

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

ROBERT ROBINSON,

Plaintiff,

v.

WACO HABITAT FOR HUMANITY, et al.,

Defendants.

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6:17-CV-062-RP

ORDER

Before the Court are five motions to dismiss Plaintiff’s complaint, filed by Defendant Waco Habitat for Humanity, (Dkt. 6), Defendant Brand Shuttlesworth, (Dkt. 7), Defendant Tracie Littrell, (Dkt. 8), Defendant Jose Mullet, (Dkt. 9), and Defendant Lori Young, (Dkt. 10). These motions were referred to United States Magistrate Judge Jeffrey C. Manske for a Report and Recommendation on the merits pursuant to 28 U.S.C. § 636(b), and Rules 1(h) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. On May 16, 2017, Magistrate Judge Manske filed a Report and Recommendation in the matter, recommending that this Court grant each Defendant’s motion.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within fourteen days after being served with a copy of the Report and Recommendation, and thereby secure a de novo review by the district court. Plaintiff failed to timely file any objections to the findings of fact or conclusions of law of the Magistrate Judge. (Dkt. 12). The Court was informed, however, that Plaintiff visited the District Court Clerk’s office on June 6, 2017, and told one of the clerks that while he wished to file an objection to the Magistrate Judge’s Report and Recommendation, he is physically unable to because he cannot move his arms due to his severe muscular dystrophy. Plaintiff’s application to

proceed in this court without prepaying fees also demonstrates that he is unlikely to be able to afford the assistance of an attorney who might be able to draft an objection for him.

To ensure that Plaintiff's rights are not compromised because of his disability and his inability to write an objection, the Court has undertaken a de novo review of this case and the Report and Recommendation filed by Magistrate Judge Manske. After this review, the Court fully agrees with the conclusions and recommendations of the Magistrate. (Mot. to Proceed IFP, Dkt. 2).

As the Report and Recommendation explained, this Court must have subject-matter jurisdiction over any claims it hears. U.S. Const. art. III, § 2; *see also Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005) (“The district courts of the United States . . . are ‘courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.’”). There are two primary ways to invoke the jurisdiction of federal courts. First, a plaintiff may invoke the court's diversity jurisdiction in instances where the plaintiff is citizen of a different state than each of the defendants in the action and the plaintiff's claim is for more than \$75,000. *See* 28 U.S.C. § 1332; *State Farm Fire & Cas. Co. v. Tashire*, 386 U.S. 523, 530 (1967). Here, Plaintiff's Civil Cover Sheet indicates that both he and the Waco Habitat for Humanity are citizens of the same county—McLennan County, Texas. (Pl's. Civil Cover Sheet, Dkt. 1-2). Because both Plaintiff and at least one Defendant are citizens of McLennan County, Texas, there is not complete diversity, and the Court does not have jurisdiction on the basis of diversity jurisdiction.

Second, a plaintiff may invoke the Court's federal question jurisdiction where he or she states a claim under the United States Constitution or other federal law. 28 U.S.C. § 1331. Here, Plaintiff's complaint names no specific claims, but, construing it liberally, Plaintiff appears to be attempting to state claims for negligence, gross negligence, fraud, or breach of contract. Each of these claims, and other related claims, are based in state law, and not the Constitution or a federal statute.

Notably, Plaintiff suggests on his Civil Cover Sheet that he is making a civil rights claim for housing or accommodations by checking that box to describe the “Nature of the Suit.” (Pl’s. Civil Cover Sheet, Dkt. 1-2). Liberally construing the allegations in Plaintiff’s complaint, however, the Court can identify no such claim. For example, the Fair Housing Act (“the FHA”) prohibits discrimination in residential real-estate related transactions. *See* 42 U.S.C. § 3605. But Plaintiff does not plausibly allege or even suggest discrimination “because of race, color, religion, sex, handicap, familial status, or national origin” in his complaint or through the documents attached to his complaint. Instead, Plaintiff appears to be concerned about the quality of certain repairs provided to him free of charge through Habitat for Humanity a few years ago. In short, Plaintiff’s complaint fails to meet his burden to demonstrate this Court’s jurisdiction over his claims. The Court must therefore grant Defendants’ motions to dismiss.

To be clear, the Court’s ruling is limited to addressing its jurisdiction. While the Court does not wish to suggest that Plaintiff should bring his claims in state court, it does wish to emphasize that this ruling does not address the merits of his claims whatsoever, nor address whether his claims might be successful in state court.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge (Dkt. 12) is **APPROVED AND ACCEPTED** for the reasons stated therein.

The Court hereby **GRANTS** Defendants’ Motions to Dismiss (Dkts. 6–10).

SIGNED on July 25, 2017.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE