamation, discrimination, “false accusations and invading privacy.” ECF No. 1-1.

Plaintiff subsequently filed four “supplements” to the complaints throughout the month of March. ECF Nos. 6, 7, 9, and 10.² These include a 12-page document that appears to be a form

² Federal Rule of Civil Procedure 7(a) defines pleadings allowed in federal court. That section does not recognize subsequently filed “supplements” as proper pleadings. That said, the Court has reviewed the supplements in conjunction with this Report and Recommendation. Nothing contained in the supplements alters the Court’s conclusion that this case is subject to dismissal for the reasons discussed below.

directed to the Kansas Governor's Office containing allegations that law enforcement officers are tracking Plaintiff's phone, threatening a lawsuit against the State of Kansas "because of this action," and detailing alleged harassment at Forbes Air Base in that an airplane allegedly flew over his home at a low altitude. ECF No. 6 at 1-3. It also contains a request directed at the Army Board for Correction of Military Records pertaining to his discharge from service and denial of benefits. *Id.* at 4-8. Two other supplements are photographs of what Plaintiff characterizes as death threats by a flying aircraft. ECF Nos. 7, 9. The last-filed supplement is a letter from the Kansas Attorney General, noting receipt of Plaintiff's complaint regarding Forbes Air Base and the Topeka Police Department and informing Plaintiff that the facts described do not fall under the jurisdiction of the Kansas Consumer Protection Act. ECF No. 10 at 1.

II. LEGAL STANDARD

Because Plaintiff proceeds IFP, his complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). That statute authorizes the Court to dismiss a case at any stage if it determines 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); *see also Salgado-Toribio v. Holder*, 713 F.3d 1267, 1270 (10th Cir. 2013) (screening applies to all litigants proceeding IFP). The screening process "is designed largely to discourage the filing of, and waste of judicial and private resources upon, baseless lawsuits that paying litigants generally do not initiate because of the costs of bringing suit and because of the threat of sanctions for bringing vexatious suits under Federal Rule of Civil Procedure 11." *Neitzke v. Williams*, 490 U.S. 319, 327 (1989).

In screening the complaint to determine whether it states a claim, the Court applies the same standard it applies to Fed. R. Civ. P. 12(b)(6) motions to dismiss. *Kay v. Bemis*, 500 F.3d

1214, 1217 (10th Cir. 2007). 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.* “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* at 667 (quoting *Twombly*, 550 U.S. at 556). In applying this standard, the Court need not accept as true legal conclusions couched as factual allegations. *Id.* Although the plausibility standard does not require detailed factual allegations, it requires more than simply pleading “labels and conclusions” or “a formulaic recitation of the elements of a cause of action.” *Twombly*, 550 U.S. at 555.

Because Plaintiff proceeds pro se, the Court liberally construes his complaint. *Johnson v. Johnson*, 466 F.3d 1213, 1214 (10th Cir. 2006). But 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). Rather, Plaintiff still bears “the burden of alleging sufficient facts on which a recognized legal claim could be based.” *Id.* “Dismissal of a pro se complaint for failure to state a claim is proper only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend.” *Gaines v. Stenseng*, 292 F.3d 1222, 1224 (10th Cir. 2002).

III. DISCUSSION

Other than checking a box on the form complaint indicating that Plaintiff is asserting a Title VII claim, the remainder of the complaint does not enumerate specific causes of action. Nevertheless, the Court construes the complaint as also attempting to assert claims against the

State of Kansas for defamation and invasion of privacy. *See, e.g.*, ECF No. 1 at 3 (“The police department have been slandering me.”); *see also* ECF No. 1-1 at 12 (referencing invasion of privacy). Plaintiff also checked the box on the form complaint indicating that the case arises because of a violation of civil or equal rights, privileges, or immunities under 28 U.S.C. § 1343, which the Court construes to mean that Plaintiff may be attempting to assert civil rights claims. *See* ECF No. 1 at 3. The complaint additionally references “discrimination,” which the Court construes as pertaining to Plaintiff’s Title VII claim and/or tying in with Plaintiff’s allegations of defamation. *See, e.g., id.* at 3 (“The police department have been slandering me. The discrimination continues on and on.”).

As explained in further detail below, the complaint fails to state a claim upon which relief may be granted, and at least some of Plaintiff’s claims are subject to dismissal because the complaint seeks monetary relief from the State of Kansas, which is immune from such relief under the Eleventh Amendment. The Court first addresses the issue of immunity before turning to the claims themselves.

A. Eleventh Amendment Immunity

Under 28 U.S.C. § 1915(e)(2)(B)(iii), the Court is authorized to dismiss an IFP litigant’s claim if it “seeks monetary relief against a defendant who is immune from such relief.” Here, Plaintiff has named the State of Kansas as the sole Defendant, which implicates Eleventh Amendment immunity. “Per the Eleventh Amendment, states may not be sued in federal court unless they consent to it in unequivocal terms or unless Congress, pursuant to a valid exercise of power, unequivocally expresses its intent to abrogate the immunity.” *Collins v. Daniels*, 916 F.3d 1302, 1315 (10th Cir. 2019) (internal quotations omitted); *Hobbs v. Kansas Dep’t for Child. & Fams.*, No. CV 19-1307-KHV, 2021 WL 325839, at *3 (D. Kan. Feb. 1, 2021) (“Unless the state

has waived its sovereign immunity or Congress has abrogated the state's immunity by statute, the Eleventh Amendment bars claims for injunctive and monetary relief brought against [states and] state agencies.”)

Although the contours of Plaintiff's claims are not entirely clear, he seeks monetary damages in the amount of two million dollars against the State of Kansas. He does not, however, point to any authority suggesting that the State of Kansas has waived its immunity or that Congress has abrogated the State's immunity by statute. ECF No. 1 at 4. With the exception of Plaintiff's attempted Title VII claim, all other claims against the State of Kansas that the Court can discern are subject to dismissal under § 1915(e)(2)(B)(iii) because Plaintiff seeks monetary relief against a Defendant that is immune from such relief.³

B. Failure to State a Claim

The complaint is largely void of any factual allegations concerning Defendant the State of Kansas. Plaintiff alleges that he has “been wrongly identified by the State of Kansas,” but then he goes on to describe alleged wrongful conduct by “the police department.” ECF No. 1 at 3. He has attached to his complaint an investigative request made to the Kansas Attorney General's Office, but that document references alleged harassment by the Topeka Police Department—a subunit of

³ See generally *Jones v. Off. of Admin. Hearings*, 757 F. App'x 692, 696-97 (10th Cir. 2018) (affirming the district court's finding that claims against a state agency and an administrative law judge sued in her official capacity were subject to dismissal under § 1915(e)(2)(B)(iii) because the defendants were entitled to Eleventh Amendment immunity); *Crumpacker v. Kansas Dep't of Hum. Res.*, 338 F.3d 1163, 1169 (10th Cir. 2003) (“In *Fitzpatrick v. Bitzer*, the Supreme Court held that Congress, by amending Title VII in 1972 to include state and local governments as ‘employers,’ expressed a clear intention to abrogate the states’ Eleventh Amendment immunity.”); *Hobbs*, 2021 WL 325839 at *3-4 (citing *Ellis*, 163 F.3d at 1196 (explaining that Eleventh Amendment barred claims against Kansas and its state agencies under 42 U.S.C. §§ 1981, 1983 and 1985)); *Loggins v. Norwood*, No. 18-3016-DDC-KGG, 2020 WL 224544, at *7 (D. Kan. Jan. 15, 2020) (finding that the Eleventh Amendment barred a slander/defamation claim against state officials in their official capacity), *aff'd*, 854 F. App'x 954 (10th Cir. 2021).

the city of Topeka itself—and unspecified individuals associated with Forbes Air Base (now known as the Topeka Regional Airport). ECF No. 1-1 at 4. *See generally Neighbors v. Lawrence Police Dep't*, No. 15-CV-4921-DDC-KGS, 2016 WL 3685355, at *6 (D. Kan. July 12, 2016) (discussing that a municipal police department is not a legal entity subject to suit because it is a subunit of city government); *Mahdi v. Salt Lake Police Dep't*, 54 F.4th 1232, 1240 (10th Cir. 2022) (discussing what entities are and are not arms of the state and noting that while Eleventh Amendment immunity extends to states and state entities, it does not to counties, municipalities, or other local governmental entities). The complaint contains only generalized allegations of wrongful conduct by unspecified individuals without any explanation for why these actions are attributable to the State of Kansas.

Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” As explained above, “[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.” *Ashcroft*, 556 U.S. at 678. In this case, and as described in additional detail below, the complaint lacks allegations that the individuals involved with the alleged conduct are state actors or that there is any nexus between them and the State of Kansas. By not alleging specific factual content pertaining to Defendant, Plaintiff has not stated any cognizable claim as to this sole Defendant. The Court addresses the specific claims it construes that Plaintiff is attempting to bring below.

1. Defamation Claim

The complaint references defamation, slander, and libel. Under Kansas law, “[a]n action for defamation includes libel and slander.” *Woods v. Ross*, No. 21-2011-DDC-TJJ, 2021 WL 3077236, at *13 n.9 (D. Kan. July 21, 2021) (internal citations omitted). Defamation claims must

plead facts sufficient to satisfy three elements: “(1) [defendant] uttered or wrote false and defamatory words; (2) [defendant] communicated these statements to a third person; and (3) plaintiff’s reputation was injured as a result.” *Id.* at *13 (citing *Dominguez v. Davidson*, 974 P.2d 112, 117 (Kan. 1999)). Federal Rule of Civil Procedure 8(a) governs pleading requirements for defamation claims. *Delcavo v. Tour Res. Consultants, LLC*, No. 21-2137-JWL, 2021 WL 5867215, at *1 (D. Kan. Dec. 10, 2021). Although defamation claims are not subject to a heightened pleading standard, “Rule 8(a) ‘requires that the complaint provide sufficient notice of the communications complained of to allow [the defendant] to defend itself.’” *Id.* (quoting *McGeorge v. Continental Airlines, Inc.*, 871 F.2d 952, 955 (10th Cir. 1989)).

The complaint does not plausibly allege that Defendant wrote or uttered false and defamatory words,⁴ communicated these statements to a third person, or that Plaintiff’s reputation was injured as a result. Specifically, the statements Plaintiff references are not attributed to Defendant. Instead, the complaint alleges: “I have been called [racial slurs and a derogatory name] and defamation of character.” ECF No. 1 at 4. The complaint further alleges:

I want punitive damages in the amount of 2 million dollars because my name was slandered (defamation of character) and false accusation which stopped me from becoming a teacher that I wanted to be. The lies that I am a pedophile and that I am [a derogatory term]. This has caused me to not have a relationship and other life.

ECF No. 1-2 at 4. These generalized statements are not sufficient to show that Defendant—the State of Kansas—uttered or wrote false and defamatory words. At most, Defendant appears to allege that these statements were made by unspecified police officers “several times.” ECF No.

⁴ The Court does not address whether any alleged statements themselves are actionable because they could constitute false and defamatory words given the other deficiencies with this claim.

1-1 at 4. But Plaintiff does not specify who uttered these words or why any purported statements by a municipal police officer is attributable to the State of Kansas.

In his filed exhibits, Plaintiff also references an investigative request he made with regard to the “National Guard Air Base.” *See, e.g.*, ECF No. 1-1 at 7. Plaintiff states that “[t]his has to be coming from the base,” *id.*, but it is unclear whether he intends to allege that any such actions by the air base constitute defamation. Plaintiff does not specify anyone connected with the air base as uttering or writing any defamatory words or why such words would be attributable to the State of Kansas. Instead, he only alleges that planes are flying over his home and these actions constitute racism. *See, e.g.*, ECF No. 1-1 at 8 (“The air craft is flying over my house sending x signals that are death threats. This is systematic racism.”). Again, however, he does not tie planes to the State of Kansas and he fails to plead that any such actions constitute written or uttered defamatory words, which merits dismissal of these allegations.

The complaint also fails to plausibly allege facts supporting the second element—that Defendant communicated false and defamatory words to a third person in that the complaint does not identify to whom any alleged statements were made or any other details about the alleged communication. *See Woods*, 2021 WL 3077236, at *13 (citing case law explaining that pleading a defamation claim generally requires the complaint to identify to whom the alleged disparaging remarks were made, as well as the time and place of the statements). Along the same lines, the complaint does not plausibly allege facts supporting the third element—that Plaintiff’s reputation was damaged because of the statements—given the lack of clarity regarding to whom the statements were made and how the statements themselves damaged Plaintiff’s reputation. In sum, the complaint does not plausibly allege a defamation claim.

2. Invasion of Privacy

Although false-light invasion of privacy⁵ and defamation are two distinct torts, the elements are similar. *See Dominguez*, 974 P.2d at 121. They include: (1) publication to a third party, (2) false representation of the person; and (3) a representation which is highly offensive to a reasonable person. *Williams v. McKamie*, No. CIV.A. 04-2516-KHV, 2005 WL 1397381, at *2 (D. Kan. June 13, 2005).

The complaint fails to plausibly allege at least the first element of this claim because, as explained above, Plaintiff has not pleaded facts that show that Defendant published a representation to a third party. Because the claim is subject to dismissal on this basis, the Court does not address the other deficiencies.

3. Title VII

“Title VII makes it unlawful ‘to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.’” *Khalik v. United Air Lines*, 671 F.3d 1188, 1192 (10th Cir. 2012) (quoting 42 U.S.C. § 2000e-2(a)(1)). “To set forth a prima facie case of discrimination, a plaintiff must establish that (1) she is a member of a protected class, (2) she suffered an adverse employment action, (3) she qualified for the position at issue, and (4) she was treated less favorably than others not in the protected class.” *Id.*

⁵ Plaintiff’s complaint simply references invasion of privacy generally, stating: “Grant 2 million dollars for punitive damages and defamation of character. Also discrimination. False accusations and invading privacy.” ECF No. 1-1 at 12. As an initial matter, it is not entirely clear that Plaintiff is attempting to assert an invasion-of-privacy claim. But to the extent he is, he has not specified which of the multiple types of invasions of privacy claims he is attempting to assert. *See Dominguez*, 974 P.2d at 121 (noting that there are four types of invasion-of-privacy claims and discussing false light). The Court construes the complaint as attempting to assert a claim for invasion of privacy by false light.

In attempting to construe Plaintiff's employment discrimination claims, it appears that Plaintiff is alleging that he has been unable to obtain an unspecified new job because of Defendant's purported statements. *See* ECF No. 1-2 at 1-2 ("I can't get a job. . . . I came home from the service wanting to teach children and become a teacher but because of the slandering I cannot do that.").⁶ Plaintiff does not allege that he had or was seeking an employment relationship with Defendant when any adverse employment action occurred. Because Plaintiff has not pleaded any employment relationship with Defendant, he has not plausibly alleged a Title VII claim. *See generally* *Schroeder v. Wichita Police Dep't*, No. 20-1216-DDC-GEB, 2021 WL 678136, at *9 (D. Kan. Feb. 22, 2021) (dismissing a Title VII claim because the complaint "simply alleges nothing about plaintiff ever having entered or sought an employment relationship with any defendant"); *see also* *Mallory v. Rocky Mountain Hum. Serv. SSVFT*, No. 22-1141, 2022 WL 3754839, at *1 (10th Cir. Aug. 30, 2022) (affirming the dismissal of a Title VII claim when plaintiff had pleaded and later admitted that there was no employer-employee relationship between plaintiff and defendant). Because of the omission, the complaint does not plausibly allege a Title VII claim.

⁶ While the complaint alleges his desire to be a teacher, he has also attached as an exhibit to the complaint an article from the *Military Times*, on which Plaintiff has written "racial discrimination during combat training[.] My evaluation reports show combat training." ECF No. 1-1 at 2. To the extent Plaintiff references his prior suit against the U.S. Army and the alleged discrimination Plaintiff experienced while enlisted, the court previously dismissed that claim. *Gaylord v. U.S. Dep't of the Army*, No. 5:20-CV-4058-HLT-ADM, 2021 WL 6750629, at *2 (D. Kan. Jan. 7, 2021) ("Liberally construed, the complaint asserts claims for unlawful employment discrimination based on race and disability and a claim for review of the Army's decision to deny benefits. However, the complaint fails to state a claim for employment discrimination because uniformed members of the armed services are barred from asserting claims under Title VII, the ADA, and the Rehabilitation Act."). Regardless, even under the most liberal reading of the complaint, it does not allege or even suggest that any employment relationship between Plaintiff and Defendant.

Additionally, Plaintiff does not plead sufficient facts to establish any of the other elements of a Title VII claim either. Plaintiff's failure to allege any facts that could support these elements again means that the complaint does not plausibly allege a Title VII claim.

4. Civil Rights Claims

Plaintiff also checked the box on the form complaint for pro se litigants indicating this case arises because of a violation of civil or equal rights, privileges, or immunities pursuant to 28 U.S.C. § 1343. ECF No. 1 at 3. "Section 1343 grants federal district courts jurisdiction to hear civil rights cases, but this statute does not specifically provide a cause of action." *Smith v. G & W Foods*, No. 20-CV-2517-JAR-TJJ, 2021 WL 1546222, at *4 (D. Kan. Apr. 20, 2021). Rather, it is a jurisdictional statute listing categories of actions that may be brought in federal court, but the plaintiff must "still allege facts to support a cognizable cause of action under one of these categories." *Id.*

"Section 1343 is limited to cases involving state action, which means deprivation of right by a state officer under the authority or pretended authority of state law." *Robles v. State Farm Ins.*, 509 F. App'x 748, 750 (10th Cir. 2013) (quoting *Monks v. Hetherington*, 573 F.2d 1164, 1167 (10th Cir.1978)). The complaint does not specify which, if any, category of claims under § 1343 Plaintiff is attempting to assert. Other than simply checking the box on the form complaint, the complaint does not explain how Plaintiff's civil rights were violated or what protected right Defendant allegedly violated. Rather, the complaint contains a narrative statement with largely boilerplate allegations of improper conduct including slander by a police department, discrimination, being treated as a criminal, and name-calling. ECF No. 1 at 3-4.

Although the Court must liberally construe Plaintiff's complaint, it is not the Court's role to supply additional factual allegations to round out a plaintiff's complaint or construct a legal

theory on a plaintiff's behalf." *Whitney v. State of N.M.*, 113 F.3d 1170, 1173-74 (10th Cir. 1997). In this case, the Court cannot discern any cognizable civil rights claim against the State of Kansas based on the limited factual allegations in the complaint. *See also Haywood v. Kansas*, No. 21-CV-2329-JWB-TJJ, 2022 WL 2116306, at *2 (D. Kan. June 13, 2022) (recommending dismissal of a complaint when the plaintiff checked a box indicating that the case arose under § 1343 but without alleging facts supporting the jurisdictional allegation, noting that the "complaint does not allege how her civil rights were violated, nor does it articulate what protected right Defendants allegedly violated"). For these reasons, the Court finds that the complaint does not plausibly allege any civil rights claim.

IV. CONCLUSION

For the reasons explained above, the Magistrate Judge recommends that the District Judge dismiss Plaintiff's claims under 28 U.S.C. § 1915(e)(2)(B) because Plaintiff's complaint does not state a claim upon which relief may be granted and because at least some of Plaintiff's claims are barred by Eleventh Amendment immunity.

* * * * *

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 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).

Dated: April 12, 2023, at Topeka, Kansas.

/s/ Rachel E. Schwartz
 Rachel E. Schwartz
 United States Magistrate Judge

United States District Court

-----DISTRICT OF KANSAS-----

VINCENT DEWAYNE GAYLORD,

Plaintiff,

v.

STATE OF KANSAS,

Defendant.

Case No. 23-CV-04018-KHV

JUDGMENT IN A CIVIL CASE

- ☐ Jury Verdict. This action came before the Court for a jury trial. The issues have been tried and the jury has rendered its verdict.
- ☒ Decision by the Court. This action came before the Court. The issues have been considered and a decision has been rendered.

Pursuant to the Order (Doc. 18), filed April 26, 2023, the Court adopted the Magistrate Judge's Report and Recommendation. Plaintiff's complaint is dismissed for failure to state a claim under Rule 12(b)(6), Fed. R. Civ. P., and because at least some claims are barred by Eleventh Amendment immunity.

IT IS SO ORDERED.

Dated: April 26, 2023

SKYLER O'HARA
CLERK OF THE DISTRICT COURT

by: /s/ Audra Harper
Deputy Clerk

Court granted

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

VINCENT DEWAYNE GAYLORD,

Plaintiff,

v.

STATE OF KANSAS,

Defendant.

Case No. 23-4018-KHV-RES

ORDER

This matter comes before the court on Plaintiff's renewed motion to proceed without prepayment of fees. ECF No. 11. The Court denied Plaintiff's prior motion without prejudice to refile because the accompanying affidavit contained incomplete information or information that required clarification. ECF No. 8. Plaintiff has now filed a completed form affidavit of financial status, which the Court construes as a renewed motion. ECF No. 11. As discussed below, the Court will grant this motion only insofar as the Court finds Plaintiff is entitled to proceed without prepayment of fees.

Title 28 U.S.C. § 1915 allows courts to authorize commencing a civil action "without prepayment of fees or security therefor, by a person who submits an affidavit that . . . the person is unable to pay such fees or give security therefor." To succeed on an IFP motion, "the movant must show a financial inability to pay the required filing fees." *Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). Proceeding IFP "in a civil case is a privilege, not a right—fundamental or otherwise." *White v. Colorado*, 157 F.3d 1226, 1233 (10th Cir. 1998). The decision to grant or deny IFP status under § 1915 lies within the district court's sound discretion. *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001).

As an initial matter, the Court notes that some of the information provided in Plaintiff's most recent affidavit (ECF No. 11) materially differs from what Plaintiff represented in his prior affidavit (ECF No. 3-1). The Court reminds Plaintiff that by signing and submitting his affidavits, he stated that he understood that a false statement or answer to any question in the affidavit could subject him to penalties of perjury. That said, the Court does not foreclose that there could be reasonable explanations for the discrepancies, and at least some of the inconsistent information provided in the most recent affidavit, such as a decrease in monthly expenses, weighs against Plaintiff's request. In other words, it does not appear that Plaintiff has attempted to inflate his monthly expenses and deflate his monthly income to bolster his position that he is unable to pay the filing fee. And the most recent affidavit acknowledges that Plaintiff was "in a rush on the last Affidavit of Financial Status." ECF No. 11 at 6.

Based on the information provided in Plaintiff's most recent affidavit of financial status, the Court concludes that Plaintiff's financial situation warrants waiving the filing fee. Because of this, the Court grants Plaintiff's motion only insofar as the Court finds Plaintiff is entitled to proceed without prepayment of fees. The Court will not direct service of process on the Defendant until the Court screens the complaint for merit pursuant to 28 U.S.C. § 1915(e)(2)(B).

IT IS THEREFORE ORDERED that Plaintiff's motion for leave to proceed without prepayment of fees (ECF No. 11) is **GRANTED**. The U.S. Marshals Service shall withhold service on the Defendant until further order of the Court.

IT IS SO ORDERED.

Dated: April 12, 2023, at Topeka, Kansas.

/s/ Rachel E. Schwartz
Rachel E. Schwartz
United States Magistrate Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

VINCENT DEWAYNE GAYLORD,

Plaintiff,

v.

STATE OF KANSAS,

Defendant.

Case No. 23-4018-KHV-RES

REPORT AND RECOMMENDATION

Because Plaintiff proceeds in forma pauperis (“IFP”), his complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). For the reasons explained below, the Magistrate Judge recommends that the District Judge dismiss Plaintiff’s claims under 28 U.S.C. § 1915(e)(2)(B) because Plaintiff’s complaint does not state a claim upon which relief may be granted and because at least some of Plaintiff’s claims are barred by Eleventh Amendment immunity.

I. BACKGROUND

Plaintiff filed this case on March 16, 2023, naming the State of Kansas as the only Defendant. ECF No. 1. In his initial filing, Plaintiff filed: this District’s form complaint for pro se litigants, *id.*; 12 pages of exhibits, ECF No. 1-1; and a second form complaint for pro se litigants for employment discrimination claims, ECF No. 1-2. Although Plaintiff should not have filed two separate form complaints and a series of exhibits that are not directly discussed in or incorporated by either complaint, because this is a pro se Plaintiff, the Court construes and refers collectively to these three documents as “the complaint.” The first-filed complaint describes Plaintiff’s claims as follows:

I have been wrongfully identified by the State of Kansas. The police department have been slandering me. The discrimination continues on and on. I have been treated as though I am a criminal and I am not. They have slandered my name. I have been called [a derogatory term and racial slurs] and defamation of character. All this is for me to do something to someone. I am not that kind of person because not all white people are behind the type of action.

ECF No. 1 at 3-4. The complaint states that Plaintiff seeks two million dollars in damages and references his prior lawsuit in this District, *Gaylord v. U.S. Department of the Army*, No. 20-4058-HLT-ADM, explaining that he “had to file a suit against the US Gov for this action and to get the retirement I so well deserve[.]” ECF No. 1 at 5.¹

Attached as an exhibit to the complaint is his second complaint—specifically, the District’s form complaint for pro se employment discrimination claims. *See* ECF No. 1-2 at 1. Plaintiff has checked a box on that complaint indicating that he asserts a claim under Title VII of the Civil Rights Act of 1964, and he alleges discrimination based on race. *Id.* at 1, 3. As to the facts giving rise to the claim, the employment complaint states:

I want punitive damages in the amount of 2 million dollars because my name was slandered (defamation of character) and false accusation which stopped me from becoming a teacher that I wanted to be. The lies that I am a pedophile and that I am [a derogatory term]. This has caused me to not have a relationship and other life. The people here in Kansas has treated me as if I am a criminal and I am not. They put this in the eyes of the American people.

¹ Because some of the filings in this case refer to Plaintiff’s prior case, the Court summarizes that case briefly. On September 29, 2020, Plaintiff filed a complaint naming the U.S. Department of the Army (“the Army”), asserting employment discrimination claims and seeking a review of the Army’s decision to deny him combat-related special compensation (“CRSC”) and retirement pay. *Gaylord*, 20-4058-HLT-ADM, ECF No. 10. The Court dismissed Plaintiff’s employment discrimination claims, finding that Title VII, the Americans with Disabilities Act and the Rehabilitation Act do not provide a private remedy for military personnel, and Plaintiff had alleged he was a uniformed armed service member. *Id.*, ECF No. 10 (recommending dismissal); *id.*, ECF No. 16 (overruling Plaintiff’s objections and adopting the Report and Recommendations). The Court subsequently transferred the remainder of the case to the U.S. Court of Federal Claims pursuant to the Tucker Act. ECF No. 34.

House Status: Adjourned until Monday, January 11, 2021 at 02:00 p.m.
Senate Status: Adjourned until Monday, January 11, 2021 at 02:00 p.m.

2019 Statute

[Prev](#)[Article 61. - CRIMES INVOLVING VIOLATIONS OF PERSONAL RIGHTS](#)[Next](#)

21-6101. Breach of privacy. (a) Breach of privacy is knowingly and without lawful authority:

- (1) intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;
- (2) divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;
- (3) entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;
- (4) installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein;
- (5) installing or using any device or equipment for the interception of any telephone, telegraph or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication;
- (6) installing or using a concealed camcorder, motion picture camera or photographic camera of any type to secretly videotape, film, photograph or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy;
- (7) disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6); or
- (8) disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

(b) Breach of privacy as defined in:

- (1) Subsection (a)(1) through (a)(5) is a class A nonperson misdemeanor;
- (2) subsection (a)(6) or (a)(8) is a:
 - (A) Severity level 8, person felony, except as provided in subsection (b)(2)(B); and
 - (B) severity level 5, person felony upon a second or subsequent conviction within the previous five years; and
- (3) subsection (a)(7) is a severity level 5, person felony.
- (c) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.
- (d) The provisions of this section shall not apply to: (1) An operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility; (2) a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person; (3) a radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto; and (4) a local exchange carrier or telecommunications carrier as defined in K.S.A. 66-1,187, and amendments thereto.
- (e) The provisions of subsection (a)(8) shall not apply to a person acting with a bona fide and lawful scientific, educational, governmental, news or other similar public purpose.
- (f) As used in this section, "private place" means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

History: L. 2010, ch. 136, § 171; L. 2011, ch. 63, § 1; L. 2016, ch. 96, § 5; July 1.

[Prev](#)[Article 61. - CRIMES INVOLVING VIOLATIONS OF PERSONAL RIGHTS](#)[Next](#)

2012 Statute

[Prev](#)[Article 62. - CRIMES AGAINST THE PUBLIC PEACE](#)[Next](#)

21-6206. Harassment by telecommunication device. (a) Harassment by telecommunication device is the use of:

- (1) A telecommunications device to:
 - (A) Knowingly make or transmit any comment, request, suggestion, proposal, image or text which is obscene, lewd, lascivious or indecent;
 - (B) make or transmit a call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the receiving end;
 - (C) make or transmit any comment, request, suggestion, proposal, image or text with intent to abuse, threaten or harass any person at the receiving end;
 - (D) make or cause a telecommunications device to repeatedly ring or activate with intent to harass any person at the receiving end;
 - (E) knowingly play any recording on a telephone, except recordings such as weather information or sports information when the number thereof is dialed, unless the person or group playing the recording shall be identified and state that it is a recording; or
 - (F) knowingly permit any telecommunications device under one's control to be used in violation of this paragraph.
- (2) Telefacsimile communication to send or transmit such communication to a court in the state of Kansas for a use other than court business, with no requirement of culpable mental state.
- (b) Harassment by telecommunication device is a class A nonperson misdemeanor.
- (c) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this section. Such notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING."
- (d) As used in this section, "telecommunications device" includes telephones, cellular telephones, telefacsimile machines and any other electronic device which makes use of an electronic communication service, as defined in K.S.A. 22-2514, and amendments thereto.
- (e) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in K.S.A. 2012 Supp. 21-5508, 21-5509, 21-5510 or 21-6401.

History: L. 2010, ch. 136, § 184; L. 2011, ch. 100, § 17; July 1.

[Prev](#)[Article 62. - CRIMES AGAINST THE PUBLIC PEACE](#)[Next](#)

VINCENT DEWAYNE GAYLORD

SUPPLEMENT THE COMPLAINT

Plaintiff

V.

CASE NO. 23-4018-KHV-RES

STATE OF KANSAS

26 APRIL 2023

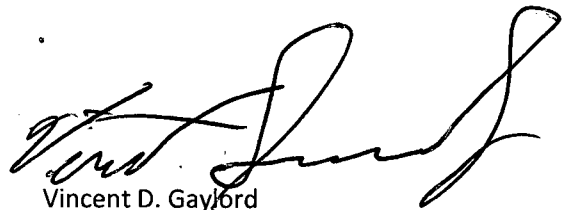
Defendant

Motion to not dismiss

If it please the District court of Kansas, please clarify this email that was sent to me because as I have said before, I am not all that good when it comes to legal terms. As of now, I am doing this without an attorney. I would like the court to clarify this in more detail. If the court is dismissing this case will this move to a higher court. Please advise what my next step will be for a higher court to review this matter if so.

BROWN V. BOARD OF EDUCATION

Enclose: an email from the DISTRICT COURT

A handwritten signature in black ink, appearing to read 'Vincent D. Gaylord', written in a cursive style.

Vincent D. Gaylord

Us army, ret



Discrimination + Defamation of Character.
There is no criminal record on my life so
Kansas Attorney General *this is un-true.*

Kris W. Kobach

Consumer Protection Division

120 SW 10th Avenue, 2nd Floor

Topeka, KS 66612-1597

PHONE: (785) 296-3751 or (800) 432-2310 (toll free in Kansas)

FAX: (785) 291-3699 • www.InYourCornerKansas.org

In my opinion I think
your a racist so I
contacted the US Attorney General's office also
INVESTIGATIVE REQUEST

INFORMATION ABOUT THE CONSUMER
 (SIGNATURE ON BACK REQUIRED)

NAME: MR. MS. MRS.

MR Vincent Dewayne Gaylord

ADDRESS: APT. #

Topeka KS 66614

CITY, STATE, ZIP, COUNTY:

DAYTIME PHONE #:

REGISTERED OR NO CALL?

785-249-0221

☒ YES

☐ NO

EMAIL ADDRESS:

Vincengaylord@yahoo.com

INFORMATION ABOUT THE COMPANY
 YOU ARE REQUESTING WE INVESTIGATE

COMPANY NAME:

Forbes air Base
Topeka police department

ADDRESS:

Topeka KS

CITY, STATE, ZIP:

PHONE #:

SALESPERSON:

CONTACT PERSON:

INFORMATION ABOUT THE TRANSACTION

DATE OF TRANSACTION:

COUNTY/PLACE OF TRANSACTION:

DID YOU SIGN A CONTRACT? *NO* DATE SIGNED:

DID YOU HAVE A VERBAL AGREEMENT?

PRODUCT OR SERVICE INVOLVED:

None

AMOUNT PAID: \$

PAYMENT METHOD:

ARE YOU MAKING PAYMENTS ON A CONTRACT, CREDIT CARD, OR OTHER PAYMENT PLAN PURSUANT TO THIS TRANSACTION? _____

IF SO, LIST THE COMPANY NAME, ADDRESS, AMOUNT(S) PAID, & YOUR ACCOUNT NUMBER:

FIRST CONTACT BETWEEN YOU & THE COMPANY:

WHERE DID THE TRANSACTION TAKE PLACE:

- ☐ PERSON CAME TO MY HOME
☐ I TELEPHONED THE COMPANY
☐ I RESPONDED TO A RADIO/TV AD/MAILING
☐ I WENT TO THE COMPANY'S PLACE OF BUSINESS
☐ I RECEIVED A TELEPHONE CALL FROM THE COMPANY
☐ OTHER (EXPLAIN)

- ☐ OVER THE PHONE
☐ AT HOME
☐ AT THE COMPANY
☐ BY MAIL
☐ INTERNET TRANSACTION
☐ OTHER (EXPLAIN)

I AM A:

- ☐ INDIVIDUAL ☐ SOLE-PROPRIETOR
☐ FAMILY PARTNERSHIP ☐ PARTNERSHIP
☐ CORPORATION ☐ LLC (IF SO, ARE ANY MEMBERS OF THE LLC NON-FAMILY MEMBERS?)
 Yes or No

HOW COULD THIS HARM BE REMEDIED?

- ☐ REFUND \$ ☐ PRODUCT DELIVERY
☐ SERVICE PERFORMED ☐ OTHER

SPECIFY SERVICE PERFORMED:

PLEASE COMPLETE BOTH SIDES

ACTION YOU HAVE TAKENHAVE YOU CONTACTED THE COMPANY? YES DESCRIBE RESULT OR EXPLAIN WHY YOU HAVE NOT CONTACTED THE COMPANY:HAVE YOU FILED A COMPLAINT WITH THE BETTER BUSINESS BUREAU OR ANY OTHER AGENCIES? NOWHAT RESPONSE HAVE YOU RECEIVED? There have been no responseDO YOU KNOW OF OTHERS WITH SIMILAR EXPERIENCES WITH THIS SUPPLIER? NO

IF YOU ARE BEING REPRESENTED BY AN ATTORNEY REGARDING THIS MATTER, PLEASE LIST THE ATTORNEY'S NAME, ADDRESS AND TELEPHONE NUMBER:

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS TRANSACTION? NO IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION:ARE YOU CONSIDERING FILING AN ACTION IN SMALL CLAIMS COURT? yesyes**DESCRIPTION OF TRANSACTION**

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES AS NECESSARY).

I have reported being harassed and discriminated against several times. I also reported this to ~~forbs~~ Air base and Topeka police department and nothing has been done. I have had Topeka police surveillance my home and the car I drive like I am a criminal. I have not done anything to commit a crime. This is all about racial discrimination. This is racial profiling. There have been air craft over my house sending X marks, death threats. I served my country with out standing record and do not deserve this type of treatment. The police is tracking my devices like phone and laptop computer. I have strong witnesses. This is Defamation of character.

DOCUMENTATION OF THE TRANSACTION

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS TRANSACTION, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, BILLS, AND INVOICES, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS MAY CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR REQUEST.

and Discrimination _____ DOCUMENTS ENCLOSED _____ NOTHING TO ATTACH

VERIFICATIONI am: ☐ Over Age 60 ☐ Partially Disabled ☐ Totally Disabled ☐ Illiterate ☐ Non-English Speaking
☐ A Veteran or Surviving Spouse ☒ A Member of the Military ☐ An Immediate Family Member of a Member of the Military

In filing this request, I understand and agree that the Attorney General and his staff are not my private attorneys, but instead represent the State of Kansas in enforcing laws designed to protect the public from deceptive and unconscionable business acts and practices. I understand that Kansas law limits the period of time during which I may file any private legal action (s). I further understand and agree that the contents of this request may be forwarded to the business or person the request is direct against, may be forwarded to other appropriate agencies, and will become accessible to others under the Kansas Open Records Act. I hereby authorize any party to whom the Attorney General directs this complaint to release any and all information about this matter, including account information, to the Kansas Attorney General's Office. Finally, I declare and verify under penalty of perjury and the laws of Kansas that all of the foregoing is true and correct to the best of my knowledge.

Signature of Complainant (Required)

Date

03/16/2023

Your agency (Police) plan to make me do something


REV. 01/2023

is not going to work, I am filing a lawsuit.

Attention:

03/16/2023

Kansas Attorney General is
not doing anything about this
I think he is a racist.


Vincent Grayford
USA



Supplement the Complaint

Kansas Attorney General

Derek Schmidt

Consumer Protection Division

120 SW 10th Avenue, 2nd Floor

Topeka, KS 66612-1597

PHONE: (785) 296-3751 or (800) 432-2310

FAX: (785) 291-3699 • www.InYourCornerKansas.org

INVESTIGATIVE REQUEST

INFORMATION ABOUT THE CONSUMER (SIGNATURE ON BACK REQUIRED)

NAME: Mr. Ms. Mrs.

Vincent D. Gaylord

ADDRESS: APT. #

TOPEKA KS 66614

CITY, STATE, ZIP, COUNTY:

785-213-4476

DAYTIME PHONE #:

REGISTERED ON NO CALL?

YES NO

Vincentgaylord@yahoo.com

EMAIL ADDRESS:

Vincentgaylord yahoo.com

COMPANY NAME:

National Guard Air base

ADDRESS:

TOPEKA KS 66614

CITY, STATE, ZIP:

PHONE #:

SALESPERSON:

This has to be coming

CONTACT PERSON:

from the base

INFORMATION ABOUT THE TRANSACTION

DATE OF TRANSACTION:

COUNTY/PLACE OF TRANSACTION:

DID YOU SIGN A CONTRACT?

DATE SIGNED:

DID YOU HAVE A VERBAL AGREEMENT?

PRODUCT OR SERVICE INVOLVED:

AMOUNT PAID: \$

PAYMENT METHOD:

ARE YOU MAKING PAYMENTS ON A CONTRACT, CREDIT CARD, OR OTHER PAYMENT PLAN PURSUANT TO THIS TRANSACTION? NO

IF SO, LIST THE COMPANY NAME, ADDRESS, AMOUNT(S) PAID, & YOUR ACCOUNT NUMBER:

FIRST CONTACT BETWEEN YOU & THE COMPANY:

- ☒ PERSON CAME TO MY HOME
☐ I TELEPHONED THE COMPANY
☐ I RESPONDED TO A RADIO/TV AD/MAILING
☐ I WENT TO THE COMPANY'S PLACE OF BUSINESS
☐ I RECEIVED A TELEPHONE CALL FROM THE COMPANY
☐ OTHER (EXPLAIN)

WHERE DID THE TRANSACTION TAKE PLACE:

- ☐ OVER THE PHONE
☒ AT HOME
☐ AT THE COMPANY
☐ BY MAIL
☐ INTERNET TRANSACTION
☐ OTHER (EXPLAIN)

my kids saw this also so they will be a witness.

I AM A:

- ☒ INDIVIDUAL ☐ SOLE-PROPRIETOR
☐ FAMILY PARTNERSHIP ☐ PARTNERSHIP
☐ CORPORATION ☐ LLC (IF SO, ARE ANY MEMBERS OF THE LLC NON-FAMILY MEMBERS?)
 YES OR NO

HOW COULD THIS HARM BE REMEDIED?

- ☐ REFUND \$ ☐ PRODUCT DELIVERY
☐ SERVICE PERFORMED ☐ OTHER

SPECIFY SERVICE PERFORMED:

Find out who it is flying over my house sending death threats

PLEASE COMPLETE BOTH SIDES

ACTION YOU HAVE TAKENHAVE YOU CONTACTED THE COMPANY? YES DESCRIBE RESULT OR EXPLAIN WHY YOU HAVE NOT CONTACTED THE COMPANY:I went to the air base and they said they will look into it.HAVE YOU FILED A COMPLAINT WITH THE BETTER BUSINESS BUREAU OR ANY OTHER AGENCIES? NOWHAT RESPONSE HAVE YOU RECEIVED? They said they will look into thisDO YOU KNOW OF OTHERS WITH SIMILAR EXPERIENCES WITH THIS SUPPLIER? NOIF YOU ARE BEING REPRESENTED BY AN ATTORNEY REGARDING THIS MATTER, PLEASE LIST THE ATTORNEY'S NAME, ADDRESS AND TELEPHONE NUMBER: I will get an attorneyHAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS TRANSACTION? NO IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION: I will file charges if this keeps up.ARE YOU CONSIDERING FILING AN ACTION IN SMALL CLAIMS COURT? NO**DESCRIPTION OF TRANSACTION**

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES AS NECESSARY).

The air craft is flying over my house sending X signals that are death threats. This is systematic racism.I know this to be true because I have this on my camera phone. My son has it on his phone also.If this keeps up I will fill something to bring someone up on charges at the air base. I am also going to sue the state of Kansas. Sending death threats is a crime.**DOCUMENTATION OF THE TRANSACTION**

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS TRANSACTION, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, BILLS, AND INVOICES, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS MAY CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR REQUEST.

NO DOCUMENTS ENCLOSEDNO NOTHING TO ATTACH**VERIFICATION**I am: 55 Over Age 60 NO Partially Disabled NO Totally Disabled X Illiterate NO Non-English Speaking
NO A Veteran or Surviving Spouse X A Member of the Military NO An Immediate Family Member of a Member of the Military

In filing this request, I understand and agree that the Attorney General and his staff are not my private attorneys, but instead represent the State of Kansas in enforcing laws designed to protect the public from deceptive and unconscionable business acts and practices. I understand that Kansas law limits the period of time during which I may file any private legal action (s). I further understand and agree that the contents of this request may be forwarded to the business or person the request is direct against, may be forwarded to other appropriate agencies, and will become accessible to others under the Kansas Open Records Act. I hereby authorize any party to whom the Attorney General directs this complaint to release any and all information about this matter, including account information, to the Kansas Attorney General's Office. Finally, I declare and verify under penalty of perjury and the laws of Kansas that all of the foregoing is true and correct to the best of my knowledge.

[Signature]
Signature of Complainant (Required)12/16/2020
Date



Incident Report



Print Date/Time: 12/12/2023 11:36

Login ID: mlewis

Topeka Police Department

ORI Number: KS0890100

Incident: 2023-00089387

Incident Date/Time: 10/24/2023 9:45:56 AM
Location: 3310 SW 30TH ST
TOPEKA KS 66614

Incident Type: Mental Health
Venue: TOPEKA

Phone Number:
Report Required: No
Prior Hazards: No
LE Case Number:

Source: Officer Initiated
Priority: 3-Medium
Status: Miscellaneous
Nature of Call:

Unit/Personnel

Unit	Personnel
120A	TS445-SVALINA

Person(s)

No.	Role	Name	Address	Phone	Race	Sex	DOB
-----	------	------	---------	-------	------	-----	-----

Vehicle(s)

Role	Type	Year	Make	Model	Color	License	State
------	------	------	------	-------	-------	---------	-------

Disposition(s)

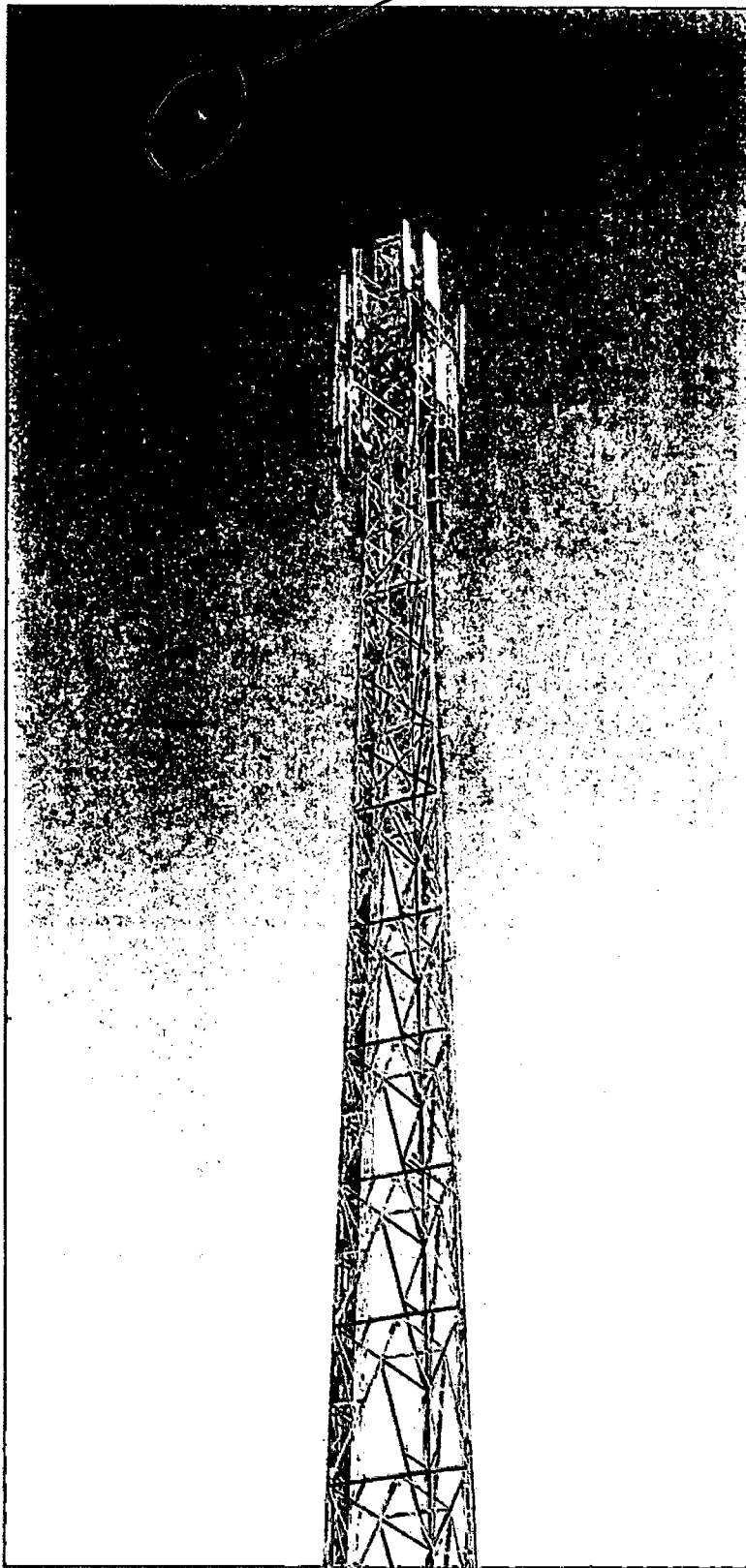
Disposition	Count	Date/Time
Unit: 120A		
Disposition	Count	Date/Time
NR	1	10/24/2023 09:53

Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
------	------	------	------	-------	-------------	---------	----------

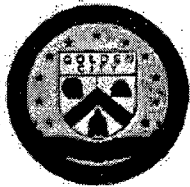
CAD Narrative

10/24/2023 : 09:51:14 tsvalina Narrative: Vincent Gaylord (B/M 7/1/1965 785-213-4476) came into report Drones that were flying over his residence (c/a). He tried showing me pictures but there was no drones seen in the pictures. Vincent stated he believed it was the government but did not know why they would be watching him. Poss S3. no report



→ A drome

where I
was at,



Incident Report



Print Date/Time: 12/12/2023 11:36
Login ID: mlewis

Topeka Police Department
ORI Number: KS0890100

Incident: 2023-00100758

Incident Date/Time: 12/1/2023 10:37:40 AM
Location: 3710 SW 30TH ST
TOPEKA KS 66614
Phone Number:
Report Required: No
Prior Hazards: No
LE Case Number:

Incident Type: Receive Info
Venue: TOPEKA
Source: Officer Initiated
Priority: 3-Medium
Status: Miscellaneous
Nature of Call:

Unit/Personnel

Unit	Personnel
119A	KE357-EVANS

Person(s)

No.	Role	Name	Address	Phone	Race	Sex	DOB
1	Caller	Gaylord, Vincent D				Male	07/01/1965

Vehicle(s)

Role	Type	Year	Make	Model	Color	License	State
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Disposition(s)

Disposition	Count	Date/Time
Unit: 119A		
Disposition	Count	Date/Time
NR	1	12/01/2023 10:38

Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
------	------	------	------	-------	-------------	---------	----------



Taking my kids to
the park. Invasion of
privacy and
civil
rights.



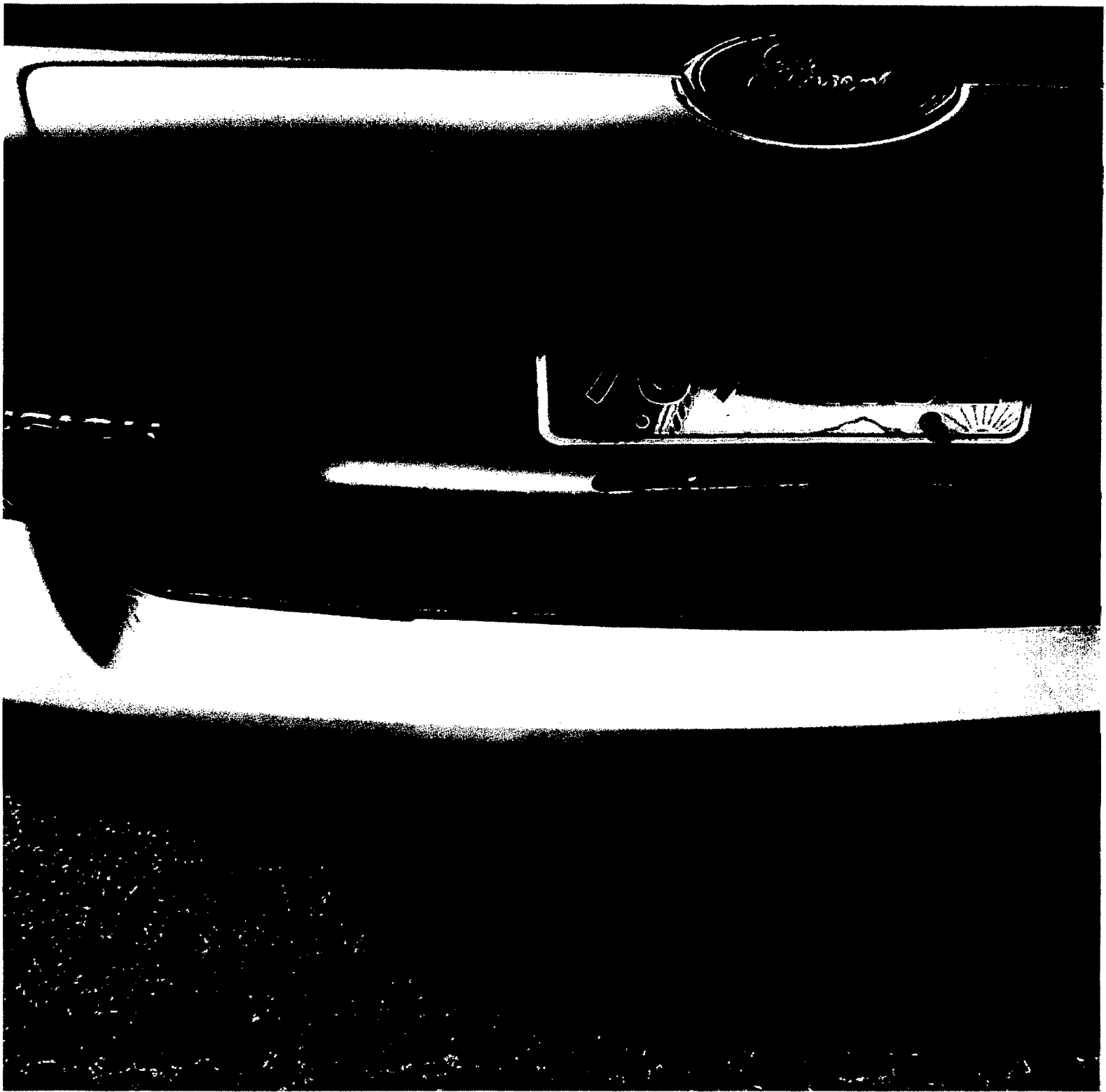
Do you have this over your
Over my house house
Invasion of privacy, and civil rights
Death threats
Harassment



Invasion of privacy and civil rights
going TO Church Harassment
Magistrate Judge do you
have this problem.



Harassment
Taking Someone Home



Car was scratched





going to church



VINCENT DEWAYE GAYLORD

SUPPLEMENT THE COMPLAINT

PLAINTIF

CASE NO. 23-4018-KHV-RES

V.

29 APRIL 2023

STATE OF KANSAS

DEFENDANT

Motion to accept a settlement from the Defendant

EXIBIT 1 : Topeka Police cut me off and called me a fuck-tard, meaning retarded.

EXIBIT 2 I told the Topeka Police that I was filming them and they said get out of here monkey was filming them and they said get out of here monkey. "fucking retard".

EXIBIT 3 A Drom flying where I was at a thrift store, and the old lady said that is a drom. "I said your right".

Exibit 4 These people cut me off and called me a retarded ass hole.

EXIBIT 5 This guy was at a park watching my son play. I asked him why he was just sitting there, and he said none of my business. I told him that your sitting here watching my son. I called the police, and they never showed up.

Exibit 5 The police kept looking at my car as if I was a criminal.


Exibit 6 Topeka police shouted "move your card retard, you monkey" I said I have to get around you can you wait

EXIBIT 7 I Heard this police officer say they all are "fucking monkeys" meaning black people.

Topeka police are harassing me, and they are treating me as if I am a criminal, and I am not. They and calling me names (defamation of character).

Harassing and defamation of character by the Topeka Police department is due from retaliation of me retiring from the US Army due to discrimination.

Brown V. BOARD OF EDUCATION



VINCENT D. GAYLORD
US ARMY RET