

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT PADUCAH**

**IDA JO TOCCO**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 5:10CV-172-R**

**CHRISTOPHER LEE EASLEY**

**DEFENDANT**

**OPINION AND ORDER**

By Order entered November 3, 2010, Plaintiff's claims were dismissed by the Court pursuant to Federal Rule of Civil Procedure 12(h)(3) for lack of subject-matter jurisdiction. She has now filed a motion to amend her complaint and a motion asking the Court to alter, vacate, or amend the judgment dismissing this action.

In its prior Memorandum and Opinion, the Court noted that Plaintiff had failed to properly invoke the Court's jurisdiction under 42 U.S.C. § 1985 because by its plain terms that section requires action by "two or more persons," and Plaintiff had not alleged a conspiracy involving two or more persons. Plaintiff now alleges that the failure to name another person was an oversight, and her amended complaint indicates that her ex-husband, Defendant Easley, acted in concert with his sister to deprive Plaintiff of her property. The proposed amendment is futile because there is "no allegation of a racial or otherwise class based invidiously discriminatory animus behind the actions of the alleged conspirators" as required by § 1985. *Denman v. Leedy*, 479 F.2d 1097, 1098 (6th Cir. 1973). Rather, "the substance of this claim is an intrafamily [dispute rendering] . . . this court [without] jurisdiction to entertain the present suit." *Id.*

For the reasons set forth above, **IT IS HEREBY ORDERED** that Plaintiff's motion to amend her complaint (DN 6) is **DENIED** as futile.

Having reviewed its prior Order of Dismissal, **IT IS FURTHER ORDERED** that

Plaintiff's motion to alter, vacate or amend the Court's Order dismissing this action for lack of subject-matter jurisdiction (DN 7) is **DENIED**.

Date:

cc: Plaintiff, *pro se*  
4413.008