

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DANIEL DOUGLAS GONZALEZ,

Plaintiff,

v.

ASSOCIATES IN PSYCHIATRY AND THE LAW
FORENSIC and GENERAL PSYCHIATRY
and ROBERT RAWSKI,

Defendants.

ORDER

11-cv-69-slc¹

In this proposed civil action for monetary relief, plaintiff Daniel Douglas Gonzalez, a patient at the Mendota Mental Health Institution located in Madison, Wisconsin, contends that defendants Robert Rawski and his employer, defendant Associates in Psychiatry and the Law, Forensic and General Psychiatry, have defamed him by issuing psychiatric evaluations that contain false information and conclusions about him. Plaintiff is proceeding under the in forma pauperis statute, 28 U.S.C. § 1915, and has made an initial partial payment.

¹ For the purpose of issuing this order, I am assuming jurisdiction over the case.

Because plaintiff is proceeding in forma pauperis, I must screen his complaint and dismiss it if it is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915(e)(2)(B). After reviewing plaintiff's complaint, I conclude that it must be dismissed for lack of subject matter jurisdiction.

Federal district courts may exercise jurisdiction only in cases for which Congress has determined that jurisdiction is proper. The most common cases over which federal district courts may exercise jurisdiction are those in which the plaintiff's claims present federal questions or arise under federal law, 28 U.S.C. § 1331, or those in which the plaintiff's citizenship is completely diverse from the defendant's citizenship, 28 U.S.C. § 1332.

In his complaint, plaintiff alleges only that defendant Dr. Rawski, an employee of defendant Associates in Psychiatry, has authored false reports about plaintiff that paint him as an unstable and violent person not ready for release into society. Although defendants' actions may give rise to a defamation, libel or other tort claim, these claims arise under state law. Plaintiff's allegations do not give rise to a federal claim. Additionally, because plaintiff alleges that he and defendants live in Wisconsin, it is unlikely that he could establish diversity of citizenship under § 1332. Therefore, I must dismiss plaintiff's complaint for lack of subject matter jurisdiction. If plaintiff wishes to pursue his claims, he must do so in state court.

ORDER

IT IS ORDERED that plaintiff Daniel Douglas Gonzalez's complaint is DISMISSED for lack of subject matter jurisdiction.

Entered this 5th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge