

Court of Appeals, State of Michigan

ORDER

Kannika Say v King Bush

Docket No. **348594**

LC No. **17-112047-DM**

Christopher M. Murray, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal is DISMISSED for lack of jurisdiction because the April 2, 2019, order denying defendant-appellant's motion for reconsideration is not a final order as defined in MCR 7.202(6) and the November 8, 2018, judgment of divorce is a consent judgment that cannot be appealed. A party that agrees to the entry of an order or judgment is not an aggrieved party and cannot appeal the order or judgment. MCR 7.203(A); *Dora v Lesinski*, 351 Mich 579, 582; 88 NW2d 592 (1958).

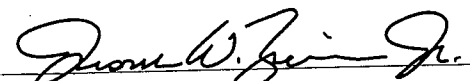




A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JUN - 4 2019

Date



Chief Clerk

Order

Michigan Supreme Court
Lansing, Michigan

October 29, 2019

Bridget M. McCormack,
Chief Justice

159941

David F. Viviano,
Chief Justice Pro Tem

KANNIKA SAY,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra

v

SC: 159941
COA: 348594
Wayne CC: 17-112047-DM

Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

KING BUSH,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 4, 2019 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.



a1021

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 29, 2019

Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KING BUSH,

Plaintiff,

v.

KANNIKA SAY,

Defendant.

Case No. 2:19-cv-12308

HONORABLE STEPHEN J. MURPHY, III

ORDER DISMISSING THE CASE

On August 5, 2019, Plaintiff King Bush filed a complaint and application to proceed without prepaying fees or costs ("IFP"). ECF 1, 2. In the complaint, Plaintiff alleges that Defendant Kannika Say, his ex-wife, committed various illegal acts including kidnapping, money laundering, fraudulent marriage and divorce, and immigration fraud. ECF 1, PgID 6. Plaintiff invoked both federal question and diversity jurisdiction. *Id.* at 3. On August 12, 2019, the Court ordered Plaintiff to show cause why the case should not be dismissed for lack of subject-matter jurisdiction. ECF 4. On August 16, 2019, Plaintiff responded to the show cause order. ECF 5. In his response, Plaintiff merely reiterated the statements in his initial complaint. *See id.*

As to federal question jurisdiction, Plaintiff fails to allege any additional facts that would constitute a civil claim arising under any federal statute, treaty, or provision of the Constitution. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987); 28 U.S.C. § 1331. Plaintiff's claims against Defendant include kidnapping,

immigration fraud, falsifying documents, money laundering, and other fraud-based claims, *see* ECF 5; ECF 1, PgID 6, none of which are actionable as a civil lawsuit arising under federal law. The Court therefore does not have federal question jurisdiction over the case.

As to diversity jurisdiction, Plaintiff likewise fails to provide any additional, non-conflicting information relating to the domicile of both parties. Plaintiff states that he is a U.S. citizen and provides a Michigan address for himself. ECF 1, PgID 2; ECF 5, PgID 18. And although Plaintiff claims that Defendant is not a U.S. citizen and has no green card, his other allegations indicate that she likely is lawful permanent U.S. resident. Plaintiff claims that Defendant used his kids and a different marriage to in fact obtain a green card, that she is facing charges in immigration court and potential deportation, that she has a job in the U.S., and that she voted in the 2016 election. *See* ECF 5, PgID 17–18. Plaintiff further provides only a Michigan address for Defendant. ECF 1, PgID 2. "A district court does not have diversity jurisdiction over an action "between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State." 28 U.S.C. § 1332. Plaintiff fails to show that the Court has diversity jurisdiction in the case.

The Court provided Plaintiff notice pursuant to Local Rule 41.2 that dismissal for lack of subject-matter jurisdiction would result if he failed to show cause why the Court has jurisdiction. Plaintiff failed to meet his burden of proving that the Court has subject-matter jurisdiction over the case. *See Global Tech., Inc. v. Yubei*

(Xinxiang) Power Steering Sys. Co., 807 F.3d 806, 810 (6th Cir. 2015) ("the party invoking federal jurisdiction has the burden to prove that jurisdiction."). The Court will therefore dismiss the case without prejudice.

WHEREFORE, it is hereby **ORDERED** that the case is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: August 22, 2019

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 22, 2019, by electronic and/or ordinary mail.

s/ David P. Parker
Case Manager

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