

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

BASIL MOHANDIE,

Plaintiff,

v.

JOHN VARGA, and WEXFORD
HEALTH SOURCES, INC,

Defendants.

Case No. 3:17-cv-50355

Honorable Iain D. Johnston

ORDER TO SHOW CAUSE

Article III of the U.S. Constitution limits this Court to hearing only live cases and controversies. This requirement cannot be waived. Even if an Article III question does not arise until years after the case was filed, a federal court must be assured that it has constitutional authority to hear the action. If the Court does not address it now, the parties would find themselves answering this question even further into the litigation. Therefore, instead of analyzing the existing motions to dismiss, this Court orders Plaintiff Basil Mohandie to show cause as to why this case should not be dismissed without prejudice because his prayer for injunctive relief is moot and because he lacks standing to sue for monetary damages. *See Joyce v. Joyce*, 975 F.2d 379, 386 (7th Cir. 1992) (“[S]ua sponte dismissals without notice or opportunity to be heard are ‘hazardous.’”) (quoting *Shockley v. Jones*, 823 F.2d 1068, 1072 (7th Cir. 1987)).

Mohandie brings that action against Wexford Health Sources, Inc. (“Wexford”) and John Varga, in his official capacity as warden of Dixon Correctional

Center (DCC). Dkt. 54, ¶ 3. He claims violations of the Eighth Amendment, the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA), and negligence—under Illinois state law. *Id.* ¶ 1. According to Mohandie, his claims under the ADA and the RA name only Warden Varga as a defendant, though that is not made clear by the complaint. Dkt. 69, at 2 (“Plaintiff does not bring any ADA or RA claim against Wexford.”).

I. Injunctive Relief

Mohandie sues John Varga in his official capacity as Warden of DCC for alleged violations of the ADA and the RA. Claims for monetary relief against state officials in their official capacities are barred by the Eleventh Amendment. *Kentucky v. Graham*, 473 U.S. 159, 169 (1985). Thus, Mohandie’s only option, when suing Warden Varga in his official capacity, is to request injunctive relief. “But plaintiffs do not have a legally cognizable interest in the future conduct of prison defendants when that plaintiff no longer resides at the prison.” *Daugherty v. McClusky*, No. 3:18-cv-50088, 2021 U.S. Dist. LEXIS, 46358, at *10 (N.D. Ill. Mar. 12, 2021).

Basil Mohandie now appears to be a resident of Joliet Treatment Facility. This is made apparent by searching the inmate finder provided by the official Illinois Department of Corrections website.¹ The Court takes judicial notice of this fact only for the purpose of raising the question of whether Mohandie’s claims against Warden Varga are moot. “The Court may take judicial notice of the accuracy

¹ Ill. Dep’t of Corr., <https://www2.illinois.gov/idoc/Offender/pages/inmatesearch.aspx> (last visited Mar. 17, 2021).

of IDOC's inmate search function." *Moir v. Amdahl*, 2018 U.S. Dist. LEXIS 184834, at *4 n.1 (S.D. Ill. Oct. 9, 2018) (quoting *Denius v. Dunlap*, 330 F.3d 919 7th Cir. 2003)). But if the inmate is virtually certain to return to the defendant's correctional facility, then the controversy may still be live. *Pennie v. County of Winnebago*, No. 96 C 50389, 1997 U.S. Dist. LEXIS 18084, at *9 (N.D. Ill. Nov. 10, 1997). Because Mohandie appears to have been transferred out of DCC, the Court orders Mohandie to show cause why his claims against Warden Varga—as well as any claim against Wexford for injunctive relief—should not be dismissed as moot.

II. Monetary Relief

Mohandie also appears to seek monetary relief under 42 U.S.C. § 1983 to compensate for the harm done to him. Dkt. 54, at 6. In its motion to dismiss, Wexford argues that Mohandie has failed to allege any injury. Dkt. 62, at 10. This brings up serious questions of Article III standing, but the parties did not fully address standing in the briefing. Although explicitly not labeled as a Rule 12(b)(1) motion, Wexford's motion to dismiss can be reasonably interpreted as a factual challenge to Mohandie's standing to bring suit. *See Apex Digital, Inc. v. Sears, Roebuck & Co.*, 572 F.3d 440, 443 (7th Cir. 2009). But regardless, the Court has a duty to address standing *sua sponte*. *Id.*; *Prim v. Raoul*, No. 3:20-cv-50094, 2021 U.S. Dist. LEXIS 10833, at *8–9 (N.D. Ill. Jan. 21, 2021).

To ensure the proper separation of powers, federal courts cannot hear cases where the plaintiff lacks standing to sue under Article III. *Renne v. Geary*, 501 U.S. 312, 320 (1991). To determine if a plaintiff has standing, federal courts must

analyze whether that plaintiff has alleged an injury in fact, that is fairly traceable to the act complained of, and that is redressable by the relief sought. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). The question here is whether Mohandie has alleged an injury in fact.

To satisfy the injury-in-fact prong, a plaintiff must allege that they have suffered “an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical.” *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548 (2016). Furthermore, bare statutory violations, “divorced from any concrete harm,” are not enough to satisfy the injury-in-fact requirement. *Id.* at 1549.

Having reviewed Mohandie’s second-amended complaint, the Court is not assured that Mohandie meets the injury-in-fact requirement. Critically, the Court does not make any determination as to this question, but merely points out that the question must be resolved. Mohandie alleges that DCC, where he is no longer even housed, “refuses to require that [he] be housed in a one-person cell.” But Mohandie does not allege how this harmed him, or that he was at imminent risk of harm because of the defendant’s action. Given that he is no longer housed at DCC, the imminence of future harm caused by the defendant seems even less likely, if it never materialized while he was an inmate at DCC. And critically, Mohandie never alleges that he was housed in a cell with another inmate or that he was harmed as a result of that housing decision, if it even occurred.

Therefore, Mohandie is ordered to show cause, pursuant to the pleading requirements of Federal Rule of Civil Procedure 11, as to why this case should not be dismissed for lack of Article III standing.

* * *

Because the Court must take time to ensure it has the authority to proceed, the pending motions to dismiss [62, 67] are stricken without prejudice. The motions can be refiled if the Court is assured that this action is justiciable. Mohandie has until April 9, 2021, to respond to the two questions identified in this order to show cause or to move for voluntary dismissal. Whatever Mohandie's choice is, Defendants will have until April 23, 2021, to file their response.

Date: March 18, 2021

A handwritten signature in black ink, appearing to read 'Iain D. Johnston', is written over a horizontal line.

Honorable Iain D. Johnston
United States District Judge
Northern District of Illinois
Western Division