

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-5018

September Term, 2022

1:22-cv-03757-CKK

Filed On: May 9, 2023

Gary V. Jenkins,

Appellant

v.

United States, et al.,

Appellees

BEFORE: Wilkins and Katsas, Circuit Judges, and Sentelle, Senior Circuit Judge

ORDER

Upon consideration of the motions for other relief, it is

ORDERED that the motions be denied. Appellant has not shown that he is entitled to the requested relief. It is

FURTHER ORDERED that appellant's brief and appendix be due within 30 days of the date of this order. Failure to comply with this order may result in dismissal of the appeal for lack of prosecution. See D.C. Cir. Rule 38.

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

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Emily Campbell
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-5018

September Term, 2022

1:22-cv-03757-CKK

Filed On: February 14, 2023 [1986840]

Gary V. Jenkins,

Appellant

v.

United States, et al.,

Appellees

ORDER

Upon consideration of the motion to appeal in forma pauperis, which was received from appellant, it is, on the court's own motion,

ORDERED that the motion to appeal in forma pauperis be referred to the district court for resolution in the first instance. It is

FURTHER ORDERED that this case be held in abeyance pending further order of the court.

The Clerk is directed to transmit this order and the original motion to the district court. The district court is requested to notify this court promptly following its disposition of the motion.

FOR THE COURT:
Mark J. Langer, Clerk.

BY: /s/
Emily K. Campbell
Deputy Clerk

Attachment:

Motion for Leave to Proceed on Appeal In Forma Pauperis

MIME-Version:1.0
From:cmeof@rid.uscourts.gov
To:cmeccfnef@rid.uscourts.gov

Bcc:
--Case Participants: Magistrate Judge Lincoln D. Almond (juliane_realejo@rid.uscourts.gov, ldanef@rid.uscourts.gov, mag_judge_almond@rid.uscourts.gov, mara_martinelli@rid.uscourts.gov), District Judge William E. Smith (breagan_semonelli@rid.uscourts.gov, isabel_burlingame@rid.uscourts.gov, judge_smith@rid.uscourts.gov, mitchell_kosht@rid.uscourts.gov, patrick_mcgourty@rid.uscourts.gov, sophia_weaver@rid.uscourts.gov, wesnef2@rid.uscourts.gov, wesnef@rid.uscourts.gov)
--Non Case Participants:
--No Notice Sent:

Message-Id:<1814292@rid.uscourts.gov>
Subject:Activity in Case 1:23-cv-00031-WES-LDA JENKINS v. UNITED STATES et al Case Transferred
In - District Transfer
Content-Type: text/html

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U.S. District Court

District of Rhode Island

Notice of Electronic Filing

The following transaction was entered on 1/19/2023 at 10:18 AM EST and filed on 1/19/2023

Case Name: JENKINS v. UNITED STATES et al

Case Number: 1:23-cv-00031-WES-LDA

Filer:

Document Number: 12

Docket Text:
Case transferred in from District of District of Columbia; Case Number 1:22-cv-03757. Original file certified copy of transfer order and docket sheet received.

NOTICE TO COUNSEL: Pursuant to LR Gen 201(b)(5), counsel who is a member in good standing of the bar of another federal district court is exempt from the requirements of bar membership, and may appear and practice in this Court for this case. Counsel is directed to register as an ECF Filing User in accordance with LR Gen 304(a) by completing the ECF Registration Form located under the CM/ECF Quick Link from our website. <http://www.rid.uscourts.gov>

1:23-cv-00031-WES-LDA Notice has been electronically mailed to:

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The following document(s) are associated with this transaction:

Document description: Main Document Public Docket Sheet

Original filename: n/a

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1096917572 [Date=1/19/2023] [FileNumber=1814290-0
] [1fc149b5bdcd02062d6595295b920be8d691dd72100011586374e4956c69057cb4f
c8187b8a66543afbf2ab94091e20978870daf047e1f444041f2b4545ff064]]

Document description: Attachment Non-Public Docket Sheet

Original filename: n/a

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1096917572 [Date=1/19/2023] [FileNumber=1814290-1
] [209bdb6796540f33a2fe22e21cd7ed4ca9375c16d3f14cf4f44cccd393aa7dec0b5b
b347106e85e7c9187bdd826c8293eea169a7e1733a9c321118cf02bda7d73]]

Other Orders/Judgments

1:23-cv-00031-WES-LDA JENKINS v. UNITED STATES et al

U.S. District Court

District of Rhode Island

Notice of Electronic Filing

The following transaction was entered on 1/24/2023 at 9:03 AM EST and filed on 1/24/2023

Case Name: JENKINS v. UNITED STATES et al

Case Number: 1:23-cv-00031-WES-LDA

Filer:

Document Number: No document attached

Docket Text:

TEXT ORDER: Based on the January 19, 2023, docket notation made in Case No. 1:22-cv-03757 in the United States District Court for the District of Columbia, this matter was transferred to the District of Rhode Island in error. As such, the Clerk is directed to close this matter without prejudice. So Ordered by District Judge William E. Smith on 1/24/2023. (Urizandi, Nissheneyra)

1:23-cv-00031-WES-LDA Notice has been electronically mailed to:

1:23-cv-00031-WES-LDA Notice has been delivered by other means to:

Gary V. Jenkins
594 Hope Street
Providence, RI 02906

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-5018

September Term, 2022

1:22-cv-03757-CKK

Filed On: January 25, 2023 [1983016]

Gary V. Jenkins,

Appellant

v.

United States, et al.,

Appellees

ORDER

Because the docketing fee in this case has not been paid, it is

ORDERED, on the court's own motion, that by February 24, 2023, appellant either pay the \$505 appellate docketing and filing fees to the Clerk of the District Court, see Fed. R. App. P. 3(e); 28 U.S.C. § 1917, or file a motion in district court for leave to proceed on appeal in forma pauperis, see Fed. R. App. P. 24(a). See Enclosure. In the event the district court denies leave to proceed on appeal in forma pauperis, appellant may renew that request in this court. See Fed. R. App. P. 24(a)(5).

A request for appointment of counsel does not relieve appellant of the obligation to file responses to any motion filed by appellees or to comply with any order issued by the court, including a briefing schedule. Failure by appellant to respond to a dispositive motion or comply with any order of the court, including this order, may result in dismissal of the case for lack of prosecution. See D.C. Cir. Rule 38.

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/
Tatiana A. Magruder
Deputy Clerk

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U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 1/26/2023 at 1:06 PM EDT and filed on 1/26/2023

Case Name: JENKINS v. UNITED STATES et al

Case Number: 1:22-cv-03757-CKK

Filer:

WARNING: CASE CLOSED on 01/10/2023

Document Number: No document attached

Docket Text:

MINUTE ORDER: On January 23, 2023, the Court granted Plaintiff leave to file four additional motions, notwithstanding the Court's [10] Order dismissing this case in part and transferring the remainder to the United States District Court for the District of Rhode Island. On January 20, 2023, Plaintiff filed his [13] Notice of Appeal of that Order.

In his [15] Motion "Objection to ORDER," Plaintiff presents "[l]egal questions" evidently related to the merits of his claims against the parties now transferred to the District of Rhode Island. To the extent he requests reconsideration of the Court's [10] Order, that request is DENIED because he offers absolutely no reason for the Court to reconsider the [10] Order. Plaintiff also appends to this Motion a one-page document where he states "[v]enue is proper in the R.I. Supreme Court." Above that statement, it appears he had written "Rhode Island Supreme Court has original jurisdiction over this action," then crossed out "Rhode Island Supreme Court" to replace it with "USDC District of Columbia."

In his [16] Motion "Continuance," it appears Plaintiff seeks a continuance of a court date. Because there is no pending deadline or court date beyond transfer

(which he has appealed, notwithstanding that a transfer order is not a final, appealable order), this Motion is DENIED AS MOOT.

In his [17] Motion "Proof of Entry," Plaintiff appears to ask the Court to order the United States Attorney's Office for the District of Columbia to enter an appearance in this case. Because the Court lacks that authority and, in any event, this case is now closed, this Motion is DENIED.

Finally, in his [18] Motion "Rule 19 Joinder of United States Attorney General," Plaintiff evidently seeks to add the Attorney General of the United States Merrick Garland as an indispensable party. For the same reasons stated in the Court's [11] Memorandum Opinion, and in the absence of any legal argument whatsoever, this Motion is also DENIED.

Having resolved all pending motions, the Court respectfully directs the Clerk of Court to mail a copy of this minute order to the *pro se* Plaintiff at his address of record.

Signed by Judge Colleen Kollar-Kotelly on January 26, 2023. (lcckk1)

1:22-cv-03757-CKK Notice has been electronically mailed to:

1:22-cv-03757-CKK Notice will be delivered by other means to:

GARY V. JENKINS
5474 Oakley Industrial Blvd
#335
Fairburn, GA 30213

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GARY V. JENKINS.

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Civil Action No. 22-3757 (CKK)

ORDER

(January 9, 2023)

For the reasons stated in the accompanying Memorandum Opinion, it is hereby

ORDERED, that Defendants State of Rhode Island, East Providence Firefighters, Local 850 IAFF, AFL-CIO, City of East Providence, Rhode Island, and all claims against them are **DISMISSED**. It is further

ORDERED, that the remainder of this matter is **TRANSFERRED** to the United States District Court for the District of Rhode Island pursuant to 28 U.S.C. § 1404(a).

After transfer, the Clerk of Court is respectfully directed to close this case.

This is a final, appealable order.

Dated: January 9, 2023

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GARY V. JENKINS,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Civil Action No. 22-3757 (CKK)

MEMORANDUM OPINION

(January 9, 2023)

This matter is before the Court on *sua sponte* review of *pro se* Plaintiff's [1] Complaint.

Plaintiff alleges that the State of Rhode Island and the East Providence Firefighters, Local 850 IAFF, AFL-CIO ("Local"), apparently his former union, failed to properly compensate him after an allegedly on-duty injury when Plaintiff worked as a firefighter in the State of Rhode Island.

From Plaintiff's short paragraph of allegations and the Complaint's attachments, it appears

Plaintiff further argues that various Rhode Island entities and the Local breached a collective bargaining agreement with Plaintiff by refusing to award him certain benefits. Inexplicably,

Plaintiff also names as a defendant the United States of America.

Additionally, Plaintiff's factual allegations here, such as they are, appear identical to factual allegations raised in a prior case, *Jenkins v. Rhode Island*, C.A. No. 19-00312-WES (D.R.I. 2019) ("*Jenkins I*"). The court there dismissed Plaintiff's complaint on the merits. Judgment, ECF No. 12, C.A. No. 19-00312-WES (D.R.I. Oct. 28, 2019). As such, all claims against Defendants in this action that Plaintiff also sued in *Jenkins I* are *res judicata* and shall be dismissed on the merits. The Court shall *sua sponte* transfer the remainder of this matter to the United States District Court for the District of Rhode Island pursuant to 28 U.S.C. § 1404(a).

A. Res Judicata

the United States) took various adverse pecuniary and employment actions against him after improperly classifying a November 11, 2016 injury Plaintiff insists should be considered “on-duty.” Compl. at 1. He seeks monetary damages, declaratory relief, and injunctive relief in the form of “reinstatement as [sic] employee.” *Id.* Based on the Complaint’s attachments, he appears to place at least some right to recovery in a collective bargaining agreement. *See* ECF No. 1-1 at 2. In *Jenkins I*, he sued the Local, the State of Rhode Island, and the City of East Providence, Rhode Island based on, it appears, misclassification regarding the very same injury. *See Jenkins I*, ECF No. 1 at 5. He also asked for similar relief. *See id.* at 6. The United States District Court for the District of Rhode Island dismissed his complaint on jurisdictional grounds, relying primarily on the *Younger* abstention doctrine. *See Jenkins I*, Report and Recommendation, ECF No. 9, at 1-3 (Aug. 6, 2019).

That court went even further than “dismissal;” it outright entered *judgment* against Plaintiff. *Jenkins I*, Judgment, ECF No. 12 (Oct. 28, 2019). Therefore, as to the common defendants in this action, the United States District Court for the District of Columbia entered a final, valid judgment on the merits against Plaintiff on the “same cause of action” as here. Accordingly, the Court DISMISSES all claims against Defendants State of Rhode Island, East Providence Firefighters, Local 850 IAFF, AFL-CIO, and City of East Providence, Rhode Island.

B. Transfer

The following defendants remain: the International Association of Fire Fighters (I.A.F.F. United States) (“Union”); Malcolm Moore, apparently in his official capacity as the Finance Director for the City of East Providence, Rhode Island (“Moore”); Joseph F. Penza, purportedly an attorney for the Local (“Penza”); and the United States. Because, even against the remaining

Defendants, the District of Columbia is not the appropriate forum for this matter, the Court shall transfer this matter to the District of Rhode Island.

Pursuant to 28 U.S.C. § 1404(a), a Court may “transfer, rather than dismiss[] [a case], when a sister federal court is the more convenient place for trial of the action.” *Sinochem Int'l Co. Ltd. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430 (2007). Although not frequently invoked *sua sponte*, it is the law of this Circuit that a district court may transfer a matter on its own authority. *See In re Scott*, 709 F.2d 717, 721 (D.C. Cir. 1983); *see also Miller v. Toyota Motor Corp.*, 620 F. Supp. 2d 109, 117 (D.D.C. 2009) (ESH) (transferring matter *sua sponte*).

“For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought . . .” 28 U.S.C. § 1404(a). In determining whether to transfer a matter, the Court considers a variety of public and private interests. *Santos v. Trustees of Grinnell College*, 999 F. Supp. 2d 219, 223 (D.D.C. 2013) (RC). Although one such factor is the plaintiff’s choice of forum, that factor receives little weight where the chosen forum is not the “plaintiff’s home forum and most of the relevant events occurred elsewhere.” *Demery v. Montgomery Cty.*, 602 F. Supp. 2d 206, 210 (D.D.C. 2009). The Court must also consider “factors of systemic integrity and fairness.” *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 30 (1988).

Here, Plaintiff’s short paragraph of allegations show practically *no* connection to the District of Columbia. Plaintiff, currently a resident of the State of Georgia, alleges he was injured in and by the State of Rhode Island while living and working in the State of Rhode Island. His alleged physical and pecuniary injuries also occurred in the State of Rhode Island. Although the Union is headquartered in the District of Columbia, it is evident from Plaintiff’s short set of allegations that the Union’s connection to the purported events lies only in its

relationship with its Rhode Island Local. As such, the only connection to the District of Columbia is Plaintiff's summary invocation of the United States. Yet it is difficult for the Court to fathom a set of facts—not pleaded—that connects the United States *qua* the Department of Justice in the District of Columbia to a mundane employment dispute arising in the State of Rhode Island. As such, neither public nor private interests would be served by permitting this matter to proceed in this forum. The Court shall therefore **TRANSFER** this action to the United States District Court for the District of Rhode Island.

* * *

For the foregoing reasons, the Court shall, by separate order, **DISMISS** all claims against Defendants State of Rhode Island, East Providence Firefighters, Local 850 IAFF, AFL-CIO, and City of East Providence, Rhode Island and **TRANSFER** the remainder of this matter to the United States District Court for the District of Rhode Island.

Dated: January 9, 2023

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge