

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

CHARLES L. BURGETT,)
)
 Plaintiff,)
)
 vs.)
)
 KANSAS CITY AREA)
 TRANSPORTATION AUTHORITY,)
 et al.,)
)
 Defendants.)

Case No. 13-0494-CV-W-ODS

ORDER AND OPINION GRANTING DEFENDANT KANSAS CITY
BOARD OF POLICE COMMISSIONERS' MOTION TO DISMISS

Pending is Defendant Kansas City Board of Police Commissioners' ("the Board")
Motion to Dismiss (Doc. 4). The Motion is granted.

I. BACKGROUND

This case arises from an incident in which Plaintiff was arrested in December
2009. Plaintiff alleges, among other things, that he was injured during his arrest and that
the Board negligently trained Defendant Officer Cartwright, which lead to his injuries.

II. STANDARD

To survive a motion to dismiss, a complaint must contain a "short and plain
statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P.
8(a)(2). The claim for relief must be "plausible on its face," meaning it must "plead[]
factual content that allows the court to draw the reasonable inference that the defendant
is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
(quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 556 (2007)). Mere "labels and
conclusions," "formulaic recitation[s] of the elements of a cause of action," and "naked

assertion[s]' devoid of 'further factual enhancement'" are insufficient. *Id.* (quoting *Twombly*, 550 U.S. at 555, 557).

III. DISCUSSION

Plaintiff has not stated a claim in which relief can be granted against the Board because it is a non-suable entity. In *Edwards v. Baer*, the Eighth Circuit held that a plaintiff did not state a claim upon which relief could be granted against the St. Louis Board of Police Commissioners because the board itself was not a suable entity. 863 F.2d 606, 609 (8th Cir. 1988); see also *Walker v. Kansas City Police Dept.*, 2010 WL 2720720, at *3 (W.D. Mo. July 6, 2010) (granting Defendant Kansas City Board of Police Commissioners' motion to dismiss because it was not a suable entity). Claims against the Board must be in the form of claims made against individual members acting in their official capacity. *Id.* Accordingly, Plaintiff's claims against the Board as an entity are dismissed. The specific claims against the Board need not be analyzed further. The individual members of the Board may reassert any arguments they deem appropriate if and when they are served and respond to this suit.

IV. CONCLUSION

All claims against Defendant Kansas City Board of Police Commissioners are dismissed.

IT IS SO ORDERED.

DATE: July 11, 2013

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT