
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

GUY M. DOMAI,

Plaintiff,

v.

UTAH HIGHWAY PATROL et al.,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:13-cv-00720-CW-BCW

Judge Clark Waddoups

This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Judge Brooke C. Wells pursuant to 28 U.S.C. § 636(b)(1)(B). (*See* Dkt. No. 5.) Plaintiff was permitted to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (Dkt. No. 3.) On January 30, 2014, Judge Wells issued a Report and Recommendation recommending that the court dismiss Plaintiff's Amended Complaint (Dkt. No. 8) pursuant to 28 U.S.C. § 1915(e)(2) for failure to state a claim on which relief can be granted based on the court's *sua sponte* determination as required by that provision. (Dkt. No. 11.) Because Plaintiff is proceeding *pro se*, and consistent with Judge Wells' approach, the court will only dismiss the Amended Complaint for failure to state a claim where it "appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991) (quoting *Conley v. Gibson*, 335 U.S. 41, 45-46 (1957)).

Plaintiff was granted extra time to file objections to the Report and Recommendation under 28 U.S.C. § 636(b)(1)—the filing deadline was continued to March 7, 2014. (Dkt. No. 16.) Plaintiff, however, did not file the Objection (Dkt. No. 18) until March 12, 2014, though the

filing is back-dated to March 7, 2014. Though Plaintiff's Objection was untimely, the court has nevertheless carefully reviewed and considered it, given the fact of his *pro se* representation.

The court is unpersuaded by Plaintiff's objections. For the reasons stated by Judge Wells, the complaint fails to state a federal cause of action against any defendant. The original complaint (Dkt. No. 4) fails to include sufficient facts to determine what, if any, wrong plaintiff is complaining about. On December 4, 2013, plaintiff filed an amended complaint (Dkt. No. 8). Again plaintiff fails to allege facts sufficient to state a federal cause of action and asserts no facts under which the court could find a basis for federal jurisdiction.

The court acknowledges that the conduct described in the Amended Complaint and explained in greater detail in Plaintiff's objections to the Report and Recommendation is offensive and if proven may provide the basis for a cause of action against Mr. Beal under state law. There are no facts to support a claim against any of the other named Defendants. To the extent Plaintiff may be able to state a cause of action against Mr. Beal under Utah law, the court is without jurisdiction to consider such a claim and must dismiss the case. The court is further required to dismiss the case for the reasons stated in Judge Wells' Report and Recommendation. Accordingly, upon a *de novo* review of its findings and analysis, the court denies the objections and APPROVES AND ADOPTS Judge Wells' Report and Recommendation (Dkt. No. 11). This case is DISMISSED and all pending motions DENIED as moot. The case is therefore closed.

SO ORDERED this 19th day of June, 2014.

BY THE COURT:



Clark Waddoups
United States District Judge