

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

J.L. WINDHAM,

Plaintiff,

v.

SHONNA JANEAN HARDEN,

Defendant.

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No. 4:17-CV-1387 CAS

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under Missouri state law for libel and slander. The motion is granted. This action will be dismissed without prejudice for lack of subject matter jurisdiction. *See* Federal Rule of Civil Procedure 12(h)(3).

Plaintiff’s basis for federal court jurisdiction of this action is diversity of citizenship of the parties under 28 U.S.C. § 1332. Plaintiff alleges that defendant libeled and slandered him in various ways, including in state court proceedings. The complaint alleges that plaintiff is a resident of North Carolina and defendant is a resident of Missouri. Plaintiff seeks \$5,000 in damages.

Pursuant to 28 U.S.C. § 1332(a), a plaintiff may invoke diversity jurisdiction if the defendant is a citizen of a different state than the plaintiff, and if the amount in controversy exceeds \$75,000. Assuming that the parties’ citizenship is diverse, the Court lacks subject matter jurisdiction over this lawsuit because plaintiff is seeking damages that do not exceed \$75,000.

The Court expresses no opinion with regard to whether plaintiff may bring this cause of action in state court.

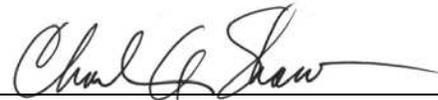
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis is **GRANTED**. [Doc. 3]

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel is **DENIED as moot**. [Doc. 2]

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice for lack of subject matter jurisdiction.

An Order of Dismissal will accompany this Memorandum and Order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 7th day of August, 2017.