

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MORRIS KNIGHT,)
)
 Plaintiff,)
)
 v.)
)
 COMANCHE COUNTY,)
 OKLAHOMA, BOARD OF)
 COUNTY COMMISSIONERS FOR)
 COMANCHE COUNTY, et al.,)
)
 Defendants.)

Case No. CIV-13-179-M

ORDER


Before the Court is Defendant Comanche County Memorial Hospital's ("CCMH") Motion to Dismiss, filed August 26, 2013. On September 12, 2013, plaintiff filed his response.

On February 19, 2013, plaintiff filed this action asserting claims of constitutional rights violations, negligence, and intentional infliction of emotional distress ("IIED") against defendants Comanche County Board of County Commissioners for Comanche County, Kenney Stradley, and John Doe Physicians and Medical Providers. On July 31, 2013, this Court granted plaintiff's Motion to Amend Complaint [docket no. 19] and plaintiff filed an Amended Complaint [docket no. 20] on August 1, 2013. Plaintiff's Amended Complaint added additional defendants including CCMH. CCMH now moves this Court to dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. Plaintiff, in his response to CCMH's motion to dismiss, concedes that his § 1983 federal claims against CCMH were omitted in his First Amended Complaint, and that his claim for IIED must be dismissed against CCMH. Plaintiff requests leave to amend his First Amended Complaint to correct the error as to his § 1983 claim.

Having carefully reviewed the parties' submissions, the Court dismisses plaintiff's § 1983 claim against CCMH without prejudice and grants plaintiff leave to file a Second Amended Complaint to correct errors to his § 1983 claim, and dismisses plaintiff's IIED claim against CCMH. Accordingly, the Court GRANTS Defendant Comanche County Memorial Hospital's Motion to Dismiss [docket no. 34] as follows:

1. The Court DISMISSES plaintiff's § 1983 claim against CCMH without prejudice and GRANTS plaintiff leave to file a Second Amended Complaint. Plaintiff shall have seven (7) days from the date of this Order to file a Second Amended Complaint, and
2. The Court DISMISSES plaintiff's IIED claim against CCMH.

IT IS SO ORDERED 26th day of March, 2014.


VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE