

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

PETER GEROLD,

Plaintiff,

v.

Case No: 2:15-cv-475-FtM-99CM

ASTELLAS PHARMA US, INC. and
MCKESSON CORPORATION,

Defendants.

OPINION AND ORDER

This matter comes before the Court on plaintiff's Motion to Initiate a Criminal Investigation (Doc. #14) filed on August 24, 2015. Defendants filed an Opposition and Motion to Strike (Doc. #20) on September 8, 2015.

Plaintiff seeks the entry of an order directing law enforcement to initiate a criminal investigation against defendants for alleged violations of state and federal laws. "Generally, a private citizen has no authority to initiate a federal criminal prosecution." Cok v. Cosentino, 876 F.2d 1, 2 (1st Cir. 1989). Indeed, it is well-settled that "a private citizen has no judicially cognizable interest in the prosecution or non-prosecution of another." Otero v. United States Attorney Gen., 832 F.2d 141, 141 (11th Cir. 1987) (citing Linda R. S. v. Richard D., 410 U.S. 614, 619 (1973)). Therefore, plaintiff has no authority to bring a criminal complaint for the prosecution of another. Additionally, to the extent that plaintiff is seeking

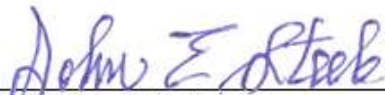
intervention, the Court cannot direct or compel the prosecution of a case. The authority to investigate and initiate criminal complaints rests exclusively with prosecutors. Smith v. United States, 375 F.2d 243, 247 (5th Cir. 1967) ("The discretion of the Attorney General in choosing whether to prosecute or not to prosecute, or to abandon a prosecution already started, is absolute."); United States v. Cox, 342 F.2d 167, 171 (5th Cir. 1965) ("Although as a member of the bar, the attorney for the United States is an officer of the court, he is nevertheless an executive official of the Government, and it is as an officer of the executive department that he exercises a discretion as to whether or not there shall be a prosecution in a particular case."). As such, plaintiff's motion initiate a criminal investigation is denied.

Accordingly, it is hereby

ORDERED:

Plaintiff's Motion to Initiate a Criminal Investigation (Doc. #14) is **DENIED**.

DONE and ORDERED at Fort Myers, Florida, this 25th day of September, 2015.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Plaintiff
Counsel of Record