

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ARIKA JANE TACKETT,)	
KEVIN ALLEN TACKETT,)	
)	
Plaintiffs,)	
)	No. 1:17-cv-03065-TWP-MPB
vs.)	
)	
CODY LEE KING,)	
)	
Defendant.)	

**Entry Granting Motion to Proceed *in forma pauperis*,
Dismissing Complaint, and Directing Further Proceedings**

I.

The plaintiffs' request to proceed *in forma pauperis*, dkt. [2], is **granted**. No payment of a fee is required at this time. Notwithstanding the foregoing ruling, the plaintiff should be aware that he owes the filing fee. "All [28 U.S.C.] § 1915 has ever done is excuse *pre*-payment of the docket fees; a litigant remains liable for them, and for other costs, although poverty may make collection impossible." *Abdul-Wadood v. Nathan*, 91 F.3d 1023, 1025 (7th Cir. 1996).

II.

The complaint is now subject to the screening requirement of 28 U.S.C. § 1915(e)(2)(B). This statute provides that a court shall dismiss a case at any time if the court determines that the action (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.

The plaintiff's claim in this case is that the defendant defrauded them by convincing them to send him money by promising a return that they never received. The complaint states that they are suing for a violation of state law and that they are seeking \$5,000.

The complaint must be dismissed because this Court does not have jurisdiction to hear it. Subject to exceptions not implicated by the circumstances of this case, "[a] federal court may exercise jurisdiction where: 1) the requirements for diversity jurisdiction set forth in 28 U.S.C. § 1332 are met; or 2) the matter arises under the Constitution, laws, or treaties of the United States as provided in 28 U.S.C. § 1331." *Barringer-Willis v. Healthsource North Carolina*, 14 F. Supp. 2d 780, 781 (E.D.N.C. 1998).

There is no allegation to support the exercise of the court's diversity jurisdiction as to any claim under Indiana state law. This is because a district court cannot exercise diversity jurisdiction if the plaintiff shares the same state citizenship as any one of the defendants. *Whalen v. Carter*, 954 F.2d 1087, 1094 (5th Cir. 1992) (citing *Strawbridge v. Curtiss*, 3 Cranch 267, 7 U.S. 267, 2 L.Ed. 435 (1806)); *see also Hart v. FedEx Ground Package Sys. Inc.*, 457 F.3d 675, 676 (7th Cir. 2006). Further, the plaintiffs identify no violation of federal law that would allow this Court to exercise federal question jurisdiction over the case.

III.

For the foregoing reasons, the Court has no jurisdiction to hear this case. The plaintiffs shall have **through October 2, 2017**, to **show cause** why this case should not be dismissed for lack of jurisdiction. This ruling does not prevent the plaintiffs from re-filing their claims in the appropriate court.

IT IS SO ORDERED.

Date: 9/12/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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