

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:16-CV-938-BO

MAHMOUD OMAR ZUGHBI, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 TOWN OF SHARPSBURG, *et al.*, )  
 )  
 Defendants. )

ORDER

This cause comes before the Court on a motion by defendant Sharpsburg Police Department to dismiss pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure. Plaintiff has failed to respond to the motion and the matter is ripe for ruling.

BACKGROUND

Plaintiff filed this action alleging that he was discriminated against on account of his race, color, religion, and national origin during his employment as a police officer for the Town of Sharpsburg, North Carolina. Plaintiff has named as defendants his former employer, the Town of Sharpsburg; three individuals; and the Sharpsburg Police Department.

DISCUSSION

Defendant Sharpsburg Police Department correctly contends that it not a legal entity and is thus not a proper defendant in this action. “Unless a statute provides to the contrary, only persons in being may be sued. In North Carolina there is no statute authorizing suit against a police department. The Police Department is a component part[] of defendant City . . . and as such lack[s] the capacity to be sued.” *Coleman v. Cooper*, 89 N.C. App. 188, 192 (1988) (internal citations omitted); *see also Moore v. City of Asheville*, 290 F. Supp. 2d 664, 673

(W.D.N.C. 2003), *aff'd*, 396 F.3d 385 (4th Cir. 2005) (dismissing claims against city police department for lack of capacity to be sued); *Wilson v. Fayetteville Police Dep't*, No. 5:13-CV-178-BO, 2014 WL 555663, at \*1 (E.D.N.C. Feb. 11, 2014) (“Courts have routinely found that lawsuits brought against municipal police departments are not authorized.”) (listing cases).

CONCLUSION

Accordingly, for the foregoing reasons and without opposition by plaintiff, defendant Sharpsburg Police Department’s motion to dismiss [DE 28] is GRANTED.

SO ORDERED, this 13 day of April, 2017.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE