

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

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|------------------------------|---|-------------------------------------|
| BRUCE E. COMMITTE, |) | CASE NO. 1:17 CV 1534 |
| |) | |
| Plaintiff, |) | JUDGE DAN AARON POLSTER |
| |) | |
| v. |) | |
| |) | |
| JIANPING ZHU, et al., |) | <u>MEMORANDUM OF OPINION</u> |
| |) | <u>AND ORDER</u> |
| |) | |
| Defendants. |) | |

Plaintiff Bruce E. Committe, acting *pro se*, has filed an *in forma pauperis* complaint in this action pursuant to 42 U.S.C. § 1983 against Jianping Zhu, Provost and Senior Vice President of Academic Affairs at Cleveland State University, and unnamed “John and Jane Does.” (Doc. No. 1.) He alleges the defendants denied him “equal protection of the laws” in violation of the Fourteenth Amendment by failing to hire him for a position as an assistant professor of accounting to begin in the fall of 2017 because of his age.

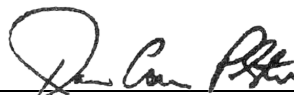
Federal district courts are expressly required, under 28 U.S.C. § 1915(e)(2)(B), to screen *all in forma pauperis* actions, and to dismiss before service any such action that the court determines is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from defendant who is immune from such relief. *See Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010).

This action must be summarily dismissed. The plaintiff has already been apprised – by an opinion and order issued by another district court dismissing a prior, similar age discrimination claim he asserted under § 1983 – that age discrimination claims asserted under § 1983 are not cognizable. *See, e.g., Committe v. Oregon State Univ.*, No. 6:16-CV-00962-MC, 2016 WL 4374945, at *2 (D. Or. Aug. 11, 2016) (dismissing prior § 1983 equal protection claim brought by the plaintiff against Oregon State University for failure to hire him as an accounting faculty member on the basis of his age, and holding that such age claims are preempted by the Age Discrimination in Employment and that “no amendment can cure that flaw”). *See also Brandal v. Columbus City Sch. Dist.*, No. 2:09-CV-680, 2010 WL 5014306, at *3 (S.D. Ohio Dec. 1, 2010) (dismissing age discrimination claim brought under § 1983 and stating that age is not a suspect classification for purposes of the Equal Protection Clause).

Conclusion

Accordingly, the plaintiff’s application to proceed *in forma pauperis* (Doc. No. 2) is granted, and this action is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B). 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.

IT IS SO ORDERED.


8/3/2014

DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE