

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

LAURIE BORDOCK

PLAINTIFF

v.

4:10CV01001-WRW

WAL-MART, INC.

DEFENDANT

ORDER

Pending is Plaintiff's *pro se* Motion to Proceed *In Forma Pauperis* (Doc. No. 1). Based on Plaintiff's application, she does not have the funds to pay the filing fee. As explained below, however, the motion is moot.¹

Under the statute on proceedings *in forma pauperis*, a court should dismiss a case at any time if it determines that the action is frivolous or malicious.² An action is frivolous if "it lacks an arguable basis either in law or in fact."³ "Pro se complaints must be liberally construed and can be dismissed only if the face of the complaint shows an insuperable bar to relief."⁴

Here, even viewed in the light most favorable to Plaintiff, the Complaint is frivolous. Plaintiff alleges that a Wal-Mart in Poteau, Oklahoma, is the fifth Wal-Mart that banned her "for nothing" and "violated [her] civil right to shop peacefully."⁵ There is no constitutional or

¹*Carney v. Houston*, 33 F.3d 893, 895 (8th Cir. 1994) (stating that, for proceedings *in forma pauperis* under 28 U.S.C. § 1915, determining whether a complaint is frivolous precedes the decision whether to grant *in forma pauperis* status and whether to order issuance and service of process).

²28 U.S.C. § 1915(e)(2)(B).

³*Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

⁴*Holt v. Caspari*, 961 F.2d 1370, 1372 (8th Cir.1992).

⁵Doc. No. 2.

statutory “right to shop peacefully.” Because there is no rational basis in law for Plaintiff’s claim, her Complaint is dismissed as frivolous.

There is a second reason to dismiss this case: venue is not proper in the Eastern District of Arkansas. The law provides that a civil action must be brought in a judicial district in which the defendant resides or a district in which a substantial part of the events giving rise to the claim occurred.⁶ Plaintiff is a resident of Oklahoma, her claim is based on events that took place at a Wal-Mart located in Oklahoma, and Defendant’s headquarters are in Bentonville, Arkansas, which is located in the Western District of Arkansas. Thus, venue does not lie in this Court.

For the reasons set out above, Plaintiff’s Complaint is DISMISSED. The Motion to Proceed *In Forma Pauperis* is DENIED AS MOOT.

IT IS SO ORDERED this 23rd day of July, 2010.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

⁶28 U.S.C. § 1391(a) and (b).