

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

VICTOR SMITH,

Plaintiff,

v.

No. 1:19-cv-01054-JHR

DOUGLAS M. BROWN, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER
GRANTING LEAVE TO FILE AMENDED COMPLAINT**

THIS MATTER is before the Court on Plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Doc. 1, filed November 12, 2019 ("Complaint").

Plaintiff alleges the following:

On May 31, 2017 while I was sitting in front of the computer receiving information exercising my First Amendment Right (See Kreimer vs Bureau of Police for Town of Morristown) Officer Patricia Young with malice approached me and said: "I want to get rid of you kind of people" while pointing her finger at me. I was the only Afro-American in the library at this time.

....

On March 1, 2018 on the University of New Mexico main campus at the Women's Resource Center Room 1160 four UNMP.D. police officers two male and two female. The two females were: Patricia Young and Mary Ann Wallace I Victor Smith was totally alone in the computer room pod. Mary Anne Wallace indicate and incorrectly and falsely accused me of incorrect claims in violation of the [5th, 8th and 14th Amendments].

....

On March 1, 2018 UNM P.D. Police Officer Mary Anne Wallace presented and gave me a copy letter from the Dean of Students falsely and without evidence and incorrectly charged me #2.1 and 2.17 accusing me of actions physically harming the person and/or the property of others or which cause reasonable apprehension of physical harm.

....

On March 1, 2018 Mesa Vista Hall Room 1160 (MSC06 3910) approx: 1:00 p.m. UNM P.D. Officer Patricia Young and especially Mary Ann Wallace acted and engaged in intentionally targeting someone with a behavior that is meant to alarm annoy to torment and terrorize.

....

On May 31, 2017, and March 1 2018 Patricia Young conducted her self in a behavior and conduct of discriminating because of sex and color ignoring her legal responsibilities, such as Title VII in protecting my rights to Const Art 1 of free information kicking me out of the library while saying "I want to get rid of you people."

....

On 05/31/17 at 11.12 Sgt. officer Fox approved Patricia Young "Defamatory statements concerning Plaintiff, made an unprivileged publication to a third party and acted at least negligent in publishing the communication.

[sic] Complaint at 1-4. Plaintiff seeks the following relief: (i) "to be re add mitted to the Main Campus at the University of New Mexico, to further and complete my education;" (ii) "to have all of these incorrect charges entirely dismissed;" and (iii) "monetary financial compensation." Complaint at 5.

The Complaint fails to state a claim pursuant to 42 U.S.C. § 1983. “[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.” *See Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center*, 492 F.3d 1158, 1163 (10th Cir. 2007). The few factual allegations regarding Defendants University of New Mexico, University of New Mexico Police Department, Young and Wallace do not state a violation of a right secured by the Constitution and laws of the United States. *See Hogan v. Winder*, 762 F.3d 1096, 1112 (10th Cir. 2014) (quoting *West v. Atkins*, 487 U.S. 42, 48 (1988)) (“Under 42 U.S.C. § 1983, ‘a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States.’”). There are no factual allegations regarding Defendants Douglas M. Brown, University of New Mexico, University of New Mexico Police Department, Tim May, Nasha Torrez, Caitlin Henke or Jessica Hidalgo Holland.

IT IS ORDERED that Plaintiff may, within 21 days of entry of this Order, file an amended complaint which states a claim. Failure to timely file an amended complaint may result in dismissal of this case.



UNITED STATES MAGISTRATE JUDGE