

v.

Civil No. 3:19cv938 (DJN)

JOHN CHONG, M.D., *et al.*,
Defendants.

MEMORANDUM OPINION

Muhammad Khan, a California inmate proceeding *pro se* and *in forma pauperis*, filed this civil action. By Memorandum Order entered on October 19, 2020, the Court explained to Khan that he had inadequately alleged that the Court had diversity jurisdiction over this action. (ECF No. 9.) Specifically, the Court noted that Khan failed to demonstrate that the amount in controversy exceeded \$75,000 or that there was complete diversity of state citizenship amount the parties. (*See* ECF No. 9, at 5–6.) The Court also noted that the action was likely barred by the statute of limitations. (*See id.* at 9 n.2.) Nevertheless, the Court provided Khan with an opportunity to correct the deficiencies in his complaint. The Court directed as follows:

Plaintiff shall have thirty (30) days to file an amended complaint that sufficiently alleges facts to confer subject matter jurisdiction on the Court over this action, and that he timely filed this action. The amended pleading will supplant the prior complaints. The particularized pleading must stand or fall of its own accord. Plaintiff may not reference statements in the prior complaints.

Failure to file an amended complaint that conforms with the foregoing directions will result in dismissal of the action pursuant to Fed. R. Civ. P. 41(b).

(*Id.* at 6–7.) After receiving an extension of time, Khan filed a Motion to Remand rather than an amended complaint. (ECF No. 13.) In the Motion to Remand, Khan seemingly admits that this Court lacks subject matter jurisdiction and asks the Court to remand the case to the Circuit Court

for Fairfax County, Virginia. This case was not removed from the state courts in the first instance. Therefore, Khan fails to identify the procedural vehicle that would permit the Court to remand this case to state court, and the Motion to Remand (ECF No. 13) will be DENIED.

Moreover, Khan failed to file an amended complaint as directed by the Court.

Accordingly, the action will be DISMISSED.

Let the Clerk file a copy of this Memorandum Opinion electronically and send a copy to Khan.

An appropriate Order shall issue.

/s/



David J. Novak
United States District Judge

Richmond, Virginia
Dated: January 11, 2021