

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01768-MEH-KMT

SHEILA ANN STANLEY,  
DAVID KIM STANLEY,

Plaintiffs,

v.

RASHAAN DAVIS,

Defendant.

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**ORDER OF DISMISSAL**

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**Michael E. Hegarty, United States Magistrate Judge.**

Pending before the Court is Plaintiffs' Motion to Dismiss [filed March 17, 2009; docket #41].

Plaintiffs initiated this action on August 19, 2008, alleging a variety of claims against Defendant based upon a years-long dispute over underage sex, sexually transmitted disease, a failed marriage and a custody battle. Defendant answered the Complaint on November 24, 2008 claiming he is "not guilty" as to all "charges" lodged against him. *See* docket #17.

The case was referred to this Court on March 2, 2009 based upon the consent of the parties. According to the Complaint, this Court's jurisdiction is based upon the allegation that the amount in controversy is more than \$75,000.00, and that the Defendant, a private individual, has allegedly committed a crime under 18 U.S.C. § 1343 and has violated the Plaintiffs' rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution. *See* docket #1 at ¶ 2. On March 3, 2009, the Court ordered Plaintiffs to show cause in writing, on or before March 17, 2009, why the case should not be dismissed for lack of subject matter jurisdiction. The Court noted that,

based upon the allegations of the Complaint, the Plaintiffs failed to properly allege diversity jurisdiction, there appeared to be no private cause of action under the criminal statute, 18 U.S.C. § 1343, and the Plaintiffs failed to allege that Defendant was a state actor for purposes of bringing constitutional claims under 42 U.S.C. § 1983.

Thereafter, the Plaintiffs filed the within Motion to Dismiss, which the Court construes as a motion pursuant to Fed. R. Civ. 41(a)(2).<sup>1</sup> To ensure that a dismissal of this case would not prejudice the Defendant, the Court ordered Defendant to respond to the motion on or before March 27, 2009. On March 24, 2009, Defendant filed his response stating no objection to the motion.

Therefore, finding no prejudice to the parties and in the interests of justice, the Court **grants** the Plaintiffs' Motion to Dismiss [filed March 17, 2009; docket #41], and **orders** that the case is dismissed without prejudice.

Dated at Denver, Colorado, this 25th day of March, 2009.

BY THE COURT:

s/ Michael E. Hegarty  
Michael E. Hegarty  
United States Magistrate Judge

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<sup>1</sup>Plaintiffs' conclusion that this Court "observed" that the Defendant's actions "may constitute criminal conduct by the Defendant" is incorrect. Docket #41 at 2. This Court has performed no analysis and has come to no conclusions as to the merits of any of Plaintiffs' claims in this matter.