

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

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No. 03-4149

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

JAMES L. ARTHUR, III,)	
)	
Plaintiff-Appellant,)	
)	ON APPEAL FROM THE UNITED
v.)	STATES DISTRICT COURT FOR
)	THE NORTHERN DISTRICT OF OHIO
MYRON BAKER, ROBERT DRAGIN,)	
and MYRON ROBERTS REALTY, a/k/a)	
Executive Club East Apartments and)	
Shoreway Court Apartments,)	
)	
Defendants-Appellees.)	

Before: GIBBONS and SUTTON, Circuit Judges; EDGAR, District Judge.*

PER CURIAM. Plaintiff-Appellant James L. Arthur, III (“Arthur”), brings a claim under the AMERICANS WITH DISABILITIES ACT (“ADA”) and corresponding State law, Ohio Revised Code § 4112. The district court granted summary judgment to the defendants. We review the district court’s decision *de novo*. *DiCarlo v. Potter*, 358 F.3d 408, 414 (6th Cir. 2004). The district court concluded that, taking the proof in the most favorable light to Arthur, he failed to show that he was “disabled” under the terms of either the ADA or Ohio law. After review of the record in this case, the applicable law, and the arguments presented

* The Honorable R. Allan Edgar, Chief United States District Judge for the Eastern District of Tennessee, sitting by designation.

on appeal, we concur with the decision reached by the district court, as well as its rationale. Since further discussion by this court would only be duplicative, we **AFFIRM** for the reasons expressed in the district court's July 28, 2003 opinion.

On appeal Arthur also claims that he was wrongfully terminated for filing a worker's compensation claim. Arthur failed to raise this claim in the district court. Hence, we decline to consider this claim raised for the first time on appeal absent a plain miscarriage of justice. *Overstreet v. Lexington-Fayette Urban County Gov't*, 305 F.3d 566, 578 (6th Cir. 2002). No such miscarriage of justice exists here.