

United States Court of Appeals
For the Eighth Circuit

No. 19-1738

Kallys Albert, Sr.

Plaintiff - Appellant

v.

GEICO General Insurance Company; John Doe

Defendants - Appellees

Appeal from United States District Court
for the District of Minnesota

Submitted: November 12, 2019

Filed: November 26, 2019

[Unpublished]

Before SHEPHERD, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

Kallys Albert, Sr., appeals the district court's¹ dismissal without prejudice of his 42 U.S.C. § 1981 and state law claims. Having carefully conducted a de novo review of the record and arguments on appeal, we conclude that the district court properly dismissed the section 1981 claims under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. See Topchian v. JPMorgan Chase Bank, N.A., 760 F.3d 843, 848-49 (8th Cir. 2014) (standard of review). We further conclude that the district court properly dismissed the remaining state law claims for lack of subject-matter jurisdiction under Fed. R. Civ. P. 12(b)(1) because Albert failed to meet his burden of proving the amount in controversy by a preponderance of the evidence. See Branson Label, Inc. v. City of Branson, Mo., 793 F.3d 910, 915 (8th Cir. 2015) (standard of review); see also Am. Family Mut. Ins. Co. v. Vein Centers for Excellence, Inc., 912 F.3d 1076, 1080-81 (8th Cir. 2019) (holding that when defendant challenges plaintiff's allegations, plaintiff must prove, by preponderance of evidence, that amount in controversy did not appear to legal certainty to be less than \$75,000). The district court therefore did not abuse its discretion in declining to exercise supplemental jurisdiction over Albert's state law claims. See 28 U.S.C. § 1367(c)(3) (district court may decline to exercise supplemental jurisdiction over state-law claims if court has dismissed all claims over which it has original jurisdiction); Labickas v. Ark. State Univ., 78 F.3d 333, 334-35 (8th Cir. 1996) (per curiam) (following dismissal of federal claims, court may dismiss state-law claims without prejudice).

Accordingly, the judgment of the district court is affirmed. See 8th Cir. R. 47B.

¹The Honorable Susan Richard Nelson, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Elizabeth Cowan Wright, United States Magistrate Judge for the District of Minnesota.