

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Paul Blackmer

v.

Civil No. 10-cv-124-SM

United States
Department of Justice

O R D E R

Before the Court is Paul Blackmer's motion to amend his petition for writ of mandamus (doc. no. 8). That motion seeks leave to add claims under 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971), against two new defendants, Drug Enforcement Administration Agent Michael Scott Connolly and Prosecutor Brian Graf.

Background

The underlying mandamus petition seeks an order directing the United States Justice Department to disclose whether Connolly committed perjury, and whether Graf engaged in criminal misconduct, during Blackmer's criminal proceedings in state court. Following a screening of the petition, as required by 28 U.S.C. § 1915A and United States District Court, District of New Hampshire, Local Rule 4.3(d)(2), I recommended that the court dismiss the claims asserted under 28 U.S.C. § 1361 against the United States Justice Department, because the Department had no duty to perform the act requested. See Report and Recommendation (July 7, 2010) (doc. no. 5).

Discussion

Fed. R. Civ. P. 15 allows a plaintiff to amend a pleading once as a matter of course within 21 days after service of that pleading. Here, Blackmer has proposed an amendment to the petition within that time frame. The court has not ruled on the recommendation of dismissal, see Report and Recommendation (doc. no. 5), and service of the petition for writ of mandamus has not been ordered.

Fed. R. Civ. P. 20(a)(2) allows for permissive joinder of defendants if questions of law or fact common to all defendants will arise in the action. Here, the allegations relating to Graf and Connolly essentially repeat the allegations in the underlying petition. Accordingly, joinder of the defendants and claims is appropriate.¹

¹Granting Blackmer's motion to amend (doc. no. 8) is a procedural ruling that does not alter my recommendation that the claims for mandamus relief against the Justice Department be dismissed. See Report and Recommendation (July 7, 2010) (doc. no. 5). In a Report and Recommendation issued this date, I have further recommended dismissal of the claims against Graf and Connolly asserted in the motion to amend (doc. no. 8).

Conclusion

The motion to amend (doc. no. 8) is granted.

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

Date: July 29, 2010

cc: Paul Blackmer, pro se

LBM:nmd