

No. 15-2541

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Jun 17, 2016

DEBORAH S. HUNT, Clerk

RICHARD LOUIS HALL,

Plaintiff-Appellant,

V.

**CITY OF DETROIT; JOHN DOE, 1-3 City
Officers,**

Defendants-Appellees.

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ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF
MICHIGAN

ORDER

Before: COLE, Chief Judge; SILER and STRANCH, Circuit Judges.

Richard Louis Hall, a pro se Michigan litigant, appeals a district court judgment dismissing his civil rights complaint against the City of Detroit and three “John Doe” police officers. 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).

Seeking two million dollars in damages—ostensibly under 42 U.S.C. § 1983—Hall alleged that the unidentified police officers used excessive force to arrest him on October 29, 2011. His complaint included counts for false arrest, excessive force, assault, and battery. According to Hall, an unmarked police car knocked him off of his bicycle. Three plain-clothes police officers exited the car. The first officer knelt to “penetrate” Hall’s “nasal.” The second officer used his body weight to hold Hall down. The third officer waved off a marked police car that approached the scene. Hall also alleged that the officers planted a gun on him.

Exhibit A

The district court dismissed Hall's complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). On appeal, Hall contends that the district court erred.

We review de novo a district court's dismissal of a suit pursuant to Federal Rule of Civil Procedure 12(b)(6). *Yuhasz v. Brush Wellman, Inc.*, 341 F.3d 559, 562 (6th Cir. 2003). A civil complaint survives a motion to dismiss only if it "contain[s] sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

Hall's complaint contains insufficient factual matter, even if accepted as true, to state a claim to relief that is plausible on its face. While Hall's pro se complaint is entitled to a liberal reading, see *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam), this court still requires more than bare assertions of legal conclusions. *Grinter v. Knight*, 532 F.3d 567, 577 (6th Cir. 2008). Hall's complaint does nothing more, and fails to state a plausible claim for relief against the City of Detroit.

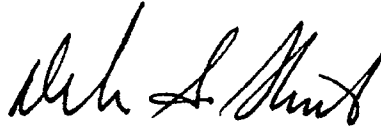
Further, the theory of respondeat superior cannot support a claim alleging municipal liability in a § 1983 action. See *Monell v. New York City Dep't of Soc. Servs.*, 436 U.S. 658, 692-94 (1978) ("[I]t is when execution of a government's policy or custom . . . inflicts the injury that the government as an entity is responsible under § 1983."). Hall does not allege an official policy or custom of the City resulting in a violation of his constitutional rights as is required to establish municipal liability. He merely argues that Detroit has a reputation for abuse. See *id.* Hall's "unadorned, the-defendant-unlawfully-harmed-me accusation" does not suffice. See *Ashcroft*, 556 U.S. at 678. Thus, the district court properly dismissed Hall's suit as it pertained to the City of Detroit.

The district court, however, dismissed the complaint in its entirety, without addressing Hall's claims against three "John Doe" police officers. "Plaintiffs are permitted to bring suit against unnamed 'John Doe' defendants until discovery or other information reveals the identity of the party." *Brown v. Owens Corning Inv. Review Comm.*, 622 F.3d 564, 572 (6th Cir. 2010). True naming "John Doe" defendants cannot be used to circumvent the applicable statute of limitations, see *Cox v. Treadway*, 75 F.3d 230, 240 (6th Cir. 1996), and Hall's complaint

concerns events that happened in October 2011. But while Hall's complaint may be time-barred, see *Harrison v. Michigan*, 722 F.3d 768, 772 (6th Cir. 2013) (noting a three-year limitations statute in Michigan), and a district court has the authority to raise a limitations bar sua sponte, see *Alston v. Tenn. Dep't of Corr.*, 28 F. App'x 475, 476 (6th Cir. 2002), we decline to address the limitations question in the first instance.

Accordingly, we **AFFIRM** the district court's judgment insofar as it dismissed Hall's claims against the City of Detroit but **VACATE** the district court's judgment and **REMAND** the matter to the district court for further proceedings as to Hall's claims against the "John Doe" police officers.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 16-2738

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RICHARD LOUIS HALL,

Plaintiff-Appellant,

y.

CITY OF DETROIT, MICHIGAN,

Defendant-Appellee,

and

JOHN DOE NOS. 1-6, 1-3 City Officers,

Defendant.

FILED

Nov 29, 2017

DEBORAH S. HUNT, Clerk

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF
MICHIGAN

ORDER

Before: SUHRHEINRICH and KETHLEDGE, Circuit Judges; HOOD, District Judge.*

Richard Louis Hall, a Michigan resident, appeals pro se a district court order dismissing his civil rights complaint, filed pursuant to 42 U.S.C. § 1983. 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).

On August 20, 2015, Hall filed a complaint against the city of Detroit and three John Doe police officers. He alleged that on October 29, 2011, he had been the victim of police brutality resulting in a broken nose and ribs. He sought \$2,000,000 in damages.

*The Honorable Joseph M. Hood, United States District Judge for the Eastern District of Kentucky, sitting by designation.

The city moved to dismiss the complaint against it for failure to state a claim of municipal liability, and the district court granted the motion. We affirmed but noted that the district court had dismissed the complaint as to the three John Doe police officers also. That portion of the case was remanded. We noted that the claim against the officers appeared, from the face of the complaint, to be barred by the statute of limitations.

On remand, Hall attempted to learn the identities of the John Doe officers through discovery, without success. No officer was ever served. Hall also moved repeatedly for a default judgment. The motions were denied. The district court then dismissed the complaint as barred by the statute of limitations.

It appears from the complaint that the claim against the John Doe police officers is barred, as the complaint was filed more than three years after the alleged incident of police brutality. *See Harrison v. Michigan*, 722 F.3d 768, 772 (6th Cir. 2013). Hall's attempts to discover the identity of the officers could not have remedied this defect. Therefore, the district court properly dismissed the complaint. *See Alston v. Tenn. Dep't of Corr.*, 28 F. App'x 475, 476 (6th Cir. 2002).

Accordingly, we **AFFIRM** the district court's order dismissing the complaint.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk