

UNITED STATES COURT OF APPEALS
For the First Circuit

No. 17-1764

ABIGAIL (ABE) ARROYO,
Plaintiff, Appellant

v.

ÁNGEL M. TORRES-SÁNCHEZ, Assistant Supervisor
PUERTO RICO WATER AND SEWER AUTHORITY;
AAA PRANF-WEST REGION
Defendants, Appellees

Before

Howard, Chief Judge
Lynch and Thompson, Circuit Judges

JUDGMENT

Entered: October 15, 2018

Appellant Abigail Arroyo appeals the district court's order dismissing his complaint. As an initial matter, we construe the district court's dismissal for lack of subject matter jurisdiction as a dismissal without prejudice. Torres-Fuentes v. Motorambar, Inc., 396 F.3d 474, 475-76 (1st Cir. 2005) (citation omitted) (directing that dismissals for lack of jurisdiction generally should be without prejudice). We review de novo a dismissal premised on a finding that subject matter jurisdiction is lacking. See Ondis v. City of Woonsocket, 587 F.3d 49, 54 (1st Cir. 2009). Upon such review of relevant portions of the record and of Arroyo's submissions, we AFFIRM the dismissal, substantially for the reasons set forth in the district court's decision.

Appendix A

Affirmed, See Local R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ABIGAIL (ABE) ARROYO,
Plaintiff,

v.

ÁNGEL M. TORRES SÁNCHEZ,
ET AL., ASSIST. SUPERVISOR
PUERTO RICO POTABLE
WATER AND SEWER
AUTHORITY,
AAA PRANF - WEST REGION
Defendants

Civil No. 16-3154 (ADC)

ORDER

The instant case is a pro se claim by Abigail (Abe) Arroyo, a resident of Quebradillas, Puerto Rico, against the Puerto Rico Water and Sewer Authority (AAA), assistant supervisor Ángel M. Torres-Sánchez, AAA PRANF¹ -West Region, and Millenium Collection Agency. **ECF Nos. 1, 4.** In essence, he alleges that codefendants wrongfully terminated his water service in his Aguadilla residence and pursued collection after non-payment of a water bill for \$3,287.86. **ECF No. 1 at 2.** Plaintiff claims

¹ PRANF is the Spanish acronym for AAA's "Programa de Agua no Facturada"["Unbilled Water Program"].

Appendix C

that the aforementioned bill was incorrectly charged to him by the AAA, when it allegedly belonged instead to the commercial tenant located below plaintiff's second-story residential unit. **ECF No. 1 at 2-3.** He further alleges that, subsequently, his water service was wrongfully terminated as well as at his current residence in Quebradillas. *Id.* at 2. As remedies, plaintiff requests that the Court "order the defendant to reinstall his water service...

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...plaintiff's complaint lacks a statement of jurisdiction. **ECF No. 1.** Instead, in the complaint's introductory paragraphs, plaintiff invokes federal case law defining "abuse of discretion" and "deceit" in relation to the alleged acts against him by codefendants. *Id.* at 1. The Court hereby holds that Plaintiff failed to establish, in the aforementioned introductory paragraphs and elsewhere in the complaint, how his claim for allegedly wrong termination of water service and related damages arises under the U.S. Constitution and/or federal law. 28 U.S.C. §1331; see *Marrero-García v. Irizarry*, 33 F.3d 117 (1st Cir. 1994) (affirming summary dismissal of claim of civil rights violation under 42 U.S.C. §1983 for termination of water service by the AAA; plaintiffs could not establish that they had a protected right arising under the U.S. Constitution). Moreover, plaintiff and all codefendants are residents of Puerto Rico, **ECF Nos. 1, 4**, for which plaintiff is unable to establish diversity of citizenship. 28 U.S.C. §1332.

In light of the above, the Court **DISMISSES** the instant complaint **WITH PREJUDICE** for lack of both diversity and federal question jurisdiction over this case pursuant to 28 U.S.C. §§1331-1332. Furthermore, plaintiffs' motion regarding documents, **ECF No. 5**, and the motions regarding status of the case, **ECF Nos. 6, 7, 8 and 9** are denied as **MOOT**.

The Clerk of the Court shall enter judgment accordingly.

SO ORDERED.

At San Juan, Puerto Rico, on this 24th day of May, 2017.

/S/ AIDA M. DELGADO-COLON
Chief United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**