



Jordan v. Day et al

2021 | Cited 0 times | D. South Carolina | March 17, 2021

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION Sarah Jordan, Plaintiff, v. C. Glenn Day; Harville Spence; Doyle Collind; White Rock Baptist Church, Defendants.

C/A No. 3:21-683-JFA-PJG

REPORT AND RECOMMENDATION

Plaintiff Sarah Jordan, proceeding pro se, brings this civil action. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.) for initial review pursuant to 28 U.S.C. § 1915 (in forma pauperis plaintiff). Having reviewed the Complaint in accordance with applicable law, the court concludes that this case should be summarily dismissed without prejudice and without issuance and service of process for lack of subject matter jurisdiction. I. Factual and Procedural Background Plaintiff Sarah Jordan indicates that she attended White Rock Baptist Church in Chapin, South Carolina from 2014 and 2017 with her mother and brother. During that time, Plaintiff received scholarships from the church to attend summer camps and retreats based on her participation in the church's youth group. On February 8, 2017, Plaintiff's mother was given a letter asking the family to leave the church. The letter detailed the family's history with the church and indicated that the church's pastors, trustees, and deacon board no longer felt that the church could meet family's spiritual needs. (Compl., ECF No. 1-1 at 2-3.) Thus, Plaintiff claims, she will no longer be eligible to participate in youth group activities. Plaintiff claims the church

3:21-cv-00683-JFA Date Filed 03/17/21 Entry Number 9 Page 1 of 6

violated her civil rights and "engaged in discrimination in a place of public accommodation." (Id., ECF No. 1 at 2.) Plaintiff asks the court to order that some of the pastors be removed from the church, order that her family be allowed in the church, and award damages. II. Discussion

A. Standard of Review Under established local procedure in this judicial district, a careful review has been made of the pro se Complaint. The Complaint has been filed pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit. This statute allows a district court to dismiss the case upon a finding that the action "is frivolous or malicious," "fails to state a claim on which relief



Jordan v. Day et al

2021 | Cited 0 times | D. South Carolina | March 17, 2021

may be granted,” or “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). This court is required to liberally construe pro se complaints, which are held to a less stringent standard than those drafted by attorneys. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *King v. Rubenstein*, 825 F.3d 206, 214 (4th Cir. 2016). Nonetheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. See *Weller v. Dep’t of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990); see also *Ashcroft v. Iqbal*, 556 U.S. 662, 684 (2009) (outlining pleading requirements under Rule 8 of the Federal Rules of Civil Procedure for “all civil actions”). B. Analysis

The instant case is subject to summary dismissal because Plaintiff fails to demonstrate federal jurisdiction over her claim. Federal courts are courts of limited jurisdiction, “constrained to exercise only the authority conferred by Article III of the Constitution and affirmatively granted

3:21-cv-00683-JFA Date Filed 03/17/21 Entry Number 9 Page 2 of 6

by federal statute.” In *re Bulldog Trucking, Inc.*, 147 F.3d 347, 352 (4th Cir. 1998). Accordingly, a federal court is required, sua sponte, to determine if a valid basis for its jurisdiction exists, “and to dismiss the action if no such ground appears.” *Id.* at 352; see also Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”). Although the absence of subject matter jurisdiction may be raised at any time during the case, determining jurisdiction at the outset of the litigation is the most efficient procedure. *Lovern v. Edwards*, 190 F.3d 648, 654 (4th Cir. 1999). There is no presumption that a federal court has jurisdiction over a case, *Pinkley, Inc. v. City of Frederick*, 191 F.3d 394, 399 (4th Cir. 1999), and a plaintiff must allege facts essential to show jurisdiction in his pleadings. *McNutt v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936); see also *Dracos v. Hellenic Lines, Ltd.*, 762 F.2d 348, 350 (4th Cir. 1985) (“[P]laintiffs must affirmatively plead the jurisdiction of the federal court.”). To this end, Federal Rule of Civil Procedure 8(a)(1) requires that the complaint provide “a short and plain statement of the grounds for the court’s jurisdiction[.]” The two most commonly recognized and utilized bases for federal court jurisdiction are (1) “federal question” under 28 U.S.C. § 1331, and (2) “diversity of citizenship” pursuant to 28 U.S.C. § 1332. As discussed below, the allegations contained in Plaintiff’s Complaint do not fall within the scope of either of these forms of this court’s limited jurisdiction. First, federal question jurisdiction requires the plaintiff to show that the case is one “arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Plaintiff’s allegations do not assert that the defendants have violated a federal statute or constitutional provision, nor is any source of federal question jurisdiction otherwise evident from the face of the pleading. Plaintiff indicates that her civil rights were violated but she does not specify what rights

3:21-cv-00683-JFA Date Filed 03/17/21 Entry Number 9 Page 3 of 6

she believes were violated. Plaintiff also asserts that she was discriminated against in a place of “public accommodation,” which mirrors language in Title III of the Americans with Disability Act.



Jordan v. Day et al

2021 | Cited 0 times | D. South Carolina | March 17, 2021

See 42 U.S.C. § 12182; J.D. by Doherty v. Colonial Williamsburg Found., 925 F.3d 663, 669-70 (4th Cir. 2019) (“To prevail under Title III of the ADA, a plaintiff must show that: (1) he is disabled within the meaning of the ADA; (2) the defendant owns, leases, or operates a place of public accommodation; and (3) the defendant discriminated against him because of his disability.”). However, Plaintiff makes no assertion that she has a disability or that her family was asked to leave the church because of a disability. Therefore, Plaintiff’s conclusory reference to “public accommodation” is not sufficient to invoke the court’s federal question jurisdiction. See generally Burgess v. Charlottesville Sav. & Loan Ass’n, 477 F.2d 40, 43- 44 (4th Cir. 1973) (“[T]he mere assertion in a pleading that the case is one involving the construction or application of the federal laws does not authorize the District Court to entertain the suit[,] nor does federal jurisdiction attach on the bare assertion that a federal right or law has been infringed or violated or that the suit takes its origin in the laws of the United States.”) (internal citations and quotation marks omitted). Therefore, federal question jurisdiction does not exist in this case. Second, the diversity statute, 28 U.S.C. § 1332(a), requires complete diversity of parties and an amount in controversy in excess of \$75,000. Complete diversity of parties in a case means that no party on one side may be a citizen of the same state as any party on the other side. See Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 372-74 nn. 13-16 (1978). In absence of diversity of citizenship, the amount in controversy is irrelevant. Here, Plaintiff provides no allegation that any party is a citizen of a state other than South Carolina, and her filings clearly show that she and White Rock Baptist Church are South Carolina citizens. Accordingly, diversity jurisdiction does not exist in this case.

3:21-cv-00683-JFA Date Filed 03/17/21 Entry Number 9 Page 4 of 6

III. Conclusion There being no apparent basis of federal jurisdiction over this matter, the court recommends that the case be summarily dismissed without prejudice and without issuance and service of process for lack of subject matter jurisdiction.

March 17, 2021 Paige J. Gossett Columbia, South Carolina UNITED STATES MAGISTRATE JUDGE

Plaintiff’s attention is directed to the important notice on the next page. 3:21-cv-00683-JFA Date Filed 03/17/21 Entry Number 9 Page 5 of 6

Notice of Right to File Objections to Report and Recommendation The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Specific written objections must be filed within fourteen (14) days of the date of service of this



Jordan v. Day et al

2021 | Cited 0 times | D. South Carolina | March 17, 2021

Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk United States District Court

901 Richland Street Columbia, South Carolina 29201 Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

3:21-cv-00683-JFA Date Filed 03/17/21 Entry Number 9 Page 6 of 6

