

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

TIMOTHY SHAWN GOOSTREE, Plaintiff,
v. Civil Action No. 3:16-cv-P134-DJH
HARDIN COUNTY DETENTION CENTER, Defendant.

* * * * *

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff Timothy Shawn Goostree's pro se complaint pursuant to 28 U.S.C. § 1915A. For the reasons that follow, the Court will dismiss the claims against the Hardin County Detention Center (HCDC) and provide Plaintiff with an opportunity to file an amended complaint.

I. SUMMARY OF CLAIMS

Plaintiff is a convicted prisoner incarcerated at HCDC. He brings suit pursuant to 42 U.S.C. § 1983 against HCDC. Plaintiff asserts that his constitutional right to receive proper medical attention has been violated based on the following statement of his claim:

As a state inmate at H.C.D.C. I am being denied my prescription medication (Paxil) that I take for depression and Bi-polar. I arrived at H.C.D.C on Thursday Feb. 11 and have tried acquiring several different times and ways as to why I am not receiving my medication. I'm always given the same answer (We will look into it).

As relief, Plaintiff requests an investigation into HCDC and a transfer to a location where he can receive proper medical care.

II. STANDARD OF REVIEW

Because Plaintiff is a prisoner seeking relief against governmental entities, officers, and/or employees, this Court must review the instant action under 28 U.S.C. § 1915A. Under § 1915A, the trial court must review the complaint and dismiss the complaint, or any portion of the complaint, if the court determines that it is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. See § 1915A(b)(1), (2); *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The trial court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. *Id.* at 327. In order to survive dismissal for failure to state a claim, “a complaint must contain 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)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556). “[A] district court must (1) view the complaint in the light most favorable to the plaintiff and (2) take all well-pleaded factual allegations as true.” *Tackett v. M & G Polymers, USA, LLC*, 561 F.3d 478, 488 (6th Cir. 2009) (citing *Gunasekera v. Irwin*, 551 F.3d 461, 466 (6th Cir. 2009) (citations omitted)). “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked

assertion[s]’ devoid of ‘further factual enhancement.’” Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 555, 557).

III. ANALYSIS

The HCDC is not a “person” subject to suit under § 1983 because municipal departments, such as jails, are not suable under § 1983. *Marbry v. Corr. Med. Servs.*, No. 99-6706, 2000 WL 1720959, at *2 (6th Cir. Nov. 6, 2000) (holding that a jail is not an entity subject to suit under § 1983); see also *Rhodes v. McDannel*, 945 F.2d 117, 120 (6th Cir. 1991) (holding that a police department may not be sued under § 1983). In this situation, Hardin County is the proper Defendant. See *Smallwood v. Jefferson Cty. Gov’t*, 743 F. Supp. 502, 503 (W.D. Ky. 1990). Further, Hardin County is a “person” for purposes of § 1983. See *Monell v. New York City Dept. of Soc. Servs.*, 436 U.S. 658 (1978).

When a § 1983 claim is made against a municipality, this Court must analyze two distinct issues: (1) whether Plaintiff’s harm was caused by a constitutional violation; and (2) if so, whether the municipality is responsible for that violation. *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 120 (1992). The Court will address the issues in reverse order.

“[A] municipality cannot be held liable solely because it employs a tortfeasor -- or, in other words, a municipality cannot be held liable under § 1983 on a respondeat superior theory.” *Monell*, 436 U.S. at 691; *Searcy v. City of Dayton*, 38 F.3d 282, 286 (6th Cir. 1994); *Berry v. City of Detroit*, 25 F.3d 1342, 1345 (6th Cir. 1994). “[T]he touchstone of ‘official policy’ is designed ‘to distinguish acts of the municipality from acts of employees of the municipality, and thereby make clear that municipal liability is limited to action for which the municipality is actually responsible.’” *City of St. Louis v. Praprotnik*, 485 U.S. 112, 138 (1988) (quoting

Pembaur v. Cincinnati, 475 U.S. 469, 479-80 (1986)). To demonstrate municipal liability, a plaintiff “must (1) identify the municipal policy or custom, (2) connect the policy to the municipality, and (3) show that his particular injury was incurred due to execution of that policy.” *Alkire v. Irving*, 330 F.3d 802, 815 (6th Cir. 2003) (citing *Garner v. Memphis Police Dep’t*, 8 F.3d 358, 364 (6th Cir. 1993)).

In the instant case, Plaintiff does not allege that he is being denied medication based on a Hardin County policy or custom. Nothing in the complaint demonstrates that the action or inaction of any personnel occurred as a result of a policy or custom implemented or endorsed by the county. The complaint, therefore, fails to establish a basis of liability against the municipality and fails to state a cognizable § 1983 claim. Accordingly, the claim against HCDC/Hardin County will be dismissed.

“[U]nder Rule 15(a) a district court can allow a plaintiff to amend his complaint even when the complaint is subject to dismissal under the PLRA [Prison Litigation Reform Act].” *LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013). The Court will allow Plaintiff an opportunity to amend his claim of being denied medication to name as Defendants in their individual capacity the person or persons who he claims engaged in the alleged wrongdoing and to describe the facts surrounding how each Defendant allegedly violated his rights.

IV. ORDER

For the foregoing reasons,

IT IS ORDERED that the § 1983 claim against HCDC/Hardin County is **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that within **30 days** from the entry date of this Memorandum Opinion and Order, Plaintiff may amend the complaint to name the person or persons involved in his claim that he is being denied prescription medication; to sue them in their individual capacity; and to describe the facts surrounding each Defendant's involvement in his denial-of-medication claim. The Clerk of Court is **DIRECTED** to place the instant case number and "Amended" on a § 1983 complaint form and send it, along with four blank summons forms, to Plaintiff for his use should he wish to amend the complaint. The Court will conduct an initial review on the amended complaint pursuant to 28 U.S.C. § 1915A.

Should Plaintiff file no amended complaint within 30 days, the Court will enter a final Order dismissing the entire action for the reasons stated herein.

Date: August 15, 2016

A handwritten signature in black ink, appearing to read "D. J. Hale", is written over a circular official seal of the United States District Court.

**David J. Hale, Judge
United States District Court**

cc: Plaintiff, pro se
4415.005