

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RODNEY L. BROADNAX, JR.,

Plaintiff,

v.

AUSTIN ROBERTS,

Defendant.

Case No. 21-CV-3268-JAR-KGG

MEMORANDUM AND ORDER

Plaintiff Rodney L. Broadnax Jr. filed this action *pro se* and *in forma pauperis* against Defendant Topeka Police Department (“TPD”) under 42 U.S.C. § 1983, alleging excessive use of force in connection with his July 31, 2021 arrest.¹ The Court granted TPD’s motion to dismiss because, as a subordinate agency of the City of Topeka, it does not have the capacity to sue or be sued.² However, the Court granted Plaintiff leave to amend to remedy the defects in his Complaint to name the correct parties.³ Plaintiff filed an Amended Complaint identifying TPD Officer Austin Roberts as the individual who subjected him to excessive force during the course of his arrest on July 31, 2021, as detailed in his original Complaint.⁴

The Court is required by statute to screen the Amended Complaint and to dismiss the complaint or any portion thereof that is frivolous, fails to state a claim on which relief may be

¹ The Court ordered the clerk of the court to issue summons to Defendant TPD. Doc. 6.

² Doc. 12 at 3–4.

³ *Id.* at 4–5.

⁴ Doc. 14. As noted on the docket, a copy of the Court’s Memorandum and Order was mailed to Plaintiff at Shawnee County Jail; after the Order was returned, it was remailed on July 11, 2022, to Lansing Correctional Facility, where Plaintiff has been incarcerated since April 5, 2022. His Amended Complaint was filed July 27, 2022.

granted, or seeks relief from a defendant immune from such relief.⁵ The Court finds that a responsive pleading is required as to Plaintiff's claim that Officer Roberts violated his rights under the Fourth Amendment by using excessive force during Plaintiff's arrest.

IT IS THEREFORE ORDERED BY THE COURT that the clerk of the court shall issue summons to Defendant Austin Roberts, Topeka Police Department.

IT IS SO ORDERED.

Dated: September 2, 2022

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE

⁵ 28 U.S.C. § 1915A(a) & (b); *id.* § 1915(e)(2)(B).