

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DONALD SHARP,

Plaintiff,

vs.

No. CIV 21-0879 JB/KRS

CARMEN E. GARZA, LAURA FASHING,
MARTHA VAZQUEZ, KEA RIGGS,
STEVEN C. YARBROUGH, GREGORY B.
WORMUTH, JOHN F. RAUBAUR and
ALL FEDERAL JUDGES OF THE UNITED
STATES,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Plaintiff's Objection to Memorandum Opinion Striking Civil Complaint, filed October 7, 2021 (Doc. 11)("Objection"). For the reasons stated below, the Court will overrule Plaintiff Donald Sharp's Objection.

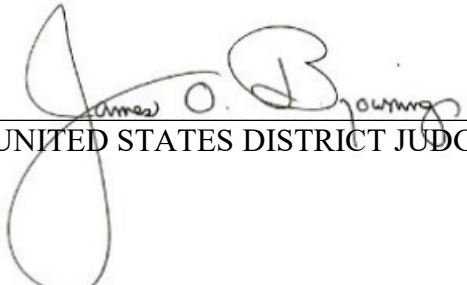
Sharp filed his Civil Complaint on September 7, 2021 (Doc. 1)("Complaint"). Sharp is proceeding pro se. Sharp did not sign his Complaint, as rule 11(a) of the Federal Rules of Civil Procedure requires. See Fed. R. Civ. P. 11(a). On September 9, 2021, the Honorable Kevin R. Sweazea, United States Magistrate Judge for the United States District Court for the District of New Mexico, alerted Sharp that, under rule 11(a) D.N.M. LR-Civ. 10.3(b), he must sign his Complaint. See Notice of Fed. R. Civ. P. 11(a) Omission at 1, filed September 9, 2021 (Doc. 2)("Notice"). The Notice also warned that, if Sharp does not sign his Complaint within fourteen days, his Complaint may be stricken without notice. See Notice at 1. Because Sharp did not sign the Complaint within fourteen days, the Court struck it. See Memorandum Opinion and Order Striking Civil Complaint and Closing Case, filed September 30, 2021 (Doc. 9)("MOO"). The

Court entered final judgment on September 30, 2021. See Final Judgment, filed September 30, 2021 (Doc. 10).

Sharp then objected to the Court's MOO. See Objection at 1. In the Objection, Sharp claims that he "mailed a signed copy of this Complaint" to the Court on September 14, 2021. See Objection at 1. He objects, therefore, to the Court's MOO striking his Complaint under Fed. R. Civ. P. 11(a). The Court has never received, however, a signed copy of the Complaint that Sharp filed in this case. The Court received a separate Complaint from Sharp on September 16, 2021, that identified similar Defendants. See In re Cibola Cnty Fed. Detainee Litig., No. MC 21-0028 WJ, Civil Complaint, filed September 16, 2021 (Doc. 9)("Cibola Complaint"). That Cibola Complaint did not have, however, any case number on it and included two pages of allegations that were not part of Sharp's Complaint in this case. Compare Complaint at 3, to Cibola Complaint at 3-4. The Cibola Complaint, received September 16, 2021, has been filed of record and is pending in MC 21-0028.

Sharp has filed more than forty cases in the United States District Court for the District of New Mexico over the past three months. See Sharp v. State of New Mexico, No. CV 21-0700 WJ, Memorandum Opinion and Order at 2-5, filed October 15, 2021 (Doc. 29)(listing cases). Having chosen to file in this District, Sharp is obligated to comply with the Federal Rules of Civil Procedure and the D.N.M. LR-Civ. See Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980). The Court cannot act as Sharp's advocate, and is not required to guess at what he is attempting to do or fix the deficiencies in his filings for him. See Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). The Court never received a signed copy of the Complaint submitted in this case, and, therefore, needed to strike the Complaint under rule 11(a) and D.N.M. LR-Civ. 10.3(b). The Court will, therefore, overrule Sharp's Objection.

IT IS ORDERED that: (i) Plaintiff Donald Sharp's Objection to Memorandum Opinion and Order Striking Civil Complaint, filed October 7, 2021 (Doc. 11), is overruled; and (ii) the Clerk of the Court is directed to transmit a copy of this Order to the United States Court of Appeals for the Tenth Circuit as a supplemental record proper in Tenth Circuit No. 21-2127.



UNITED STATES DISTRICT JUDGE

Parties:

Donald Sharp
Milan, New Mexico

Plaintiff Pro se