

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-7076

September Term, 2017

1:18-cv-00712-UNA

Filed On: May 25, 2018 [1732790]

Justin Michael Rossi,

Appellant

v.

Crown,

Appellee

ORDER

Appellant is seeking review of an order of the United States District Court for the District of Columbia entered on April 12, 2018. The notice of appeal was filed on May 18, 2018, which is beyond the 30-day period provided by Fed. R. App. P. 4(a). Upon consideration of the foregoing, it is

ORDERED, on the court's own motion, that appellant show cause by June 25, 2018, why this appeal should not be dismissed as untimely. The response to the order to show cause may not exceed the length limitations established by Fed. R. App. P. 27(d)(2) (5,200 words if produced using a computer; 20 pages if handwritten or typewritten). Failure by appellant to respond to this order will result in dismissal of the appeal for lack of prosecution. See D.C. Cir. Rule 38.

Appellant may respond to this order to show cause by filing in this court a copy of a motion pursuant to either Fed. R. App. P. 4(a)(5) or 4(a)(6) that has been submitted to the District Court. A copy of the pertinent sections of Fed. R. App. P. 4 is attached.

The Clerk is directed to send a copy of this order to appellant by certified mail, return receipt requested, and by first class mail.

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Amanda Himes
Deputy Clerk

Attachments:

Copy of the Pertinent Sections of Fed. R. App. P. 4.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-7076

September Term, 2017

1:18-cv-00712-UNA

Filed On: August 24, 2018

Justin Michael Rossi,

Appellant

v.

The Crown,

Appellee

BEFORE: Henderson and Srinivasan, Circuit Judges, and Sentelle, Senior Circuit Judge

ORDER

Upon consideration of the court's order to show cause filed on May 25, 2018, the response thereto, and the supplements to the response, it is

ORDERED that the order to show cause be discharged. It is

FURTHER ORDERED that this appeal be dismissed for lack of a timely notice of appeal. Appellant's May 18, 2018 notice of appeal from the district court's order entered April 16, 2018 was filed beyond the 30-day period provided by Federal Rule of Appellate Procedure 4(a), and that time limit is mandatory and jurisdictional. See Bowles v. Russell, 551 U.S. 205, 209 (2007). Appellant contends his notice of appeal was timely under Federal Rule of Appellate Procedure 25(a)(2)(B) because it was mailed before the filing deadline; however, that exception to the general rule applies only to a brief or appendix. For all other papers sent to the clerk by mail, "filing is not timely unless the clerk receives the papers within the time fixed for filing." Fed. R. App. P. 25(a)(2)(A).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Robert J. Cavello
Deputy Clerk

FILED

APR 12 2018

**Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUSTIN MICHAEL ROSSI,)
Plaintiff,)
v.) Civil Action No. 1-18-CV-00712-UNA
CROWN,)
Defendant.)

MEMORANDUM OPINION

The Court has reviewed plaintiff's complaint, keeping in mind that complaints filed by pro se litigants are held to less stringent standards than those applied to formal pleadings drafted by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Even pro se litigants, however, must comply with the Federal Rules of Civil Procedure. *Jarrell v. Tisch*, 656 F. Supp. 237, 239 (D.D.C. 1987). Rule 8(a) of the Federal Rules of Civil Procedure requires that a complaint contain a short and plain statement of the grounds upon which the Court's jurisdiction depends, a short and plain statement of the claim showing that the pleader is entitled to relief, and a demand for judgment for the relief the pleader seeks. Fed. R. Civ. P. 8(a); *see Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). The purpose of the minimum standard of Rule 8 is to give fair notice to the defendants of the claims being asserted, sufficient to prepare a responsive answer, to prepare an adequate defense and to determine whether the doctrine of res judicata applies. *Brown v. Califano*, 75 F.R.D. 497, 498 (D.D.C. 1977).

Rather than factual allegations to support a cognizable legal claim, plaintiff's complaint expresses plaintiff's general grievances of having been allegedly wronged emotionally and

physically by various unknown persons and entities within the government of New Zealand.

Plaintiff makes passing reference to matters he has filed in New Zealand courts, however, with little to no explication relating thereto, and with an absence of information as to how such grievances apply to this Court. Additionally, he generally claims human rights violations, however, he fails to explain the alleged violations or explicitly state any viable cause of action. As drafted, the complaint fails to meet the minimum pleading standard set forth in Rule 8(a).

Further, plaintiff is suing the country of New Zealand. But, “in a suit involving a foreign state, a plaintiff must satisfy subject matter jurisdiction under the FSIA [Foreign Sovereign Immunities Act] before the court can reach claims under the [ATCA].” *Soudavar v. Islamic Republic of Iran*, 67 Fed. App’x 618, 619-20 (D.C. Cir. 2003) (per curiam). The FSIA is the “sole basis for obtaining jurisdiction over a foreign state in our courts.” *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428, 434 (1989). “The FSIA provides generally that a foreign state is immune from the jurisdiction of the United States courts unless one of the exceptions listed in 28 U.S.C. § 1605(a) applies,” *Roeder v. Islamic Republic of Iran*, 646 F.3d 56, 58 (D.C. Cir. 2011) (citation and internal quotation marks omitted), or an existing international agreement provides otherwise, *Peterson v. Royal Kingdom of Saudi Arabia*, 416 F.3d 83, 86 (D.C. Cir. 2005). See 28 U.S.C. § 1604 (conferring foreign state immunity “[s]ubject to existing international agreements to which the United States is a party at the time of enactment of this Act”). “Claims against foreign sovereigns that do not fall within the ambit of an FSIA exception are barred.” *Simon v. Republic of Hungary*, 812 F. 3d 127, 141 (D.C. Cir. 2016) (citation and internal quotation marks omitted). And waivers of sovereign immunity must be clear and unequivocal. See *United States v. Nordic Village, Inc.*, 503 U.S. 30, 34 (1992).

Plaintiff's complaint does not satisfy jurisdiction under the FSIA. Plaintiff makes a passing reference to waiver (*See* Compl. at 4, ¶ 3), he does not at all explain how New Zealand has waived its right to sovereign immunity, nor provide any facts or justification for waiver, nor any applicable exception.

The plaintiff's complaint is difficult to follow and is insufficient under the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure. In addition, the complaint simply fails to satisfy jurisdiction under the FSIA. As a result, this case will be dismissed. A separate order accompanies this Memorandum Opinion.

DATE:

4/11/18

United States District Judge

FILED

APR 12 2018

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

JUSTIN MICHAEL ROSSI,)
Plaintiff,)
v.) Civil Action No. 1-18-CV-00712-UNA
CROWN,)
Defendant.)

)

ORDER

For the reasons stated in the accompanying Memorandum Opinion, it is
ORDERED that plaintiff's application to proceed *in forma pauperis* [2] is GRANTED,
and this case is DISMISSED without prejudice.

This is a final appealable Order.

SO ORDERED.

DATE:

4/11/18

United States District Judge

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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-7076

September Term, 2018

1:18-cv-00712-UNA

Filed On: October 26, 2018

Justin Michael Rossi,

Appellant

v.

The Crown,

Appellee

BEFORE: Henderson and Srinivasan, Circuit Judges, and Sentelle, Senior Circuit Judge

ORDER

Upon consideration of the petition for rehearing, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk

SCOTUS CASE #

In The
Supreme Court of the United States

JUSTIN MICHAEL ROSSI

PRO SE Petitioner

v.

THE CROWN

Respondent

PROOF OF SERVICE

Resulting Case #'s

District Of Columbia District Court 1:18-cv-00712-UNA

United States Court of Appeals 18-7076

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