

In The
Supreme Court of the United States

MAJOR MIKE WEBB, D/B/A FRIENDS FOR MIKE
WEBB (C00591537), A/K/A MAJOR MIKE WEBB FOR
CONGRESS (H8VA08167), A/K/A MAJOR MIKE FOR
VA, A/K/A MIKE WEBB FOR APS BOARD

Pro Se Applicant,

v.

JAMES CHRISTIAN KIMMEL, AMERICAN BROADCAST COMPANY, INC.,
D/B/A JIMMY KIMMEL LIVE!, WJLA TV, a/k/a NEWS CHANNEL 8,
SINCLAIR BROADCAST GROUP, WUSA9, a/k/a CHANNEL 9, ABC
LEGAL SERVICES, and JANE AND JOHN DOES

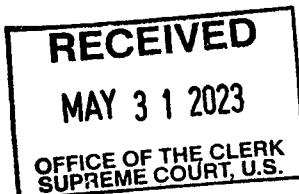
Respondents.

**To the Honorable John Roberts, Chief Justice of the United States
Supreme Court and Acting Circuit Justice for the Fourth Circuit**

Appendix of Authorities

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APPENDIX OF AUTHORITIES



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MAJOR MIKE WEBB, *et al.*,

Plaintiffs,

v.

Civil Action No. 3:22cv392

JAMES CHRISTIAN KIMMEL, *et al.*,

Defendants.

ORDER

This matter comes before the Court on Plaintiff Major Mike Webb's Rule 55 Affidavit Regarding Default Judgment (the "Affidavit"). (ECF No. 31.) In the Affidavit, Webb states that he is entitled to default judgment pursuant to Federal Rule of Civil Procedure 55(a) against Defendants WJLA, Sinclair Broadcast Group, and ABC Legal because they have "failed to enter an appearance or file a responsive pleading" even "[a]fter service of process by the U[nited] S[tates] Marshal [was] triggered . . . on December 12, 2022." (ECF No. 31, at 4.)

Federal Rule of Civil Procedure Rule 55(a) provides that "when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). The party seeking entry of default judgment must then "apply to the court for a default judgment." Fed. R. Civ. P. 55(b)(2). Therefore, to properly file for default, Webb first has to file for Entry of Default with the Clerk's Office before moving the Court for Default Judgment. He has not done so here.

In addition, Webb seeks default judgment against three Defendants who have not been served in this matter and are therefore not in default. The summonses in this matter were issued

on December 13, 2022, but no summonses have been returned, executed or unexecuted, against Defendants WJLA, Sinclair Broadcast Group, and ABC Legal. Webb's Affidavit is frivolous, and, despite his *pro se* status, he is required to file the Federal Rules of Civil Procedure. Webb will risk sanctions if he files further frivolous motions.

Accordingly, the Court DISMISSES Webb's Affidavit. (ECF No. 31.)

Let the Clerk send a copy of this Order to all counsel of record and to Webb at his address of record.

It is SO ORDERED.

Date: 5-3-2023
Richmond, Virginia


M. Hannah L. Buck
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
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Civil Action No. 3:22cv392

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Defendants.

MEMORANDUM OPINION

This matter comes before the Court on *pro se* Plaintiff Major Mike Webb's Second Amended Complaint. (ECF No. 35.)

Webb's Second Amended Complaint offends Federal Rule of Civil Procedure 8, which requires a short and plain statement of the grounds for this Court's jurisdiction and a statement of the claims showing that the plaintiff is entitled to relief, and the Court's April 5, 2023 Order directives regarding the Second Amended Complaint. (ECF No. 27.)

The Court ordered that Webb file a Second Amended Complaint "which outlines in simple and straightforward terms why Webb thinks that he is entitled to relief and why the Court has jurisdiction over the case." (ECF No. 27, at 2.) The Court ordered that the Second Amended Complaint comply with the following directions:

1. At the very top of the amended pleading, Major Mike Webb must place the following caption in all capital letters: "SECOND AMENDED COMPLAINT FOR CIVIL ACTION NUMBER: 3:22cv392."
2. The first paragraph of the particularized amended complaint must contain a list of defendant(s). Thereafter, in the body of the particularized amended complaint, Webb must set forth legibly, in separately numbered paragraphs a short statement of the facts giving rise to his claims for relief. Thereafter, in separately captioned sections, Webb must clearly identify each federal or state law allegedly violated. Under each section,

Webb must list each defendant purportedly liable under that legal theory and explain why he believes each defendant is liable to him. Such explanation should reference the specific numbered factual paragraphs in the body of the particularized amended complaint that support that assertion.

3. Webb shall also include the relief he requests – what in the law is called a “prayer for relief.”
4. The particularized amended complaint must stand or fall on its own accord. Webb may not reference statements in the prior complaint.
5. The particularized amended complaint must omit any unnecessary incorporation of factual allegations for particular claims and any claim against any defendant that is not well-grounded in the law and fact. See *Sewraz v. Guice*, No. 3:8cv35, 2008 WL 3926443, at *2 (E.D. Va. Aug. 26, 2008).

(ECF No. 27, at 2.) Webb was advised that his failure to strictly comply with these directives and with applicable rules would result in the dismissal of this action without prejudice. (ECF No. 27, at 2.)

The Court finds that Webb’s Second Amended Complaint does not comply with the clear instructions set forth in the Court’s April 5, 2023 Order. (ECF No. 27.) Specifically, the Second Amended Complaint (i) does not “set forth [the statement of facts] . . . giving rise to his claims for relief;” (ii) does not “and explain why he believes each defendant is liable to him . . . [and] reference the specific numbered factual paragraphs in the body of the particularized amended complaint that support that assertion;” and, (iii) does not “omit any unnecessary incorporation of factual allegations fo particular claims and any claim against any defendant that is not well-grounded in the law and fact.” (ECF No. 27, at 2.) Pursuant to Federal Rule 41(b), the Court may dismiss an action when a plaintiff fails to comply with a court order. *See Fed. R. Civ. P. 41(b); Zaczek v. Fauquier Cty.*, 764 F. Supp. 1071, 1075 n.16 (E.D. Va. 1991) (citing *Link v.*

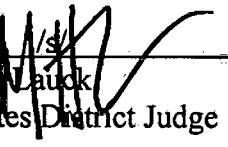
Wabash R. Co., 370 U.S. 626, 630 (1962)) (explaining that a court may “act on its own initiative” with respect to dismissals under Federal Rule 41(b)).

Further, when a plaintiff is granted authorization to proceed *in forma pauperis*, the court is obligated, pursuant to 28 U.S.C. § 1915(e)(2), to screen the operative complaint to determine, among other things, whether the complaint states a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2) (explaining that “the court shall dismiss the case at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted”). A complaint should survive only when a plaintiff has set forth “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The Court has reviewed Webb’s Second Amended Complaint pursuant to this statutory screening obligation and finds that the stated “facts” amount to no more than mere “labels and conclusions” declaring that Webb is entitled to relief. *Twombly*, 550 U.S. at 555. Thus, the Second Amended Complaint, in its current form, fails to state a plausible claim for relief against Defendants.

Accordingly, Webb’s Second Amended Complaint is DISMISSED WITHOUT PREJUDICE. (ECF No. 35.) Defendants WUSA9, American Broadcast Company Inc., and James Christian Kimmel’s Motions to Dismiss are DENIED as MOOT. (ECF Nos. 37, 41.)

An appropriate Order shall accompany this Memorandum Opinion.

Date: 5-18-2023
Richmond, Virginia



M. Hannah Fauck
United States District Judge



THE WHITE HOUSE
WASHINGTON

September 15, 2022

Mike Webb
Arlington, Virginia

Dear Mike,

Thank you for taking the time to share your thoughts with me. Hearing from passionate individuals like you inspires me every day, and I welcome the opportunity to respond to your letter.

Our country faces many challenges, and the road we will travel together will be one of the most difficult in our history. Despite these tough times, I have never been more optimistic for the future of America. I believe we are better positioned than any country in the world to lead in the 21st century not just by the example of our power but by the power of our example.

While we may not always agree on how to solve every issue, I pledge to be a President for all Americans. I am confident that we can work together to find common ground to make America a more just, prosperous, and secure Nation.

As we move forward to address the complex issues of our time, I encourage you to remain an active participant in helping write the next great chapter of the American story. We need your courage and dedication at this critical time, and we must meet this moment together as the United States of America. If we do that, I believe that our best days still lie ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Biden". The signature is written in a cursive style with a long, sweeping line extending from the left.

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FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MAJOR MIKE WEBB

Plaintiffs,

v.

Civil Action No. 3:22cv392

JAMES CHRISTIAN KIMMEL, *et al.*

Defendants.

ORDER

Having reviewed Plaintiff Major Mike Webb's Motion to Proceed *In Forma Pauperis* and the financial affidavit filed herein, it is hereby ORDERED that Webb is permitted to proceed *in forma pauperis* and the Motion is GRANTED. (ECF No. 1.)

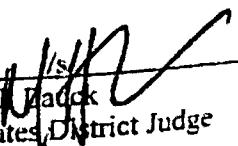
The Court DIRECTS the Clerk to file the Complaint, (ECF No. 1-1), and the Amended Complaint, (ECF No. 1-6).

The Court has received Webb's Praeclipe, (ECF No. 1-3), containing a list of Defendants and their addresses. The Court ORDERS Webb to provide the Clerk's office with the name of an individual to be served for each Defendant so that the Clerk may issue the summons and arrange for service.

The Court DIRECTS the Clerk to send a copy of this Order to Webb at his address of record.

It is SO ORDERED.

Date: 10/24/22
Richmond, Virginia


/s/
M. Hannah Fauck
United States District Judge