IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DANIEL RUIZ VAZQUEZ,	HONORABLE JEROME B. SIMANDLE
Plaintiff,	
v.	Civil Action No. 16- 7360 (JBS-AMD)
CAMDEN COUNTY JAIL,	
Defendant.	**OPINION**

APPEARANCES:

Daniel Ruiz Vazquez, Plaintiff Pro Se
412 West Street
Camden, New Jersey 08103

SIMANDLE, Chief District Judge:

I.   INTRODUCTION

Plaintiff Daniel Ruiz Vazquez seeks to bring a civil rights complaint pursuant to the 42 U.S.C. § 1983 against the Camden County Jail ("CCJ"). Complaint, Docket Entry 1. Based on Plaintiff's affidavit of indigency, the Court will grant his application to proceed *in forma pauperis*.

At this time, the Court must review the complaint, pursuant to 28 U.S.C. § 1915(e)(2) to determine whether it should be dismissed as frivolous or malicious, for failure to state a claim upon which relief may be granted, or because it seeks monetary relief from a defendant who is immune from such relief. For the reasons set forth below, the Court will dismiss the

complaint with prejudice for failure to state a claim. 28 U.S.C.
§ 1915(e)(2)(b)(ii).

II. BACKGROUND

Plaintiff alleges that on October 3, 2001 to October 4,
2001, April 18 2002 to September 27, 2002, and August 18, 2004
to September 14, 2004, he was detained in the CCJ. Complaint §
III. He further alleges that he slept "in a cell of two people
with 4 people" and he had to sleep "under the toilet." *Id.* He
further alleges, "I would wake up in the middle of night with
some peeing over my head. The mattress they gave me smelt like
garbage or urine also had holes all over it and no padding at
all." *Id.*

III. STANDARD OF REVIEW

Section 1915(e)(2) requires a court to review complaints
prior to service in cases in which a plaintiff is proceeding *in
forma pauperis*. The Court must *sua sponte* dismiss any claim that
is frivolous, is 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. This action is subject to *sua
sponte* screening for dismissal under 28 U.S.C. § 1915(e)(2)(B)
because Plaintiff is proceeding *in forma pauperis*.

To survive sua sponte screening for failure to state a
claim, the complaint must allege "sufficient factual matter" to
show that the claim is facially plausible. *Fowler v. UPMS*

Shadyside, 578 F.3d 203, 210 (3d Cir. 2009) (citation omitted).
"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." *Fair Wind Sailing, Inc. v. Dempster*, 764 F.3d 303, 308
n.3 (3d Cir. 2014) (quoting *Iqbal*, 556 U.S. at 678). "[A]
pleading that offers 'labels or conclusions' or 'a formulaic
recitation of the elements of a cause of action will not do.'"
Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting *Bell
Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

IV. DISCUSSION

Plaintiff seeks monetary damages from CCJ for allegedly
unconstitutional conditions of confinement. Primarily, the
complaint must be dismissed as the CCJ is not a "state actor"
within the meaning of § 1983. *See, e.g., Grabow v. Southern
State Corr. Facility*, 726 F. Supp. 537, 538–39 (D.N.J. 1989)
(correctional facility is not a "person" under § 1983).
Accordingly, the claims against CCJ must be dismissed with
prejudice.

Generally, "plaintiffs who file complaints subject to
dismissal under [§ 1915] should receive leave to amend unless
amendment would be inequitable or futile." *Grayson v. Mayview
State Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002). This Court denies
leave to amend at this time as Plaintiff's complaint is barred

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by the statute of limitations, which is governed by New Jersey's

two-year limitations period for personal injury.[1] *See Wilson v.*

Garcia, 471 U.S. 261, 276 (1985); *Dique v. N.J. State Police*,

603 F.3d 181, 185 (3d Cir. 2010). The accrual date of a § 1983

action is determined by federal law, however. *Wallace v. Kato*,

549 U.S. 384, 388 (2007); *Montanez v. Sec'y Pa. Dep't of Corr.*,

773 F.3d 472, 480 (3d Cir. 2014).

"Under federal law, a cause of action accrues when the

plaintiff knew or should have known of the injury upon which the

action is based." *Montanez*, 773 F.3d at 480 (internal quotation

marks omitted). Plaintiff states he was detained at CCJ between

October 3, 2001 to October 4, 2001, April 18 2002 to September

27, 2002, and August 18, 2004 to September 14, 2004. The

allegedly unconstitutional conditions of confinement at CCJ

would have been immediately apparent to Plaintiff at the time of

his detention; therefore, the statute of limitations for

Plaintiff's claims expired September 14, 2006, at the latest. As

there are no grounds for equitable tolling of the statute of

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[1] "Although the running of the statute of limitations is
ordinarily an affirmative defense, where that defense is obvious
from the face of the complaint and no development of the record
is necessary, a court may dismiss a time-barred complaint sua
sponte under § 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to
state a claim." *Ostuni v. Wa Wa's Mart*, 532 F. App'x 110, 111–12
(3d Cir. 2013) (per curiam).

limitations,[2] the complaint will be dismissed with prejudice.

Ostuni v. Wa Wa's Mart, 532 F. App'x 110, 112 (3d Cir. 2013)

(per curiam) (affirming dismissal with prejudice due to

expiration of statute of limitations).

V. CONCLUSION

For the reasons stated above, the complaint is dismissed with

prejudice for failure to state a claim. An appropriate order

follows.

January 3, 2017
Date

s/ Jerome B. Simandle
JEROME B. SIMANDLE
Chief U.S. District Judge

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[2] Equitable tolling "is only appropriate '(1) where the defendant
has actively misled the plaintiff respecting the plaintiff's
cause of action; (2) where the plaintiff in some extraordinary
way has been prevented from asserting his or her rights; or (3)
where the plaintiff has timely asserted his or her rights
mistakenly in the wrong forum.'" *Omar v. Blackman*, 590 F. App'x
162, 166 (3d Cir. 2014) (quoting *Santos ex rel. Beato v. United
States*, 559 F.3d 189, 197 (3d Cir. 2009)).