IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERT A. MARTINEZ, JR.,	CASE NO. 3:21 CV 1900
Plaintiffs,	JUDGE JAMES R. KNEPP II
v.	
LUCAS COUNTY JAIL, et al.,	
Defendants.	**MEMORANDUM OPINION AND ORDER**

INTRODUCTION

Pro se Plaintiff Robert A. Martinez, Jr. filed this civil rights action under 42 U.S.C. § 1983 against the Lucas County Jail, "Head of Medical Department", "Supervisors of Medical Department", "Guards", and "Transportation Officers (all three shifts)". *See* Doc. 1. The basis of Plaintiff's claim is that he was denied prescribed medication while in jail for 30 days in 2018. *See id.*

Plaintiff also filed an Application to Proceed *In Forma Pauperis*. (Doc. 2). That Application is granted.

BACKGROUND

Plaintiff alleges he was detained in the Lucas County Jail for 30 days in 2018. (Doc. 1, at 2). He contends he had been taking the prescription medication Suboxone for thirteen years to combat his opioid addiction and without such medication would suffer detoxification symptoms. *Id.* He states the jail denied him the medication and his mental health deteriorated. *Id.* His family repeatedly requested he be transported to a hospital where he could detoxify under the supervision of medical personnel. *Id.* Instead, he was placed in an isolation cell. *Id.* He claims he

was found unresponsive and suffering from a seizure and was transported to St. Vincent Hospital. *Id.* He was then transferred to another jail facility from the hospital, and "released to the streets in a total[ly] delusional state of mind." *Id.* Plaintiff explains he had no idea how he made it home, could not function in the days after returning home, and has not been the same since his release. *Id.* He seeks monetary damages for violation of unspecified constitutional rights. *Id.* at 2-3. He also lists the Americans with Disabilities Act ("ADA") as a basis for relief. *Id.* at 2. Plaintiff seeks monetary damages. *Id.* at 3.

STANDARD OF REVIEW

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the Court is required to dismiss an *in forma pauperis* action under 28 U.S.C. §1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996). A claim lacks an arguable basis in law or fact when it is premised on an indisputably meritless legal theory or when the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327.

A cause of action fails to state a claim upon which relief may be granted when it lacks "plausibility in [the] complaint." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 564 (2007). A pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). The factual allegations in the pleading must be sufficient to raise the right to relief "above the speculative level" on the assumption that all the allegations in the complaint are true. *Bell Atl. Corp.*, 550 U.S. at 555. The plaintiff is not required to include detailed factual allegations, but must provide more than "an

unadorned, the-defendant-unlawfully-harmed-me accusation." *Iqbal*, 556 U.S. at 678. A pleading that offers legal conclusions or a simple recitation of the elements of a cause of action will not meet this pleading standard. *Id.* In reviewing a complaint, the Court must construe the pleading in the light most favorable to the Plaintiff. *Bibbo v. Dean Witter Reynolds, Inc.*, 151 F.3d 559, 561 (6th Cir. 1998).

DISCUSSION

As an initial matter, Plaintiff has not identified a viable Defendant against whom these claims can be asserted. First, County Jails are not *sui juris*, meaning they are not separate legal entities under Ohio law that can sue or be sued. *See Carmichael v. City of Cleveland*, 571 F. App'x 426, 435 (6th Cir. 2014) (finding that "under Ohio law, a county sheriff's office is not a legal entity that is capable of being sued"); *Black v. Montgomery Cty. Common Pleas Court*, No. 3:18-CV-00123, 2018 WL 2473560, at *1 (S.D. Ohio June 4, 2018) (finding Common Pleas Court not *sui juris*). Jails are merely subunits of the County. The claims against the jail fail as a matter of law.

Second, Plaintiff vaguely identifies the Jail Medical Department Supervisors, the Jail Guards and the Transportation Officers as Defendants. He does not identify any particular individual within those broad categories who participated in the actions he alleges. Claims under Title II of the ADA can only be asserted against a state or local government. 42 U.S.C. § 12131(1)(A). The ADA does not authorize claims against public employees or supervisors in their individual capacities. *Williams v. McLemore*, 247 F. App'x 1, 8 (6th Cir. 2007) ("We have held repeatedly that the ADA does not permit public employees or supervisors to be sued in their individual capacities."); *Lee v. Mich. Parole Bd.*, 104 F. App'x 490, 493 (6th Cir. 2004) (finding that the ADA does not impose liability upon individuals). Further, Plaintiff's claims under 42

U.S.C. § 1983 fail because he did not identify any individuals alleged to be personally involved in the activities giving rise to his claims. Plaintiff cannot establish the liability of any defendant absent a clear showing the defendant was personally involved in the activities which form the basis of the alleged unconstitutional behavior. *Rizzo v. Goode*, 423 U.S. 362, 371 (1976); *Mullins v. Hainesworth*, No. 95-3186, 1995 WL 559381 (6th Cir. Sept. 20, 1995). General allegations directed at the entire department are not sufficient to state a claim.

Finally, the statutes of limitations for both ADA and 42 U.S.C. § 1983 claims have expired. Both ADA and § 1983 claims are governed by a two-year statute of limitations. *McCormick v. Miami Univ.*, 693 F.3d 654, 662-64 (6th Cir. 2012) (ADA claims); *Hull v. Cuyahoga Valley Joint Vocational Sch. Dist. Bd. of Educ.*, 926 F.2d 505, 510 (6th Cir. 1991) (§ 1983 claims). Plaintiff indicates these events took place while he was in the Lucas County Jail for 30 days in June 2018. He filed this action in October 2021, well beyond the two-year statute of limitations.

CONCLUSION

For the foregoing reasons, good cause appearing, it is

ORDERED that Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 2), be and the same hereby is, GRANTED; and it is

FURTHER ORDERED that this action is DISMISSED pursuant to 28 U.S.C. § 1915(e); and the Court

FURTHER CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

s/ James R. Knepp II
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERT A. MARTINEZ, JR.,	**CASE NO. 3:21 CV 1900**
Plaintiffs,	**JUDGE JAMES R. KNEPP II**
v.	
LUCAS COUNTY JAIL, et al.,	**JUDGMENT ENTRY**
Defendants.	

For the reasons stated in this Court's Memorandum of Opinion, this action is dismissed pursuant to 28 U.S.C. §1915(e). Further, the Court CERTIFIES pursuant to 28 U.S.C. §1915(a)(3) that an appeal from this decision could not be taken in good faith.

s/ James R. Knepp II
UNITED STATES DISTRICT JUDGE

NOT RECOMMENDED FOR PUBLICATION

No. 22-3209

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ROBERT A. MARTINEZ, JR.,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	ON APPEAL FROM THE UNITED
	)	STATES DISTRICT COURT FOR
LUCAS COUNTY, OH JAIL,	)	THE NORTHERN DISTRICT OF
	)	OHIO
Defendant-Appellee.	)	
	)	

ORDER

Before: McKEAGUE, STRANCH, and DONALD, Circuit Judges.

Robert A. Martinez, Jr., an Ohio resident proceeding pro se, appeals the district court's judgment dismissing his civil action. He has also moved for the appointment of counsel, in part because he has epilepsy. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

Martinez filed a civil complaint against the Lucas County Jail in Toledo, Ohio and several unnamed individuals associated with the jail, including the head of the medical department, the supervisors of the medical department, the guards, and the transportation officers. Martinez alleged that, while he was incarcerated at the jail for 30 days in June 2018, the defendants refused to provide him his prescription medication, Suboxone, which he had been taking for 13 years, and denied his family's requests to allow him to detoxify safely in a medical facility, instead placing him in an isolation cell. As a result, Martinez alleges that he had a seizure and his mental condition deteriorated. Martinez's complaint identified the Americans with Disabilities Act (ADA) as a

basis for relief and sought monetary damages. Martinez also moved for the appointment of counsel, arguing that he needed counsel to assist him with obtaining medical and jail records.

Upon initial screening, the district court construed the complaint as being brought under 42 U.S.C. § 1983 and the ADA and dismissed it, concluding that Martinez's claims were untimely and that he failed to state a claim on which relief could be granted. The district court did not explicitly address Martinez's motion to appoint counsel. The court later denied Martinez's motion for reconsideration.

On appeal, Martinez argues that the district court erred by dismissing his complaint and failing to appoint him counsel. We review de novo the district court's dismissal of Martinez's complaint. *See J. Endres v. Ne. Ohio Med. Univ.*, 938 F.3d 281, 292 (6th Cir. 2019); *Davis v. Prison Health Servs.*, 679 F.3d 433, 437 (6th Cir. 2012).

The limitations period applicable to a claim brought under § 1983 and the ADA in Ohio is two years, running from the time that the plaintiff knows or has reason to know of the injury giving rise to his action. *See J. Endres*, 938 F.3d at 292. Martinez knew of his injury in June 2018, but he did not file his complaint until over three years later in October 2021. And he has not identified any basis for concluding that he is entitled to tolling that is sufficient to render his complaint timely. *See Bishop v. Children's Ctr. for Developmental Enrichment*, 618 F.3d 533, 537 (6th Cir. 2010) (noting that, when a statute of limitations is borrowed from state law, the state's tolling provisions also apply unless they are inconsistent with the federal policy underlying the cause of action). Thus, the district court properly dismissed Martinez's complaint as untimely.

The district court also did not err in failing to appoint Martinez counsel because he has not shown that his case involves an exceptional circumstance that would warrant such an appointment. *See Lanier v. Bryant*, 332 F.3d 999, 1006 (6th Cir. 2003).

For these reasons, we **DENY** Martinez's motion to appoint counsel and **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

Additional material from this filing is available in the Clerk's Office.