

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

Orlando Ira Brown,)	
)	C/A No. 3:12-221-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER AND OPINION
State of South Carolina; City of Columbia,)	
S.C.; Richland County; Richland County)	
Sheriffs; FBI,)	
)	
Defendants.)	
_____)	

Plaintiff Orlando Ira Brown, proceeding pro se, filed the within action on January 24, 2012, alleging the following:

On, or shortly thereafter by one week, 11-28-2011, I was advised to take a polygraph test before any further actions would commence, regarding the report I gave to 911 dispatched authority figures, per Investigator Tanner with the Richland County Sheriff’s Department. I explained to Investigator Tanner I was disabled, therefor unable. Investigator Tanner was delusional, stating that my story was “concocted.” The State of South Carolina is liable for oversight of ethical procedures. The City of Columbia is liable for oversight of ethical procedures. The County of Richland is liable for ethical procedures. The Richland County sheriff’s Department is liable for ethical procedures.

Another Investigator from the Sheriff’s Department of Richland County called me one month later. This was harrassment, due to fact of explained experiences and cases cited to previous investigator regarding polygraph testing and my history with officials of policing authorities discounting my word.

I contacted the F.B.I. in Columbia, S.C. and explained dealings with corrupt officials, phone calls and federal suits filed in forma pauperis three years ago, and ensuing of liabilities that stem, for purpose of gaining their assistance to secure residential, banking and commerce access without further interrupts of the course of civil procedure I commenced in 2008 with a forma pauperis filed to complain against President Barrack Obama. I was excluded from the F.B.I.’s resource ability to

accommodate procedure to identify phone interrupts. Advice given was unused.

I request the Americans with Disabilities stated statute amount for pain and suffering due to mental distress. I request twenty four hour security for myself and family, forward for all my descendants and future generations, to be paid for by me through private contract, from unspecified funds ordered through this district of federal court, to be accessible by me for unlimited amount of necessary, to achieve privately contracted security of interests.

ECF No. 1, 3-5.

Plaintiff submitted additional claims on February 8, 2012, as follows:

Subsequent claims: Bank of America excluded me from privileges in January 2012. Chase Bank excluded me from privileges in July 2011. Regions Bank excluded me from privileges in January 2012. Telecheck blocked my accounting privileges in January 2012. President Barack Obama sent my fiancée an emailed invitation to lunch at the White House. President Barack Obama placed an artificial penis on a “dumby” pilot in a helicopter on CNN in July 2008. Thomas O’campo threatened, harrassed, and discriminated against myself and interests in July 2008. The California Supreme Court would not recognize my answer to Thomas O’campo’s eviction papers in August 2008. Mission Grove Park apartments blackballed, threatened, and unlawfully evicted me in March 2008. The Riverside County Sheriff’s Department in the State of California arrested and convicted me multiple times, in light of my claimed disability rights of non-prisoner. The California State Prison system illegally classified me with a violent criminal, which escalated from confessions of murder by my cellmate, guard harrassment, and further reports and claims within in July 2010 to March 2011. The California State prison system violated my rights from “Double Jeopardy” by placing me on parole in March 2011. Allan Seigal, attorney at law, committed legal malpractice while retained by me in May 2008 via negating retainor and damaging verbiage. Pensanti and Associates committed legal malpractice through negating our retainor in 2009. Allsouth Federal Credit Union excluded me from banking privileges in January 2012. Strom Thurmond law firm discriminated against me; Franchot Brown, attorneys at law, denied legal representation; Reid and Hellyer Law offices accepted and denied legal representation; Richard Breibart, attorney at law, discriminated and falsely advertised the unfound address; The Christian Legal Center, LLC denied services; Shadd Law Firm falsely advertised availability; The Obama store denied immediate 911 phone call, once I was given use of phone, 911 would not answer, on 11-25-12. Enterprise rent a car discriminated against me in February 2012, and previous 1 month provided a rental vehicle that was accessible to unknown 3rd party, violating my privacy. Brenda Feigan discriminated legal services in October 2011. Morris Getzels law firm denied services in October 2011. John Mccauley was a referred denial of legal

services. Riverside County Sheriff's Department refused to give me security of "their" service to California after a 45 minute wait for their arrival upon calling 911, while my fiancée's daughter and some other I did not know from the neighborhood, and Nikki beat at the hinges of my bedroom door violently in October 2011, which resulted in my fiancée's daughter, locking me out of my house the next day, and, my daughter in law's confident removal of her mother and I's bedroom door knobs. A Sargent at Columbia City Police Department stated he would have an investigator follow up with a phone call to me one week after I reported information regarding a double homicide 2010 or early 2011, and the threatenning texts I received from my fiancée's daughter in January 2012; evidencing her brother as suspect to question regarding his visit to South Carolina during that time period. That Sargent has not responded as stated. CVS pharmacy displayed a picture of President Obama in the photographs format for my personal view and retrieval of my brow in November or December of 2011 in my childhood town of Blythewood. One of my local churches falsely doctored from the Bible that of suing as non-Christian like in November 2011. My fiancée does possess traits of great fear and lack of faith in equality since meeting me in 2007. The United States Postal Service has harrassed, threatennd, manipulated, and instilled a hostile work environment as a normalcy my pain and suffering won't accept for myself, or my fiancée's employment. All Start Motors "refused to accept a personal check"; Carmax " "; Bush River Auto Mall " "; Dick Dyer Toyota/Scion " "; Jones Chevrolet Cadillac " "; Capital Chevrolet " "; Capital Hyundai " ".

ECF No. 5.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Paige J. Gossett for pretrial handling. On March 14, 2012, the Magistrate Judge issued a Report and Recommendation in which she construed Plaintiff's complaint as raising claims under to 42 U.S.C. § 1983, the Americans with Disabilities Act (ADA), and the Rehabilitation Act. The Magistrate Judge determined that the federal court lacks jurisdiction over Plaintiff's complaint because (1) there is lack of complete diversity between the parties; and (2) Plaintiff's allegations are insufficient to show that the case is one arising under the Constitution, laws, or treaties of the United States. The Magistrate Judge determined that Plaintiff's allegations fail to explain in even the broadest terms how the named Defendants violated Plaintiff's

constitutional rights or the ADA. Accordingly, the Magistrate Judge recommended that the case be dismissed for lack of subject matter jurisdiction. On March 20, 2012, Plaintiff filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. Id.

In his objections, Plaintiff states:

Federal jurisdiction is warranted by way of amended complaint showing diversity of citizenship, mailed for file 3-19-12, opposite lack of jurisdiction prior to amended complaint.

Clarification of pleading is as the following. Waiting on justice since 11-4-99 has caused mental disability. Mental disability is substantiated inside of me with anxiety and frustration. That substance shows on my outward characterizations as suspect. Looking as suspect as gained treatment as suspect and will continue to till those feelings that look as such are replaced with the feelings that justice provide.

ECF No. 48.

It appears that Plaintiff argues that the court possesses diversity jurisdiction because he named a number of out-of-state entities in the allegations of his amended complaint. Assuming for purposes of review that Plaintiff states any cognizable allegations against the entities named in the amended complaint, Plaintiff still cannot prevail. As the Magistrate Judge properly noted, 28 U.S.C. § 1332 requires complete diversity of citizenship; that is, no party on one side may be a citizen of

the same state as any part on the other side. See Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 372-74 (1978). In this case, Plaintiff is a citizen of South Carolina, and so are a number of Defendants and other entities named by Plaintiff. Plaintiff's objection is without merit.

The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff's complaint is summarily dismissed, without prejudice and without issuance and service of process, for lack of subject matter jurisdiction. All remaining pending motions are denied as moot (ECF Nos. 7, 11, 13, 18, 20, 22, 34, 77, 92).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

September 27, 2012.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.