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Appendix A

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-3385

BOUAZZA OUAZIZ,
Appellant

v.

CITY OF JERSEY CITY, individually and official capacity; TAWANA MODDY, individually and her capacity as Chief of Jersey City Police Department; DETECTIVE ROBERT PEREZ; TAVARAS, Detective; POLICE OFFICER MICHAEL O'CONNELL. Individually and their official capacity as Jersey City Police Officers and detectives; MICHAEL COLOMBAS; SISTER POLICE SUPERVISOR (JANE DOES) individually and their official capacity; ALL POLICE OFFICER I-DOES; individually and their official capacity; ALL DETECTIVE DOES I-X IN JERSEY CITY POLICE DEPARTMENT Individually and their official capacity; CHRIST HOSPITAL, private entity and its workers; ; I-X DOCTORS, NURSES individually and their capacities; CITYMD JERSEY CITY; SAYED ROHANI, M.D.; ALL WORKERS DOCTORS AND NURSES IN CITYMD Jersey City; 786 REALTY LLC, private entity and its workers; ORLANDO PEGAN; JERSEY CITY AND ALL WORKER I-X; JUDGE MAUREEN B. MANTINEO; JUDGE ANDREA SULLIVAN; GOLDSTEIN LAW GROUP LLC; HILARY BREWER, individually and capacity; ARTUSA LAW FIRM PC, Private entity; ATTORNEY ARTUSA, individually and capacity; JEF HENNINGER, Esq.; CIRO A. SPINA, Attorney, individually and capacity; ATTORNEY THOMAS VIGNEAULT, individually and capacity; TOWNSEND TOMAIO & NEWMARK LLC; ATTORNEY KEVIN KU; MICKLIN LAW GROUP LLC, private entity; ATTORNEY BRAD MICKLIN; BRADLY & COREALE LLP; ATTORNEY ROBERT COREALE; PAUL J. SICA, Esq.; NOURA ELGHAZOINI, individually and her capacity; SOUMIA EL GHAZOIANI; ROBERT RODRIGUEZ, individually and his capacity; STUHL MILLER, Ph. D.; ADA QOMPAY; LUZ FRIAIZ; SAMANTHA GALLOWAY; I-X LABCORP WORKERS individually and their capacity LABORATORY CORPORATION OF AMERICA HOLDING; LABORATORY CORPORATION OF AMERICA, Branch in Brooklyn, individually and their capacity, DBA LabCorp;

DUNNE DUNNE & COHEN LLC; ATTORNEY LEONARD COHEN; LAW OFFICE OF PASQUALE MARGO; ATTORNEY MARGO PASQUALE, individually and their personal capacity; NEW JERSEY INVESTIGATION LLC; AGENT PAUL; SAMIR PORTA; SAMIR GOOS; WILLIAM OLSZEWSKI; SERGEANT DARREN SORRENTINO; DOES I-X Individually and their official capacity; CITYMD HOSPITAL, private entity and its workers; PROSECUTOR ASSISTANT JANE WEINER, Individually and official capacity; LAW OFFICE OF JEF HENNINGER; THOMAS VIGNEAULT LAW FIRM; PAUL J. SICA LAW FIRM; ALI HILALI, Individually and his capacity; PASQUALE MARAGO, Individually and their personal capacity; PAUL PORTA; DOCTOR ROHINI

On Appeal from the United States District Court for
the District of New Jersey
(D.C. Civil Action No. 2:22-cv-04546)
District Judge: Honorable Susan D. Wigenton

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 5, 2023

Before: HARDIMAN, PORTER, and FREEMAN, Circuit Judges

(Opinion filed October 24, 2023)

OPINION*

PER CURIAM

Pro se appellant Bouazza Ouaziz appeals from the District Court's dismissal of his amended complaint. For the reasons provided below, we will affirm the District Court's judgment.

I.

Because we write primarily for the benefit of the parties, we recite only the important facts and procedural history. In July 2022, Bouazza Ouaziz initiated a civil

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

rights complaint in the District of New Jersey, alleging various violations of federal and state laws against dozens of defendants. Ouaziz thereafter amended his complaint. Dkt No. 4. While Ouaziz's amended complaint is convoluted and difficult to understand, his numerous claims appear to arise primarily from his relationship with, and subsequent divorce from, his wife Noura Elghazani. His complaint asserted facts related to familial disputes, domestic violence incidents, immigration, fraud, sexual assault, assault, constitutional violations, and medical services. As a result of these issues, Ouaziz asserted the following claims: sexual assault under color of law, intentional infliction of emotional stress, negligent infliction of emotional stress, conspiracy, fraud and tampering with evidence, negligence, pain, loss of enjoyment of life, premeditated attempt to kill, robbery, extortion, endangering an injured person, aggravated sexual assault, battery, unfair business practices, obstruction of justice, slander, violations of 42 U.S.C. § 1983, violations of 42 U.S.C. § 1985, violations of 42 U.S.C. § 1986, and violations of 42 U.S.C. § 1988. See generally id.

Several groups of defendants answered the amended complaint, several filed motions to dismiss, some filed motions for judgment on the pleadings, and many were never served or identified. See, e.g., Dkt Nos. 9, 10, 11, 13, 19, 20, 53, 58, 60. On December 2, 2022, the District Court entered an order dismissing Ouaziz's amended complaint. Specifically, the District Court (1) dismissed with prejudice pursuant to Rule 12(b) of the Federal Rules of Civil Procedure the claims against Judges Maureen

Mantino and Sullivan and Assistant Prosecutor Jane Weiner for acts made in their judicial and prosecutorial capacities on the basis of judicial and prosecutorial immunity, (2) granted judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure in favor of defendants Hudson Hospital Opco, LLC d/b/a CarePoint Health-Christ Hospital i/p/a Christ Hospital (Christ Hospital) and CityMD as to the claims arising from incidents that occurred in 2016 and 2019 because they were barred by the statute of limitations, and (3) dismissed without prejudice the remaining claims in the amended complaint for failure to comply with Rule 8 of the Federal Rules of Civil Procedure. Dkt Nos. 61 & 62. The District Court's order provided Ouaziz thirty days to further amend his complaint solely as to the claims dismissed without prejudice. Rather than filing a Second Amended Complaint, Ouaziz filed a notice of appeal and seeks review of the District Court's December 2, 2022 order. Dkt No. 65.

II.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291.¹ The District

¹ We must first address our jurisdiction to hear this appeal. Although the District Court dismissed certain claims with prejudice and granted judgment on others, the remaining claims in Ouaziz's amended complaint were dismissed without prejudice, and the general rule is that "an order which dismisses a complaint without prejudice is neither final nor appealable." Borelli v. City of Reading, 532 F.2d 950, 951 (3d Cir. 1976) (per curiam). However, "[i]f the plaintiff cannot cure the defect that led to dismissal or elects to stand on the dismissed complaint . . . we have held that the order of dismissal [without prejudice] is final and appealable." Welch v. Folsom, 925 F.2d 666, 668 (3d Cir. 1991); see also Deutsch v. United States, 67 F.3d 1080, 1083 (3d Cir. 1995). Since Ouaziz has elected to stand on his amended complaint, see Appellant's Pro Se Supplemental Brief, 3

Court's dismissal for failure to comply with the requirements of Rule 8 is reviewed for abuse of discretion. See Garrett v. Wexford Health, 938 F.3d 69, 91 (3d Cir. 2019). We exercise plenary review over the District Court's order as to its dismissal of certain claims with prejudice pursuant to Rule 12(b) and as to its grant of judgment on the pleadings pursuant to Rule 12(c) in favor of Christ Hospital and CityMD. *Wolfington v. Reconstructive Orthopaedic Assoc. II PC*, 935 F.3d 187, 196 (3d Cir. 2019) (judgment on the pleadings); *In re: Kaiser Group Int'l Inc.*, 399 F.3d 558, 560 (Rule 12(b)(1) and (6) dismissals).

III.

As to the District Court's Rule 12(b) dismissals with prejudice and its Rule 12(c) judgment on the pleadings, we perceive no error. The District Court correctly observed the longest applicable statute of limitations period to his claims was two years and Ouaziz did not allege a basis for equitable tolling or a later accrual date, so his claims

d Cir. ECF No. 33, at 12, 19–21, we exercise jurisdiction under 28 U.S.C. § 1291. See Remick v. Manfredy, 238 F.3d 248, 254 (3d Cir. 2001).

based on incidents in 2019 and prior are time-barred. *See, e.g.*, 42 U.S.C. § 1986 (one year); *Dique v. N.J. State Police*, 603 F.3d 181, 185 (3d Cir. 2010) (two years for claim under 42 U.S.C. §§ 1983 and 1985 arising in New Jersey); N.J.S.A. 2A:14-2. Judges Mantineo and Sullivan are entitled to judicial immunity for Ouaziz’s claims based on alleged acts taken in their judicial capacities and Weiner is entitled to prosecutorial immunity for the claims based on alleged acts taken by her in her prosecutorial capacity.

See Mireles v.

Waco, 502 U.S. 9, 11–12 (1991) (per curiam) (judicial immunity); *see Van de Kamp v. Goldstein*, 555 U.S. 335, 341 (2009) (prosecutorial immunity).

IV

Federal Rule of Civil Procedure 8(a)(2) requires “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Each averment must be “simple, concise, and direct.” Fed. R. Civ. P. 8(d)(1). “Taken together,” Rules 8(a) and 8(d)(1) “underscore the emphasis placed on clarity and brevity by the federal pleading rules.” In re Westinghouse Sec. Litig., 90 F.3d 696, 702 (3d Cir. 1996). A complaint must contain sufficient clarity “to avoid requiring a district court or opposing party to forever sift through its pages in search of the nature of the plaintiff’s claim[.]” Glover v. FDIC, 698 F.3d 139, 147 (3d Cir. 2012) (quoting Jennings v. Emry, 910 F.2d 1434, 1436 (7th Cir. 1990)). “[A] district court acts within its discretion when it dismisses an excessively prolix and overlong complaint, particularly where a plaintiff

declines an express invitation to better tailor her pleadings.” Garrett, 938 F.3d at 93.

While a court should liberally construe the pleadings of a pro se plaintiff, the complaint must still comply with the pleading requirements of Rule 8. See Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013).

After careful review of the record, we conclude that the District Court did not abuse its discretion in dismissing all remaining claims in Ouaziz’s amended complaint under Rule 8, especially in light of Ouaziz’s decision to decline the District Court’s invitation to further amend and correct the pleading. See Garrett, 938 F.3d at 92–93 (stating that “the question before us is not whether we might have chosen a more lenient course than dismissal . . . but rather whether the District Court abused its discretion in ordering the dismissal”) (citation omitted). Ouaziz’s complaint was anything but “simple, concise, and direct.” See Fed. R. Civ. P. 8(d)(1). Rather, it consisted of 108 pages and 620 separately numbered paragraphs that are “unnecessarily complicated and verbose.” Garrett, 938 F.3d at 93 (citing Westinghouse, 90 F.3d at 703). We agree with the District Court’s characterization of the complaint as one that “fails to provide a clear narrative of either the factual or legal basis for Plaintiff’s claims.” Dkt No. 61, at 5. For these reasons, the complaint failed to satisfy Rule 8’s requirements; it lacked a “short and plain” statement of Ouaziz’s claims against each defendant and was insufficient “to give the adverse party[ies] fair notice of the claim[s] asserted so as to enable [them] to answer and prepare for trial.” See Salahuddin v. Cuomo, 861 F.2d 40, 42 (2d Cir. 1988). Thus,

the District Court did not abuse its discretion in dismissing the remaining claims pursuant to Rule 8.

Accordingly, we will affirm the District Court's order entered December 2, 2022, granting judgment on the pleadings in favor of Christ Hospital and CityMD, dismissing with prejudice the claims against Judges Mantineo and Sullivan for acts taken in their judicial capacities and the claims against Weiner for acts taken in her prosecutorial capacity, and dismissing the remainder of the claims in the amended complaint for failure to comply with Rule 8. The motions for leave to file supplemental appendices are granted.

APPENDIX B

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

BOUAZZA OUAZIZ,

Plaintiff.

v.

CITY OF JERSEY CITY, *et al.*,

Defendants.

Civil Action No. 22-04546 (SDW)(ESK)

WHEREAS OPINION

December 2, 2022

WIGENTON, District Judge.

THIS MATTER having come before this Court upon *pro se* Plaintiff Bouazza Ouaziz's ("Plaintiff") Amended Complaint (D.E. 4 ("Am. Compl.")), filed on July 15, 2022, Defendant Hudson Hospital Opcos, LLC d/b/a CarePoint Health-Christ Hospital i/p/a Christ Hospital's ("Christ Hospital") Motion to Dismiss the Amended Complaint and for Judgment on the Pleadings pursuant to Federal Rules of Civil Procedure ("Rule") 12(b)(6) and 12(c) (D.E. 13), Defendant CityMD's ("CityMD") Motion to Dismiss the Amended Complaint and for Judgment on the Pleadings pursuant to Rule 12(b)(6) and 12(c) (D.E. 20), and Defendants the Honorable Maureen Mantineo, J.S.C. ("Judge Mantineo"), the Honorable Andrea J. Sullivan, J.S.C. ("Judge Sullivan"), and Hudson County Assistant Prosecutor Jane Weiner's ("AP Weiner") (collectively, the "State Defendants") Motion to Dismiss the Amended Complaint pursuant to Rule 12(b)(1) and 12(b)(6) (D.E. 58); and

WHEREAS on July 15, 2022, Plaintiff filed a 108-page Amended Complaint¹ with Over 600 paragraphs and sixty-seven causes of action. (*See generally* Am. Compl.) The body of the Amended Complaint is largely incoherent and confusing. (*Id.*) In it, Plaintiff appears to assert claims related to, *inter alia*, familial disputes, domestic violence incidents, immigration, fraud, assault/sexual assault, deprivation of constitutional rights, and medical services rendered to Plaintiff. (*Id.*) Plaintiff names a myriad of Defendants, including, *inter alia*: his wife² and her family; his wife's boyfriend³; law firms; medical providers; Jersey City, New Jersey; Jersey City Police Department; police officers; New Jersey state court judges; and a New Jersey state court prosecutor. (Am. Compl. at ¶¶ 1–19.) Plaintiff's allegations span the gamut from stolen passports (*id.* at ¶ 24), family court proceedings in New Jersey state court (*id.* at ¶¶ 26, 69–114), family feuds (*id.* at ¶¶ 23–68), drugging and sexual assault (*id.* at ¶¶ 23–68), domestic violence (*id.* at ¶¶ 23–68), corruption in the New Jersey state judicial system (*id.* at ¶¶ 69–114), conspiracy to commit fraud and falsify records (*id.* at ¶¶ 32–114), civil rights abuses (*id.*), and beyond; and

¹ Plaintiff filed his original Complaint on July 12, 2022. (D.E. 1.)

² The Amended Complaint alleges that Plaintiff filed for an annulment in the Superior Court of New Jersey, Hudson County on September 18, 2019. (Am. Compl. at ¶ 26.) It is unclear whether Plaintiff is still legally married to Noura Elghazoni because the factual information provided in the Amended Complaint is incoherent and difficult to follow.

³ The Amended Complaint alleges that Defendant Michael Colombas is Plaintiff's wife's boyfriend and a "medical worker" at Christ Hospital. (Am. Compl. at ¶¶ 23–25, 71.) The Amended Complaint provides no further factual information.

WHEREAS the majority of Plaintiff's claims appear to arise from domestic violence incidents and bodily injuries Plaintiff sustained from an alleged "drugging" and "sexual assault" that occurred in 2016 and 2019. (Am. Compl. at ¶¶ 23–32.) The Amended Complaint sets forth that: in "September 6, 2019, [P]laintiff found [D]efendant Noura El Ghazoini was drugging [P]laintiff to have sex and drug [] her boyfriend [D]efendant Michael Colombas" (*id.* at ¶ 24); "[P]laintiff went to CityMD emergency room for bleeding from [his] anus and [was] dizzy and throwing up" (*id.* at ¶ 32); "[D]efendant Noura Elghazoini was drugging [P]laintiff since 2016 and she us[ed] [D]efendant Michael Colombas as [a] medical worker to drug [P]laintiff to have sex" (*id.* at ¶ 71); "[D]efendant Noura El Ghazoini and her boyfriend [D]efendant Michael Colombas and [D]efendant Somia El Ghazoini and [D]efendant Ali Hilali and [D]efendant Robert Rodriguez as police officer in NYC were drugging [P]laintiff and his girlfriend in Brooklyn to cover up [their] crimes.". (*Id.* at ¶ 88.) Plaintiff seeks relief in nearly countless forms, with damages for alleged harms including: "sexual assault under color of law," "intentional infliction of emotional stress," "negligent infliction of emotional stress," "conspiracy," "fraud and tampering with evidence," "negligence," "anal fissure and pain," "loss of enjoyment of life," "premeditated attempt to kill," "robbery," "extortion," "endangering an injured person," "aggravated sexual assault," "battery," "unfair business practices," "obstructing justice," "slander," "42 U.S.C. § 1983," "42 U.S.C. § 1985," "42 U.S.C. § 1986," "42 U.S.C. § 1988," and beyond. (*Id.* at ¶¶ 40– 108); and

WHEREAS on October 4, 2022, Christ Hospital filed a Motion to Dismiss the Amended Complaint and for Judgment on the Pleadings asserting that Plaintiff's Amended Complaint fails to state a plausible claim for relief pursuant to Rule 12(b)(6) and 12(c). (*See generally* D.E. 137.) Specifically, Christ Hospital argues that: "(1) any and all actions of the alleged agent, Michael Colombas, would be outside the scope of employment and/or ultra vires acts and cannot support the imputation of liability to the alleged employer, Christ Hospital, (2) all bodily injury claims are barred by the two year statute of limitations, (3) the statutory claims are barred by the applicable statute of limitations, and (4) Plaintiff fails to set forth a cause of action against Christ Hospital supported with allegations that it acted under color of state law." (D.E. 13-7 at 2); and

WHEREAS on October 11, 2022, CityMD filed a Motion to Dismiss the Amended Complaint and for Judgment on the Pleadings asserting that Plaintiff's Amended Complaint fails to state a plausible claim for relief pursuant to Rule 12(b)(6), 12(c), and Local Civil Rule 12.1. (D.E. 20-4.) CityMD contends, *inter alia*, that Plaintiff's claims against CityMD relating to bodily injuries arising out of alleged misconduct by CityMD are barred by the applicable statute of limitations because the bodily injuries occurred in 2016 and 2019, which is more than two years prior to the filing of this action on July 12, 2022. (*See generally* D.E. 20-4); and

WHEREAS on November 9, 2022, State Defendants moved to dismiss the Amended Complaint, *inter alia*, on grounds that State Defendants are entitled to absolute judicial and prosecutorial immunity for any action (or inaction) allegedly

undertaken (or not taken) within their respective judicial and prosecutorial roles. (*Id.* at 21–35); and

WHEREAS this Court now *sua sponte* reviews the substance of Plaintiff's Amended Complaint pursuant to Rule 8(a)(2) and (3) and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 173 L.Ed.2d 868 (2009), and considers the arguments raised in Defendants' Motions to Dismiss; and

WHEREAS *pro se* complaints, although “[held] to less stringent standards than formal pleadings drafted by lawyers,” *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972), must still “state a plausible claim for relief.” *Yoder v. Wells Fargo Bank, N.A.*, 566 F. App’x 138, 141 (3d Cir. 2014) (quoting *Walker v. Schult*, 717 F.3d 119, 124 (2d Cir. 2013)); and

WHEREAS Plaintiff's Amended Complaint does not comply with Rule 8. The Amended Complaint, which is 108 pages with over 600 paragraphs and sixty-seven causes of action, is dense and difficult to follow, and comes nowhere near the “short and plain statement” requirement of

Rule 8. *See In re Westinghouse Sec. Litig.*, 90 F.3d 696, 703 (3d Cir. 1996) (finding district court did not abuse its discretion when dismissing complaint which was “unnecessarily complex and verbose,” featuring more than “600 paragraphs and 240 pages”); *McDaniel v. N.J. State Parole Bd.*, Civ. No. 08-0978, 2008 WL 824283, at *2 (D.N.J. Mar. 26, 2008) (dismissing, without prejudice, a “rambling and sometimes illegible” 17-page, single-spaced complaint as not in compliance with Rule 8); *Smith v.*

Dir.'s Choice, LLP, Civ. No. 15-81, 2016 WL 7165739, at *23 (D.N.J. July 28, 2016) (dismissing complaint for failing to meet the requirements of Rule 8 and collecting cases). Indeed, the Amended Complaint fails to provide a clear narrative of either the factual or legal basis for Plaintiff's claims. *See* Rule 8(a)(2) (providing that an adequate complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief"); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (stating that although Rule 8 does not require detailed factual allegations, "it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation"); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (explaining that to survive a Rule 12(b)(6) motion to dismiss, a plaintiff's "[f]actual allegations must be enough to raise a right to relief above the speculative level"); and

WHEREAS Plaintiff brings several claims against the State Defendants arising from various family court and criminal matters in New Jersey state court. (Am. Compl. at ¶¶ 26, 76– 114.) Plaintiff alleges that “[J]udge conspired to withdraw my motion for [it] not to be recorded, and not to be part of my appeal” (*id.* at ¶ 77), “[J]udge Mantineo and other defendants . . . and police in [Jersey City] conspired to delay the case not to go to trial to prove this violation of plaintiff rights and his liberties” (*id.* at ¶ 88), AP Weiner “as a prosecutor conspired to dig my case” and “refuse[d] to prevent or to aid to prevent conspiracy” (*id.* at ¶ 93), and “[J]udge Mantineo and [J]udge Andrea Sullivan were involve[ed] in [an] exchange of favor[s]

with attorneys to sabotage justice and hurt [the] constitution[al] rights of citizen[s] [of] the United States" (*id.* at ¶ 99);

WHEREAS the State Defendants are entitled to absolute judicial and prosecutorial immunity for any action (or inaction) allegedly undertaken (or not taken) within their respective judicial and prosecutorial roles. Judge Mantineo and Judge Sullivan are absolutely immune to "civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." *Figueroa v. Blackburn*, 208 F.3d 435, 440 (3d Cir. 2000) (quoting *Stump v. Sparkman*, 435 U.S. 349, 355–56 (1978)). Similarly, AP Weiner is entitled to absolute prosecutorial immunity from liability for any and all actions taken in her role as a prosecutor. *See Imbler v. Pachtman*, 424 U.S. 409, 427–28, 430 (1976) (explaining that prosecutors are entitled to absolute immunity for conduct "intimately associated with the judicial phase of the criminal process.") Moreover, under the Eleventh Amendment, "an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another State." *Villarreal v. New Jersey*, 803 F. App'x 583, 587 (3d Cir. 2020) (quoting *Edelman v. Jordan*, 415 U.S. 651, 662–63 (1974)). Eleventh Amendment immunity protects not only states but also state agencies and departments, such as the State Defendants here, "that are so intertwined with them as to render them arms of the state." *Karns v. Shanahan*, 879 F.3d 504, 513 (3d Cir. 2018) (quoting *Bowers v. NCAA*, 475 F.3d 524, 545 (3d Cir. 2007) (internal quotations omitted)). Therefore, to the extent Plaintiff's claims against the State Defendants are for acts carried out in the performance of judicial and prosecutorial duties, his claims fail; and

WHEREAS a generous liberal reading of the Amended Complaint suggests that Plaintiff asserts a variety of causes of action under 42 U.S.C. § 1983, 42 U.S.C. § 1985, 42 U.S.C. § 1986, and beyond, for alleged injuries sustained from a “drugging” and “sexual assault” that occurred in 2016 and 2019. (Am. Compl. at ¶¶ 23–32, 71.) The Amended Complaint sets forth that: (1) Defendant Noura Elghazoini had been drugging Plaintiff since 2016 and used Defendant Michael Colombas, a “medical worker,” to drug Plaintiff; (2) Plaintiff learned of the alleged drugging on or about September 6, 2019; (3) Plaintiff sought treatment with CityMD on December 19, 2019, for the alleged drugging and sexual assault. (Am. Compl. at ¶¶ 23–32, 71, 88.) “It is well established that a district court may dismiss a civil rights suit for failure to state a claim where the facts alleged in the complaint plainly demonstrate that a cause of action has not been brought within the applicable limitations period.” *Hunterson v. Disabato*, 244 F. App’x 455, 457 n.1 (3d Cir. 2007) (citing *Bethel v. Jendoco Const. Corp.*, 570 F.2d 1168, 1174 (3d Cir. 1978)). The statute of limitations for actions arising under 42 U.S.C. § 1983 in New Jersey is two years. *See Backof v. N.J. State Police*, 92 F. App’x 852, 855 (3d Cir. 2004) (citing N.J. Stat. Ann. § 2A:14-2). The statute of limitations for actions arising under 42 U.S.C. § 1986 is one year. *See* 42 U.S.C. § 1986 (“[n]o action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.”). Similarly, N.J.S.A. 2A:14-2 provides that an action for an injury to the person caused by a wrongful act, neglect, or default must be commenced within two years of accrual of the action. “[A] cause of action accrues, and the statute of limitations begins to run, when the plaintiff knew or should have known of the injury upon which its action is

based. The determination of the time at which a claim accrues is an objective inquiry; we ask not what the plaintiff actually knew but what a reasonable person should have known." *Kach v. Hose*, 589 F.3d 626, 634 (3d Cir. 2009) (internal quotation marks and citations omitted). Here, Plaintiff's alleged claims stem from incidents that occurred in 2016 and 2019, which are more than two years prior to the filing of this action. (Am. Compl. at ¶¶ 23–32, 71.) The statute of limitations period

on those claims has expired under any liberal reading. Plaintiff provides no basis for a later accrual date or equitable tolling. Therefore, to the extent Plaintiff asserts claims arising from incidents that occurred in 2016 and 2019, his claims are time-barred under 42 U.S.C. § 1983, 42 U.S.C. § 1986, N.J.S.A. 2A:14–2, and other applicable statutes.

Accordingly, Plaintiff's Second Amended Complaint is *sua sponte* **DISMISSED** without prejudice, except as to (1) Plaintiff's claims against the State Defendants for acts made in their judicial and prosecutorial capacities and (2) Plaintiff's claims arising from incidents that occurred in 2016 and 2019 that are time-barred. Such claims are dismissed with prejudice. Plaintiff shall have thirty (30) days to file an amended complaint as to only those counts dismissed without prejudice. An appropriate order follows.

/s/ Susan D. Wigenton
SUSAN D. WIGENTON, U.S.D.J.

Orig: Clerk cc: Edward S. Kiel, U.S.M.J.
Parties