

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Anthony Murdock,)	
)	Case No. 20 C 1440
Plaintiff,)	
v.)	Honorable Gary Feinerman
)	
City of Chicago,)	
)	
Defendant.)	

DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S COMPLAINT

Brevity may be the soul of wit, but when a complaint is so brief that it omits crucial information about the nature of the claim being brought, it must be dismissed. This is the case here. Over the course of his two-and-a-half page Complaint, Plaintiff explains that he was arrested, detained by police according to an alleged City policy, and wishes to represent a class of people that were arrested and held like him. *See* Pl’s Compl. [ECF No. 1] ¶¶ 4, 6-8. But Plaintiff never explains how this arrest injured him, and without an injury, he has no claim. Plaintiff’s Complaint must be dismissed.

LEGAL STANDARD

When considering motions brought pursuant to Rule 12(b)(6), all well-pleaded allegations within the complaint are read in the light most favorable to the plaintiff and presumed true. *Lavalais v. Village of Melrose Park*, 734 F.3d 629, 632 (7th Cir. 2013). This presumption is not extended to “legal conclusions, or threadbare recitals of a cause of action, supported by mere conclusory statements.” *Alam v. Miller Brewing Co.*, 709 F.3d 662, 666 (7th Cir. 2013). A proper claim requires only short and plain statements of jurisdiction and entitlement to relief, as well as a demand for the relief sought. Fed. R. Civ. P. 8(a).

A defendant may move to dismiss if the plaintiff has failed to state a claim upon which relief has been granted. To survive a Rule 12(b)(6) motion to dismiss, a complaint must contain

sufficient facts, accepted as true, “to state a claim for relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.” *Id.* “Nor does a complaint suffice if it tenders ‘naked assertion[s] devoid of further factual enhancement.” *Id.*

ARGUMENT

PLAINTIFF’S COMPLAINT, IN FAILING TO STATE HOW PLAINTIFF WAS INJURED, DOES NOT MEET THE REQUIREMENTS OF RULE 8.

Federal Rule of Civil Procedure 8(a) requires a plaintiff to plead “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). One federal court summarized the rule thusly: “every man’s pleadings shall embrace a full and clear statement of all matters of fact, which he is required to [prove], and no other.” *Weiland v. Palm Beach County Sheriff’s Office*, 792 F.3d 1313, 1316 (11th Cir. 2015) (quoting Logan Bleckley, “Pleading,” 3 Ga. Bar Assoc. Report 40, 41-42 (1886); brackets in original). One such fact needing to be proved is that the plaintiff was injured by the conduct of the defendants. *See Warth v. Seldin*, 422 U.S. 490, 516 (1975); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). If the plaintiff does not plead an injury, the court does not have jurisdiction to hear the case, as the plaintiff lacks standing. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 103 (1998).

In this case, Plaintiff alleges that he was stopped for a traffic offense, the validity of which he does not challenge. Pl’s Compl. ¶ 6. He then alleges that he was arrested by the Chicago police officers that stopped him. *Id.* Next, he says that he was taken to a police station, transported to bond court the next morning, and held in custody until he appeared before a judge who permitted Plaintiff to bond out. *Id.* at ¶ 7. Thus concludes Plaintiff’s factual presentation in his Complaint.

Plaintiff never alleges how the traffic stop, arrest, detention, or release injured him. It is plausible, likely even, that a person stopped by police, arrested, held for less than a day, and released would not have a claim against the officers that arrested him or their employer. So it is up to Plaintiff to plead the injury that he suffered that gives him standing to sue Defendant on behalf of himself and a putative class of more than 500 people. *See* Pl’s Compl. ¶ 9.

Pleading injury, specifically the constitutional provision under which the injury arose, is vital to a § 1983 case. While a plaintiff is not required to plead legal theories, *see Alioto v. Town of Lisbon*, 651 F.3d 715, 721 (7th Cir. 2011), a plaintiff *is* required to state which of his constitutional rights were violated. This is because the “threshold inquiry in a § 1983 suit” is “identify[ing] the specific constitutional right at issue.” *Manuel v. City of Joliet*, 580 U.S. ___, ___, 137 S.Ct. 911, 920 (2017). Which right the plaintiff alleges was violated determines the contours of the claim; different constitutional violations have different elements and use different jury instructions. *See id.* Plaintiff here should be required to, at least, plead *that* he was injured and under which constitutional provision that injury arose. Because he does neither, Plaintiff’s Complaint fails to state a claim and must be dismissed.

CONCLUSION

Plaintiff’s Complaint is devoid of any facts showing that he was injured and how. Accordingly, Plaintiff’s Complaint must be dismissed.

WHEREFORE, Defendants respectfully request that this Honorable Court grant Defendant’s Motion to Dismiss Plaintiff’s Complaint and any other relief that this Honorable Court deems just and proper.

DATED: June 11, 2020

Respectfully submitted,

CITY OF CHICAGO
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