

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

RAMON M. DEL CAMPO,

Plaintiff,

v.

No. 2:20-cv-00637-KWR-GBW

PATRICK GALLEGER, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff is proceeding *pro se* against Patrick Galleger and the City of Las Cruces Police Department. *See* Complaint at 1. Plaintiff alleges “The City of Las Cruces Police Department has illegally attempted [illegible] listed crimes, hindering of a crime, aiding and abiding, conspiracy,” and wrote “See following civil suits filed by plaintiff.” Complaint at 1. Where the Complaint form instructs Plaintiff to provide “Supporting Facts,” Plaintiff wrote see attach[ed] [Las Cruces Police Department] citizen complaint forms. Complaint at 3. The attached documents contain many statements regarding several individuals. Plaintiff also alleged:

Lt. Brisco, Sargent McCord and a Detective, first name Susan of Internal Affairs have on footage from the following locations; Community of Hope (All Different Buildings) city hall. They have conspired by running undercover illegal sting operations involving minors! As well hindered of a crime by LCPD Officers Sanchez, assisting officer and field supervisor by arresting/charging assault of which never occurred. Officer Sanchez conspired with ex probation officer Rebecca Hoffman on record see State of New Mexico vs. Ramon M. del Camp. The 1st motion to revoke probation.

Complaint at 3.

The Court notified Plaintiff that it will not comb the record of this or other cases and act as an advocate for Plaintiff, granted Plaintiff leave to file an amended complaint, and informed

Plaintiff that his amended complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief,” as required by Fed. R. Civ. P. 8(a)(2). Doc. 9, filed July 7, 2020. *See* Mem. Op. and Order, Doc. 9, filed July 7, 2020. The Court also explained that the Complaint failed to state a claim pursuant to 42 U.S.C. § 1983 against Defendant Galleger because there are no factual allegations regarding Defendant Galleger. The Court explained that the Complaint failed to state a claim against Defendant City of Las Cruces Police Department because the City of Las Cruces Police Department is not a separate suable entity. Finally, the Court notified Plaintiff that failure to timely file an amended complaint may result in dismissal of this case. Plaintiff did not file an amended complaint by the July 21, 2020, deadline.

One of Plaintiff’s motions states that the “Social Security Administration has deemed [Plaintiff] as mentally impaired.” Motion Seeking Counsel at 1, Doc. 7, filed July 2, 2020. Rule 17(c)(2) of the Federal Rules of Civil Procedure states the “court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.” However, “in the context of unrepresented litigants proceeding *in forma pauperis*, this inquiry [involving a determination of whether there is verifiable evidence of incompetence] would usually occur **after** the preliminary merits screening under ... 28 U.S.C. 1915(e)(2). *Powell v. Symons*, 680 F.3d 301, 307 (3d Cir. 2012) (**emphasis added**).

The Court dismisses this case without prejudice for failure to state a claim pursuant to 28 U.S.C. 1915(e)(2) which states: “the court shall dismiss the case at any time if the court determines that ... the action ... fails to state a claim on which relief may be granted.” The Court granted Plaintiff, who is proceeding *in forma pauperis*, an opportunity to file an amended complaint. *See* Doc. 9 at 6, filed July 7, 2020 (granting Plaintiff’s motion to proceed *in forma pauperis*). Plaintiff did not file an amended complaint. Because it is dismissing this case pursuant to 28 U.S.C.

1915(e)(2) for failure to state a claim, the Court need not “inquir[e] as to whether there [is] a viable basis to invoke Rule 17.” *Powell v. Symons*, 680 F.3d 301, 307 (3d Cir. 2012).


IT IS ORDERED that this case is **DISMISSED WITHOUT PREJUDICE**.

IT IS ALSO ORDERED that the following pending motions are **DENIED AS MOOT**, because this case has been dismissed:

- (i) Plaintiff’s Motion Seeking Subpoenas, Doc. 6, filed July 2, 2020.
- (ii) Plaintiff’s Motion Seeking Counsel, Doc. 7, filed July 2, 2020.
- (iii) Plaintiff’s Motion Seeking Waiver of the Filing Fee, Doc. 8, filed July 2, 2020.
- (iv) Plaintiff’s Motion to Submit Exhibit, Doc. 10, filed July 7, 2020.
- (v) Plaintiff’s Motion to Subpoena Surveillance Video Footage of Alleged Assault, Doc. 11, filed July 7, 2020.
- (vi) Plaintiff’s Motion Seeking In View Camera. Examine the Following Suits, Doc. 12, filed July 10, 2020.
- (vii) Plaintiff’s Motion Seeking Servallance Tapes of the LCPD on Pichacho St.; Body cam of the alledge assalt; findings of Internal Affairs in Regards to the Complaint filed by the Plaintiff, Servallance Tapes of City Hall for the month of June, July time after 10 pm thru 6 am, Doc. 13, filed July 13, 2020.
- (viii) Plaintiff’s Motion Seeking Subpheanas for the month of June, July The Community of Hope, El Calito Soup Kitchen mainly the front, back parking lots. Times 6 am – 5:30 pm, Doc. 14, filed July 16, 2020.
- (ix) Plaintiff’s Motion Seeking Tempuary Injunction of the Proceedings, until this said count to view the scope of Ramon M. del Campo vs. Dona Ana County Detention

Center, filed July 10th motion seeking mental health records. Authorization to Disclose protected mental health Records, Doc. 15, filed July 20, 2020.

- (x) Plaintiff's Motion Seeking Servallance footage of Las Cruces city hall from June, July of 2020 from 5 pm thru 6:45 am, Doc. 16, filed July 27, 2020.
- (xi) Plaintiff's Motion Seeking Recusal, Doc. 17, filed July 28, 2020.
- (xii) Plaintiff's Motion to Amend the Motion Seeking Recusal, Doc.18, filed July 30, 2020.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE