

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

JENNIFER J. JOHNSON,

Plaintiff,

v.

JAMES R. JOHNAS,

Defendant.

OPINION AND ORDER

12-cv-421-wmc

In this proposed civil complaint for injunctive relief, pro se plaintiff Jennifer J. Johnson alleges that her former husband, defendant James R. Johnas, stole confidential documents and used them to defame her during their divorce proceedings. Because plaintiff is proceeding under the *in forma pauperis* statute, 28 U.S.C. § 1915, the first obligation of the court is to screen the complaint to determine whether it states a claim upon which relief may be granted. Having reviewed the complaint, it must be dismissed for lack of subject matter jurisdiction.

ALLEGATIONS OF FACTS

For purposes of screening, the court accepts Johnson's factual allegations as true and construes them liberally. *Haines v. Kerner*, 404 U.S. 519, 521 (1972). For clarity, however, her allegations are supplemented by facts taken from the public record in her divorce proceedings.

Jennifer Johnson and James Johnas were involved in contested divorce proceedings in Taylor County Circuit Court here in Wisconsin. Johnas is alleged to have stolen

confidential documents containing personal information about Johnson from a women's shelter and to have given these documents to his attorney, who used them to defame Johnson's character during the divorce proceedings. These documents had not been disclosed to Johnson before they were introduced into evidence before presiding Taylor County Judge Ann Knox-Bauer, who Johnson alleges may have allowed it because she attends the same small church as Johnas.

The circuit court granted the petition for judgment of divorce on December 7, 2011, and entered an order dividing their property on December 22, 2011. *In re Marriage of Johnas and Johnas*, Case No. 2011FA41 (Taylor Co., Wis.). Johnson filed an appeal, which was dismissed because her briefs did not comply with Wisconsin's rules of appellate procedure. *In re the Marriage of Johnson and Johnas*, Appeal No. 12AP48 (Wis. App. April 20, 2012).

On June 13, 2012, plaintiff filed the instant lawsuit against Johnas, seeking "a mistrial and a new hearing" in the divorce proceeding before Taylor County Circuit Court. Johnson further represents that she has exhausted state procedures and now wants "to appeal this case . . . to the next level."

OPINION

Federal courts have limited jurisdiction, which means that they may hear a case only if Congress or the Constitution authorize it. As a result, federal courts must determine whether subject matter jurisdiction exists, even if none of the parties raise the issue. *McCready v. White*, 417 F.3d 700, 702 (7th Cir. 2005). Generally, a federal court

may exercise jurisdiction over a case in one of two situations: (1) the plaintiff brings a claim that arises under federal law, 28 U.S.C. § 1331; or (2) the plaintiff and defendants are citizens of different states and the amount in controversy is greater than \$75,000. 28 U.S.C. § 1332. Since Johnson's allegations do not support either type of case, her complaint must be dismissed for lack of subject matter jurisdiction.

Johnson's allegations that Johnas revealed confidential, personal information about her in public might be interpreted as a claim for invasion of privacy, Wis. Stat. § 995.50(2), or for defamation, *Torgerson v. Journal/Sentinel, Inc.*, 210 Wis. 2d 524, 534, 563 N.W.2d 472 (1997), or both, but those are state law tort claims, not federal law or constitutional claims. *Paul v. Davis*, 424 U.S. 693, 712 (1976). Therefore, to bring these claims in this court, Johnson must allege that the defendant and she are citizens of different states and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a)(1). Not only does Johnson not allege that Johnas and she are citizens of different states, she actually lists a Wisconsin address for both Johnas and herself. Further, she includes no allegations suggesting that the amount in controversy is more than \$75,000.

Even if these seemingly insurmountable hurdles did not exist to this court's exercise of jurisdiction, Johnson's complaint would still fall short given that she expressly seeks to challenge a state divorce proceeding. Under the *Rooker-Feldman* doctrine, federal district courts lack jurisdiction to hear claims seeking to vacate state court judgments. *See Hooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *Dist. of Columbia Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983). Moreover, under the "domestic relation exception," federal courts lack jurisdiction over disputes challenging divorce, custody or alimony

