

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVE ERIC ALBERT PETERSEN,

Plaintiff,

v.

No. 2:23-cv-00943-DHU-KRS

TIM KELLER,
CITY OF ALBUQUERQUE METRO
BUS POLICE DEPARTMENT, and
JOHN DOE,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff, who is proceeding *pro se*, filed his Complaint using the form “Civil Rights Complaint Pursuant to 42 U.S.C. § 1983.” Doc. 1, filed October 25, 2023 (“Complaint”). The only allegations in the Complaint state: “Violation of my rights under the civil and criminal codes of the 5.552 right to privacy, 5.7703 discrimination, 7.0025.” Complaint at 2. The Complaint does not explain what “5.552,” “5.5503” and “7.0025” refer to.

United States Magistrate Judge Kevin R. Sweazea notified Plaintiff:

The Complaint fails to state a claim upon which relief can be granted against Defendants Keller and Doe because there are no factual allegations explaining what each Defendant did to Plaintiff, when they did it, how their actions harmed Plaintiff and what specific legal right Plaintiff believes each Defendant violated. *See Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center*, 492 F.3d 1158, 1163 (10th Cir. 2007) (“[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.”).

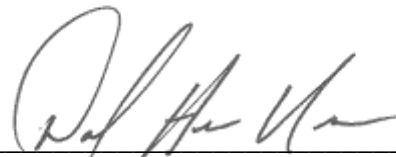
The Complaint fails to state a claim against Defendant City of Albuquerque Metro Bus Police Department because Defendant City of Albuquerque Metro Bus Police Department does not appear to be a separate suable entity. “Generally, governmental sub-units are not separate suable entities that may be sued under § 1983.” *Hinton v. Dennis*, 362 Fed.Appx. 904, 907 (10th Cir. 2010) (*citing*

Martinez v. Winner, 771 F.2d 424, 444 (10th Cir. 1985) (holding that City and County of Denver would remain as a defendant and dismissing complaint as to the City of Denver Police Department because it is not a separate suable entity).

Order at 2-3, Doc. 4, filed November 1, 2023. Judge Sweazea ordered Plaintiff to file an amended complaint and notified Plaintiff that failure to timely file an amended complaint may result in dismissal of this case. Plaintiff did not file an amended complaint or otherwise respond to Judge Sweazea's Order by the November 22, 2023, deadline.

The Court dismisses this case for failure to state a claim because: (i) the Complaint does not contain factual allegations explaining what Defendants Keller and Doe did to Plaintiff, when they did it, how their actions harmed Plaintiff and what specific legal right Plaintiff believes each Defendant violated, *see Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center*, 492 F.3d 1158, 1163 (10th Cir. 2007); (ii) the Complaint does not contain factual allegations showing that Defendant City of Albuquerque Metro Bus Police Department is a separate suable entity, *see Hinton v. Dennis*, 362 Fed.Appx. 904, 907 (10th Cir. 2010); and (iii) Plaintiff did not file an amended complaint or otherwise respond to Judge Sweazea's Order by the November 22, 2023, deadline.

IT IS ORDERED that this case is **DISMISSED without prejudice**.



HON. DAVID HERRERA URIAS
UNITED STATES DISTRICT JUDGE