

(quoting Estelle v. Gamble, 429 U.S. 97, 104-05 (1976)). Nonetheless, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim of relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

From the cover sheet, it appears that Mr. Utley argues that the court can exercise diversity jurisdiction, as defendant Jenny Fe Utley (“Ms. Utley”) is purportedly a citizen of the Philippines. Civil Cover Sheet, ECF No. 2-1. But “district courts shall not have original [diversity] jurisdiction . . . of an action between citizens of a State and citizens of a foreign state who are lawfully admitted for permanent residence in the United States are not domiciled in the same State.” 28 U.S.C. § 1332(a)(2). Mr. Utley claims that both he and Mrs. Utley live in Woodstock, Virginia. Civil Cover Sheet, ECF No. 2-1. As such, the court can exercise diversity jurisdiction only if Mrs. Utley is not a legal permanent resident of the United States. Mr. Utley does not plead this, which is fatal to his claim.

Further, the court may only exercise diversity jurisdiction if the amount in controversy is greater than \$75,000. 28 U.S.C. § 1332(a). Mr. Utley appears to seek the return of his children, rather than monetary relief. See Compl. at 5. The court cannot afford Mr. Utley the relief he seeks. As Mr. Utley fails to plead the requisite amount in controversy, again, the court cannot exercise diversity jurisdiction over the Complaint.

Accordingly, the court will dismiss Mr. Utley’s complaint without prejudice pursuant to 28 U.S.C. §§ 1332 and 1915(e)(2)(B)(ii) for lack of jurisdiction.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying Order to plaintiff.

Entered: April 11, 2018

/s/ Michael F. Urbanski

Michael F. Urbanski

Chief United States District Judge