

**NOT RECOMMENDED FOR PUBLICATION**

No. 23-1088

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**

Mar 21, 2023

DEBORAH S. HUNT, Clerk

DANA LUNN, )  
 )  
 Plaintiff-Appellant, )  
 )  
 v. ) ON APPEAL FROM THE UNITED  
 ) STATES DISTRICT COURT FOR  
 CITY OF DETROIT, MI; DETROIT, MI, POLICE ) THE EASTERN DISTRICT OF  
 DEPARTMENT; JEREMY FORESTER; JOHN ) MICHIGAN  
 DOE, Unknown Officers, )  
 )  
 Defendants-Appellees. )

**ORDER**

Before: BOGGS, GRIFFIN, and MATHIS, Circuit Judges.

“Every federal appellate court has a special obligation to satisfy itself . . . of its own jurisdiction . . . .” *Alston v. Advanced Brands & Importing Co.*, 494 F.3d 562, 564 (6th Cir. 2007) (quoting *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 95 (1998)). Generally, in a civil case where neither the United States, a United States agency, nor a United States officer or employee is a party, a notice of appeal must be filed within 30 days after the judgment or order appealed from is entered. 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A).

Dana Lunn filed a civil action alleging that he was the victim of various torts and constitutional violations. During the course of the proceedings, the district court dismissed all but one claim and allowed Lunn time to file an amended complaint that more clearly set out the remaining claim. Lunn failed to do so, and on April 11, 2022, the district court dismissed the

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remaining claim and entered a final judgment. Lunn filed a motion for reconsideration, which the district court denied on May 13, 2022. On January 27, 2023, Lunn filed a notice of appeal.

Lunn's failure to timely file a notice of appeal deprives this court of jurisdiction. Compliance with the statutory deadline in § 2107(a) is a mandatory jurisdictional prerequisite that this court may not waive. *Hamer v. Neighborhood Housing Services of Chicago*, 138 S. Ct. 13, 21 (2017) (citing *Bowles v. Russell*, 551 U.S. 205, 209–13 (2007)). And the statutory provisions permitting the district court to extend or reopen the time to file a notice of appeal do not apply here. *See* 28 U.S.C. § 2107(c). Federal Rule of Appellate Procedure 4(a)(5)(A)(i) requires a party to move for an extension of time to file a notice of appeal “no later than 30 days after” he was otherwise required to file the notice, a period that expired long before Lunn filed his notice of appeal. Lunn is likewise ineligible for reopening of the time to appeal, *see* 28 U.S.C. § 2107(c)(1)–(2); Fed. R. App. P. 4(a)(6), because he has not claimed that he did not receive notice of the judgment within 21 days of its entry.

We therefore **DISMISS** this appeal for lack of jurisdiction.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANA LUNN,

Plaintiff,

v.

CITY OF DETROIT, et al.,

Defendants.

Case No. 19-13578

Honorable Laurie J. Michelson  
Magistrate Judge David R. Grand

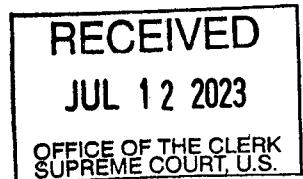
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**ORDER DISMISSING CASE FOR FAILURE TO  
PLEAD ONLY REMAINING CLAIM AND  
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [28]**

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Dana Lunn filed a *pro se* complaint against the City of Detroit, the Detroit Police Department, and several Detroit police officers alleging that, during a traffic stop and his subsequent arrest in 2016, he had been the victim of various torts and constitutional violations. (ECF No. 1.) The case was later referred to Magistrate Judge David R. Grand. (ECF No. 15.) In time, Defendants filed a motion for judgment on the pleadings and for summary judgment, seeking dismissal of all of Lunn's claims. (ECF No. 28.)

In his Report and Recommendation, Judge Grand recommended dismissing every claim except for one excessive-force claim against the officers relating to Lunn's handcuffing during the arrest. (*See* ECF No. 37, PageID.313–317, 324.) Judge Grand also recommended that the officers be compelled to mediate that claim before filing a renewed motion. (*Id.* at PageID.324.)



The officers filed an objection, asking this Court to dismiss the handcuffing claim because Lunn failed to properly plead it, or, in the alternative, that they not be compelled to mediate the claim before filing a renewed motion. (ECF No. 41, PageID.345.) Lunn has neither filed an objection to the dismissal of nearly all of his claims, nor responded to the officers' objection.

This Court adopted the magistrate judge's recommendation as to all claims not objected to and dismissed them. (ECF No. 43, PageID.375.) As to the handcuffing claim, it partly overruled and partly sustained the officers' objection. (*Id.* at PageID.373–374.) Though the Court did not require the officers to mediate this claim, it also did not dismiss the claim outright. (*Id.*) Instead, it granted Lunn 14 days from March 21, 2022 to file an amended complaint that more clearly laid out the handcuffing claim. (*Id.* at PageID.375.) The Court also warned that “[i]f no timely amended complaint is filed, the court will dismiss the case for failure to plead the last remaining claim.” (*Id.*)

Lunn never filed an amended complaint, and the time to do so has passed. So the Court will DISMISS this case for failure to plead the handcuffing claim. *See J.H. v. Williamson Cnty., Tennessee*, 951 F.3d 709, 722 (6th Cir. 2020). A separate judgment will follow.

SO ORDERED.

Dated: April 11, 2022

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANA LUNN,

Plaintiff,

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CITY OF DETROIT, et al.,

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Case No. 19-13578

Honorable Laurie J. Michelson  
Magistrate Judge David R. Grand

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**JUDGMENT**

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In accordance with the opinion and order entered today, it is hereby  
ORDERED and ADJUDGED that this case is DISMISSED.

Dated this 11<sup>th</sup> day of April 2022 in Detroit, Michigan.

KINIKIA ESSIX  
CLERK OF THE COURT

By: s/Erica Parkin  
DEPUTY COURT CLERK

APPROVED:

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
UNITED STATES DISTRICT JUDGE

Dated: April 11, 2022