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

MATTHEW A. SMITH,

Plaintiff,

vs.

UNITED PARCEL SERVICE.

Defendant.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:14-cv-00237

District Judge David Nuffer

Magistrate Judge Dustin Pead

I. INTRODUCTION

This matter was referred to Magistrate Judge Dustin Pead by District Court Judge David Nuffer pursuant to a 28 U.S.C. § 636(b)(1)(B) referral (doc. 4).

On April 3, 2014, Judge Nuffer granted Plaintiff Matthew Smith's ("Mr. Smith") application to proceed in forma pauperis under 28 U.S.C. § 1915 ("in forma pauperis statute"). On August 25, 2014, this court issued an order to show cause regarding Mr. Smith's intentions to proceed with his action (doc. 6). In response, Mr. Smith filed his currently pending motion requesting the court to direct "the United States Marshals Service to jurisdictionally delegate serve [sic] process to the corporate address provided to the court through [sic] complaint" (doc. 8).

For the reasons now stated below, the Court **DENIES** Mr. Smith's motion for service of process and **ORDERS** him to file an amended complaint within thirty (30) days of the date of

this Order.

II. PLAINTIFF MUST FILE AN AMENDED COMPLAINT

This court's review of Mr. Smith's complaint reveals several deficiencies. First, the complaint fails to establish jurisdiction. While Mr. Smith references "U.S. Statutes, Colorado Revised Statutes (C.R.S), The Civil Rights Act, Constitution and Bill of Rights" he fails explain how these diverse statutory authorities establish this court's jurisdiction over the case (doc.3, p. 2). Second, Mr. Smith fails to state any causes of action or claims for relief. Instead, Mr. Smith's complaint directs the court to Exhibits A, B and C, none of which are attached to the complaint. Instead, the sole attachment consists of a letter from Defendant United Parcel Services' District Occupational Health Supervisor, Gayle Brown, requesting additional medical information from Mr. Smith in support of his request for a job-related accommodation (doc. 3, pg. 7).

These inadequacies support *sua sponte* dismissal under the in forma pauperis statute. *See, Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991); 28 U.S.C. § 1915(e)(2)(B)(ii)(the court "shall dismiss the case at any time if the court determines that . . . the action (ii) fails to state a claim on which relief may be granted)). That said, the court is mindful that Mr. Smith is proceeding pro se and accordingly prefers to allow Mr. Smith an opportunity to remedy the inadequacies through amendment. *See, McKinney v State of Okla. Dep't of Human Serv.*, 925 F.2d 363, 365 (10th Cir. 1991); *see also* Fed. R. Civ. P. 15(a).

Accordingly, the court **ORDERS** Mr. Smith to submit an amended complaint within thirty (30) days of this court's ruling. The amended complaint should be legible. It should set

forth “ a short and plain statement of the grounds for the court’s jurisdiction.” Fed. R. Civ. P. 8(a)(1). It should also list the parties involved. It should include a “short and plain statement” of the claim(s) showing entitlement to relief. Id. 8(a)(2). That is, Mr. Smith must list all his legal causes of action, and provide clear statements that showing that is entitled to relief on those causes of action. Finally, Mr. Smith should list specific demands for the relief he seeks. Id. 8(a)(3). The court warns that failure to comply with rule 8 of the Federal Rules of Civil Procedure will result in a recommendation from this court for dismissal of the complaint.

III. PLAINTIFF’S MOTION FOR SERVICE OF PROCESS

Because the court orders Mr. Smith to amend his complaint, the court hereby **DENIES** his motion for service of process (doc. 8). At such time as Mr. Smith submits his amended complaint, he may renew his motion for service of process.

IV. ORDER

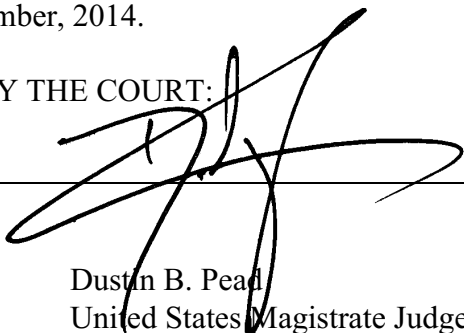
For the reasons set forth above, the court issues the following **ORDERS**:

The court **DENIES** Mr. Smith’s motion for service of process without prejudice (doc. 8).

The court **ORDERS** Mr. Smith to file an amended complaint, as described above, by **October 22, 2014**, or risk dismissal of his action.

DATED this 22nd day of September, 2014.

BY THE COURT:



Dustin B. Pead
United States Magistrate Judge