

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:17-CV-148-BO

KRISTY R. WARD,
Plaintiff,

v.

VIDANT HOSPITAL,
Defendant.

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ORDER

This matter is before the Court on defendant's motions to dismiss. [DE 9; 13]. The matters have been fully briefed and are ripe for ruling. For the following reasons, defendant's motion is granted.

Plaintiff Kristy Ward lost her infant child on November 30, 2014. He was born at Vidant Hospital, the defendant in this case, on October 30, 2014. Plaintiff alleges he was diagnosed with an enlarged kidney and was supposed to receive antibiotics upon discharge from the hospital. She claims the hospital failed to provide the antibiotics, and as a result the baby died. Plaintiff, proceeding *pro se*, brought the instant claim here in federal court. She originally filed a wrongful death claim, and later filed an amended complaint, adding a medical negligence claim. [DE 12].

The federal courts are courts of limited jurisdiction. *Pinkley, Inc. v. City of Frederick, MD*, 191 F.3d 394 (4th Cir. 1999). To hear a suit, a federal court must have both personal jurisdiction and subject matter jurisdiction. Personal jurisdiction means the Court has jurisdiction over the named defendant. See *International Shoe Co. v. State of Wash., Office of Unemployment Comp. & Placement*, 326 U.S. 310 (1945). Subject matter jurisdiction means the Court has jurisdiction to hear the particular case. See *Arbaugh v. Y&H Corp*, 546 U.S. 500 (2006).


There are two kinds of federal subject matter jurisdiction—federal question and diversity. Federal question jurisdiction means that federal courts have jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Diversity jurisdiction permits some actions arising under state law to be heard. 28 U.S.C. § 1332. Diversity jurisdiction applies when the parties are completely diverse, which means that the plaintiff and the defendant are citizens of different states. *Id.* Parties who are not American are also considered diverse from American parties. *Id.*

Personal jurisdiction may be waived, meaning a party can choose to be in a lawsuit even when there is not personal jurisdiction. *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 705 (1982). But subject matter jurisdiction cannot be waived. *Id.*, 456 U.S. at 702. When there is not subject matter jurisdiction, the case must be dismissed. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006).

Plaintiff is a resident of Greenville, North Carolina, as is defendant. The parties are not diverse. And plaintiff’s two claims, for wrongful death and medical negligence, do not arise under federal law. *See* N.C.G.S. § 28A-1802; § 1-15. This Court lacks subject matter jurisdiction, so the case must be dismissed.

For the foregoing reasons, defendant’s motions to dismiss [DE 9; 13] are GRANTED. The case is DISMISSED for lack of jurisdiction.

SO ORDERED, this 18 day of May, 2018


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE