

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-215-RJC-DCK

FRED W. MAUNEY, JR.,)

Plaintiff,)

v.)

BARACK OBAMA, and CAMPAIGN FOR CHANGE,)
DAVID PLOUFFE, Obama’s Campaign Manager,)
CRICKET/BOJANGLES COLISEUM, CHARLOTTE)
REGIONAL VISITOR’S AUTHORITY, CHARLOTTE-)
MECKLENBURG POLICE DEPARTMENT, EX-)
POLICE CHIEF DARREL STEPHENS, OFFICERS)
DOES 1 thru 20, FOX CHARLOTTE, WCCB_TV)
CHANNEL 18, BAHAKEL COMMUNICATIONS LTD.,)
SECURITY OFFICER ??, PATRICK L. McCRORY,)
Mayor, City of Charlotte, SUSAN BURGESS, Mayor Pro)
Tem, ANTHONY FOXX, Charlotte City Council, JOHN)
LASSITER, Charlotte City Council, EDWIN B.)
PEACOCK, III, Charlotte City Council, PATSY B.)
KINSEY, Charlotte City Council, JAMES E.)
MITCHELL, JR., Charlotte City Council, WARREN)
TURNER, Charlotte City Council, MICHAEL BARNES,)
Charlotte City Council, NANCY G. CARTER, Charlotte)
City Council, ANDY DULIN, Charlotte City Council, and)
WARREN COOKSEY, Charlotte City Council.)

Defendant.)

ORDER

THIS MATTER comes before the Court on its motion following the grant of pro se Plaintiff Fred W. Mauney, Jr.’s (“Plaintiff”) “Application to Proceed in District Court Without Prepaying Fees or Costs.” (Doc. No. 5). 28 U.S.C. § 1915(e) provides that the Court must dismiss Plaintiff’s case if it determines that it “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” Because Plaintiff has a history of filing frivolous suits, the Court

stayed service of process against the defendants pending the Court's review of Plaintiff's complaint. (Doc. No. 5 at 1, 1 n.1).

Plaintiff's allegations against Defendants Barack Obama ("Obama"), Campaign for Change ("Campaign"), David Plouffe ("Plouffe"), Fox Charlotte ("Fox"), Bahakel Communications Ltd. ("Bahakel"), and the Charlotte-Mecklenburg Police Department ("CMPD") must be dismissed as frivolous.

Only state actors may be charged with violations of Section 1983. Lugar v. Edmondson Oil Co., 457 U.S. 922, 937 (1982). Obama, the Campaign, Plouffe, Fox, and Bahakel are not state actors. Plaintiff's allegations against these defendants are **DISMISSED**.

CMPD is not a proper party to a suit under North Carolina law. Ellison v. Elledge, No. 3:10-cv-157-1, 2010 WL 1506904, at *1 (W.D.N.C. Apr. 14, 2010) (Mullen, J.) (citing Jones v. City of Greensboro, 277 S.E.2d 562, 576 (N.C. Ct. App. 1981), overruled on other grounds by Fowler v. Valencourt, 435 S.E.2d 530 (N.C. 1993)). Therefore, Plaintiff's claims against CMPD are **DISMISSED**.

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises the Plaintiff, who is proceeding pro se, that his case against the remaining defendants may be dismissed in whole, or in part, upon the Court's initial review. While Plaintiff has already exercised his opportunity to "amend [his] pleading once as a matter of course," the Court will entertain a motion to further amend his allegations against the remaining defendants if filed within fourteen (14) days of the date of this Order. See FED. R. CIV. P. 15. The Court will grant Plaintiff leave to file a third amended complaint should justice so require. **The Plaintiff's failure to amend his complaint with more particularized allegations may result in the dismissal of the Complaint with prejudice.**

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's claims against Defendants Barack Obama, Campaign for Change, David Plouffe, Charlotte-Mecklenburg Police Department, Fox Charlotte, and Bahakel Communications Ltd. are **DISMISSED**; and
2. Plaintiff shall have fourteen (14) days from the date of this Order to file a motion to amend his complaint to include more particularized allegations.

Signed: November 29, 2011



Robert J. Conrad, Jr.
Chief United States District Judge

