

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LORETTA REYNOLDS,

Plaintiff,

v.

BRENDA L. RUSSELL,

Defendant.

Case No. 10-cv-736-JPG

MEMORANDUM AND ORDER

In light of Seventh Circuit admonitions, *see, e.g., America’s Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072 (1992), the Court has undertaken a rigorous initial review of pleadings to ensure that jurisdiction has been properly pled. The Court has noted the following defect in the jurisdictional allegations of the Complaint (Doc. 2) filed by plaintiff Loretta Reynolds:

- **Failure to allege citizenship of inmate.** A complaint asserting diversity jurisdiction must allege the citizenship of individual parties. 28 U.S.C. § 1332(a)(1). When a suit is brought by or against a prison inmate, the citizenship of the inmate is “the state of which he was a citizen before he was sent to prison unless he plans to live elsewhere when he gets out, in which event it should be that state.” *Singletary v. Continental Ill. Nat’l Bank*, 9 F.3d 1236, 1238 (7th Cir. 1993); *see Bontkowski v. Smith*, 305 F.3d 757, 763 (7th Cir. 2002). It is not the state in which he is incarcerated. *Singletary*, 9 F.3d at 1238. The Court further notes that the relevant time of the citizenship determination for diversity jurisdiction purposes is as of the commencement of the action, that is, the date the complaint was filed. *See Trans States Airlines v. Pratt & Whitney Canada, Inc.*, 130 F.3d 290, 292-93 (7th Cir. 1997). Reynolds has alleged Russell’s state of incarceration, not her current state of citizenship according to the foregoing test.

The Court hereby **ORDERS** that the plaintiff shall have up to and including October 8, 2010, to amend the faulty pleading to correct the jurisdictional defect. Failure to amend the faulty pleading may result in dismissal of this case for lack of subject matter jurisdiction or for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Amendment of the faulty pleading to reflect an adequate basis for subject matter jurisdiction will satisfy this order. The

plaintiff is directed to consult Local Rule 15.1 regarding amended pleadings and need not seek leave of Court to file such amended pleading.

IT IS SO ORDERED.

DATED: September 24, 2010

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE