

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

NATHANIEL JONES

CIVIL ACTION

VERSUS

NO. 20-1452

ST. AUGUSTINE HIGH SCHOOL, INC.,  
KENNETH ST. CHARLES, AMERICAN  
BROADCASTING COMPANY d/b/a  
ABC NEWS, ROLAND SEBASTIAN  
MARTINE, ROLAND MARTIN  
UNLIMITED AND INTERACTIVE  
ONE, LLC

SECTION M (4)

**ORDER & REASONS**

On July 22, 2020, defendants St. Augustine High School, Inc. (“St. Augustine”) and Kenneth St. Charles (collectively, “Defendants”) filed a motion to dismiss pursuant to Rules 12(b)(6) and 12(h)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted and lack of jurisdiction.<sup>1</sup> The motion was set for submission on August 13, 2020.<sup>2</sup> Local Rule 7.5 of the United States District Court for the Eastern District of Louisiana requires that a memorandum in opposition to a motion be filed no later than eight days before the noticed submission date, which in this case was August 5, 2020. Plaintiff Nathaniel Jones, who is represented by counsel, has not filed a memorandum in opposition to the motion.

Accordingly, because the motion to dismiss is unopposed, and it appearing to the Court that the motion has merit,<sup>3</sup>

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<sup>1</sup> R. Doc. 16.

<sup>2</sup> R. Doc. 16-2.

<sup>3</sup> Jones, who is African American, was formerly employed by St. Augustine as a teacher and head football coach. R. Doc. 1 at 1. He was fired in 2019 for using a racial slur during a pre-game chant. R. Doc. 1 at 1-2. Jones filed this action against St. Augustine, Charles, and others alleging various Louisiana-state law claims including breach of contract, defamation, and invasion of privacy. R. Doc. 1 at 10-24. Jones also alleges a claim against St. Augustine and Charles under 42 U.S.C. § 1983 for violation of his due process rights guaranteed by the Fourteenth Amendment. R. Doc. 1 at 13-16. Thus, Jones invokes federal question subject-matter jurisdiction, 28 U.S.C. § 1331, and supplemental jurisdiction over his state-law claims pursuant to 28 U.S.C. § 1367. R. Doc. 1 at 4. In their

IT IS ORDERED that Defendants' motion to dismiss (R. Doc. 16) is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

New Orleans, Louisiana, this 6<sup>th</sup> day of August, 2020.

  
BARRY W. ASHE  
UNITED STATES DISTRICT JUDGE

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motion to dismiss, Defendants point out that neither of them is a public actor, and thus cannot be held liable for violations of Jones's constitutional rights. R. Doc. 16-1 at 1-4. St. Augustine is a non-profit corporation established by the Archdiocese of New Orleans and the Society of St. Joseph of Sacred Hearing. Charles is the chief executive officer of St. Augustine. Neither St. Augustine nor Charles is a public actor. *See Rendell-Baker v. Kohn*, 457 U.S. 830 (1982) (holding private school that received most of its income from public sources did not act under the color of state law when it discharged plaintiff-employees); *Mason v. InterCoast Career Inst.*, 2017 WL 237579 (D. Me. 1/19/2017) (holding private school that expelled plaintiff-student was not acting under the color of state law or a state actor under the entwinement doctrine). Thus, this Court lacks subject-matter jurisdiction over this case, and it must be dismissed.