

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>LACEY OLINGER,</b>	)	
	)	
	)	
Plaintiff,	)	Case No. 1:13CV00006
	)	
v.	)	<b>OPINION AND ORDER</b>
	)	
<b>@WORK, ET AL.,</b>	)	By: James P. Jones
	)	United States District Judge
	)	
Defendants.	)	

*Jeffrey L. Campbell, Campbell & Associates, P.C., Saltville, Virginia, for Plaintiff; Steven H. Trent, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., Johnson City, Tennessee, for Defendant David Luttrell.*

In this employment case under the Americans with Disabilities Act, the defendant David Luttrell, an officer of the company that allegedly refused to consider the plaintiff for a job on account of her disability, has moved to dismiss on the ground that as a matter of law he cannot be held liable. I will grant the motion.<sup>1</sup>

The plaintiff, Lacey Olinger, alleges in her Complaint that she is deaf and applied for a position with @WORK, a temporary staffing agency, but was denied the opportunity to submit a job application because of her disability. She alleges

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<sup>1</sup> The plaintiff has failed to respond to the Motion to Dismiss within the time allowed by the rules. W.D. Va. Civ. R. 11(c)(1) (opposing party must file a responsive brief within 14 days after service of motion).

that the defendant Professional Personnel Service, Inc., is the owner of the @WORK franchise in question and that the defendant David Luttrell is the president of Professional Personnel Service, Inc. Luttrell moves to dismiss the action as to him because he is not a proper defendant.

The plaintiff claims discrimination based upon a disability pursuant to Title I of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C.A. § 12112(a) (West Supp. 2012) (forbidding discrimination in hiring or employment on the basis of disability).

Title I of the ADA affords relief only against employers and not individuals. *See Baird ex rel. Baird v. Rose*, 192 F.3d 462, 472 (4th Cir. 1999); *Jones v. Sternheimer*, 387 F. App’x 366, 368 (4th Cir. 2010) (unpublished); *Brown v. Va. Dep’t of Corr.*, No. 6:07-CV-00033, 2009 WL 87459, at \*9 (W.D. Va. Jan. 9, 2009).

While the Fourth Circuit’s published decision in *Baird* involved a retaliation claim under the ADA, the reasoning of the court applies likewise to a discrimination claim. The ADA makes the remedies available under Title VII of the Civil Rights Act of 1964 applicable to actions under Title I of the ADA. 42 U.S.C.A. § 12117(a) (West 2005). It is settled “that Title VII does not provide a remedy against individual defendants who do not qualify as ‘employers.’” *Baird*, 192 F.3d at 472. Since Title VII does not authorize a remedy against individuals,

neither does the ADA. *Id.* Many other courts have held the same. *See, e.g., Román-Oliveras v. P.R. Electric Power Auth.*, 655 F.3d 43, 45 (1st Cir. 2011) (“[W]e conclude that Title I of the ADA does not provide for liability against individuals who are not themselves employers.”); *Franklin v. City of Slidell*, No. 12-1940, 2013 WL 828346, at \*5-6 (E.D. La. Mar. 6, 2013) (finding that weight of authority is that “individuals are not subject to liability under Title I of the ADA.”).

For these reasons, the Motion to Dismiss Plaintiff’s Complaint against David Luttrell (ECF No. 8) is GRANTED and said defendant is DISMISSED as a party to this action.

It is so **ORDERED**.

ENTER: March 25, 2013

/s/ James P. Jones  
United States District Judge