

United States Court of Appeals  
For the Eighth Circuit

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No. 16-3196

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Andrew Riggle

*Plaintiff - Appellant*

v.

Valero; American Enterprise Property; Does 1-5

*Defendants - Appellees*

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Appeal from United States District Court  
for the District of Nebraska - Omaha

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Submitted: April 11, 2017

Filed: April 14, 2017

[Unpublished]

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Before GRUENDER, ARNOLD, and BENTON, Circuit Judges.

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PER CURIAM.

Andrew Riggle appeals the district court's<sup>1</sup> dismissal with prejudice, for lack of standing, of his complaint under the Americans with Disabilities Act, 42 U.S.C.

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<sup>1</sup>The Honorable Lyle E. Strom, United States District Judge for the District of Nebraska.

§ 12101 (ADA). Having jurisdiction under 28 U.S.C. § 1291, this court affirms, but modifies the dismissal to be without prejudice. *See Cty. of Mille Lacs v. Benjamin*, 361 F.3d 460, 464-65 (8th Cir. 2004) (modifying judgment to be without prejudice because dismissal for lack of jurisdiction was not adjudication on merits).

This court agrees that Riggle lacked standing to bring an ADA claim because he did not show how the challenged conduct injured him personally, based on his alleged disability. *See Steger v. Franco, Inc.*, 228 F.3d 889, 892 (8th Cir. 2000) (Article III standing requires plaintiff to show (1) injury-in-fact, (2) causal relationship between injury and challenged conduct, and (3) that injury likely would be redressed by favorable decision; injury-in-fact is harm that is concrete and particularized, or actual or imminent, not conjectural or hypothetical).

The judgment is affirmed, but the dismissal is modified to be without prejudice. *See* 8th Cir. R. 47B.

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