

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

HENRI JEAN-BAPTISTE

*

Plaintiff

*

v.

*

Civil Action No. PWG-17-95

SAP, NATIONAL SECURITY SERVICES INC.
And CORPORATION TRUST, INC.

*

Defendants

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MEMORANDUM OPINION

Henri Jean-Baptiste filed his Complaint in this lawsuit on January 13, 2017, along with a Motion to Proceed in Forma Pauperis, ECF No. 3. Because he appears to be indigent, Plaintiff's motion shall be granted. For the reasons that follow, the Complaint must be dismissed.

Plaintiff asserts that this Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1332(c)(1). Compl. ¶ 1. Section 1331 provides that "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. The federal district courts also have original jurisdiction over actions where the matter in controversy is more than \$75,000 and none of the defendants is a citizen of the same state as any plaintiff. 28 U.S.C. § 1332(a)(1)–(2).

Under the "well-pleaded complaint" rule, the facts showing the existence of subject matter jurisdiction "must be affirmatively alleged in the complaint." *Pinkley, Inc. v. City of Frederick*, 191 F.3d 394, 399 (4th Cir. 1999) (citing *McNutt v. Gen'l Motors Acceptance Corp.*, 298 U.S. 178 (1936)). "A court is to presume, therefore, that a case lies outside its limited jurisdiction unless and until jurisdiction has been shown to be proper." *United States v. Poole*, 531 F.3d 263, 274 (4th Cir. 2008) (citing *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994)). Moreover, the "burden of establishing subject matter jurisdiction is on ... the party asserting jurisdiction." *Robb Evans & Assocs., LLC v. Holibaugh*, 609 F.3d 359, 362 (4th Cir. 2010); accord *Hertz v. Friend*, 599 U.S. 77, 95 (2010); *McBumey v. Cuccinelli*, 616 F.3d 393, 408 (4th Cir. 2010).

Naselnik v. Ideal Hyundai Buick GMC, No. RDB-16-3034, 2016 WL 7474519, at *1 (D. Md. Dec. 29, 2016); *see also Williams v. Holley*, No. DKC-16-623, 2017 WL 550034, at *3 (D. Md. Feb. 10, 2017) (“As the party invoking the jurisdiction of this court, Plaintiff bears the burden of proving the existence of subject matter jurisdiction.” (citing *Piney Run Pres. Ass’n v. Cnty. Comm’rs of Carroll Cnty.*, 523 F.3d 453, 459 (4th Cir. 2008))).

Plaintiff alleges state-law claims of “Loss of Consortium, Negligence, Defamation of character, Conspiracy in wrongful Malicious prosecution, and Reckless Destruction of Property,” as well as “actions against plaintiff in violation of State, Federal Laws, Statute 18 U.S.C.A. § 912.” Compl. 1. Certainly, Plaintiff cites a federal criminal statute, 18 U.S.C. § 912, which provides that it is a punishable offense to “pretend to be an officer or employee acting under the authority of the United States or any department, agency, or officer [of the United States]” and thereby “demand[] or obtain[] any money, paper, document, or thing of value.” But, this statute cannot provide the basis for this Court’s jurisdiction in this civil action, because Plaintiff cannot institute criminal charges or insist on criminal prosecution of a third party. *See Linda R. v. Richard V.*, 410 U.S. 614 (1973) (private citizens lack a judicially cognizable interest in the criminal prosecution of another). He does not identify any other federal laws that Defendants allegedly violated. Because the remainder of the claims are state-law claims, this Court does not have federal question jurisdiction. *See* 28 U.S.C. § 1331.

It appears that Plaintiff names both SAP, National Security Services, Inc. (“SAP”) and Corporation Trust, Inc. as Defendants. Compl. 1. However, he does not allege that Corporation Trust, Inc. engaged in any acts for which it would be liable to him. Rather, he simply asserts that Corporation Trust, Inc. is SAP’s resident agent. *Id.* ¶ 4. Consequently, he fails to state a claim against Corporation Trust, Inc. under any cause of action. *See* Fed. R. Civ. P. 12(b)(6). In any

event, if Corporation Trust, Inc., a Maryland-based company, were a defendant, Plaintiff could not invoke this Court's diversity jurisdiction, because he also is a Maryland citizen. *See id.* ¶¶ 2, 4; 28 U.S.C. § 1332(a)(1) (providing that the lawsuit must be "between . . . citizens of different States" for diversity jurisdiction to exist). Therefore, any claims asserted against Corporation Trust, Inc. will be dismissed. *See* Fed. R. Civ. P. 12(b)(1), (6).

Plaintiff asserts that "Defendant SAP is a private Corporation with its headquarter[s] in Waldorf, Germany," and "there is diversity of citizenship and an amount in controversy greater than \$75,000." *Id.* ¶¶ 1, 5. Even if SAP, the only Defendant listed on the Civil Cover Sheet, ECF No. 2-3, and the only Defendant discussed within the body of the Complaint, is the only Defendant Plaintiff is suing, such that diversity jurisdiction exists, Plaintiff nonetheless fails to state a claim against it.

Plaintiff asserts that he is suing Defendants under *respondeat superior* for the actions of "Defendants' Executives []Vernon A. Bailey, Vikki Jean-Baptiste, Robert B. Laurence, Laura Carmack, Patricia Lavan, Patrick Rafferty, and Mark Testoni[]," all of whom worked for SAP. Compl. 1 & ¶¶ 9-13. In 2015, Plaintiff filed a complaint raising claims similar to those alleged in the pending case. *See Jean-Baptiste, et al. v. SAP, National Security Services, et al.*, Civil Action No. PJM-15-187 (D. Md.). That complaint was dismissed on February 2, 2015. *See* Mem. Op. & Order, ECF Nos. 3 and 4 in *Jean-Baptiste*, PJM-15-187. Plaintiff did not file an appeal of this Court's dismissal. In dismissing the complaint without prejudice, this Court reasoned as follows:

Plaintiff Henri Jean-Baptiste is suing his ex-wife's employer because he claims employees of SAP National Security Services ("SAP") conspired with her to falsely charge him with domestic violence and, subsequently, with violating an order of protection resulting in his incarceration and loss of his businesses in 2012. He further claims the purpose of this conspiracy was to cover up an extra-marital affair his wife was having with her boss and to prevent him from reporting

their misconduct which would have resulted in the loss of a large contract they were attempting to win for SAP. Records submitted with the Complaint as exhibits indicate that Plaintiff's wife alleged he beat her, emotionally abused their children, and threatened to kill her as a result of Plaintiff's unmedicated bi-polar illness. The Complaint asserts that federal criminal statutes were violated in the process of having Plaintiff charged with domestic violence and failure to obey the order of protection. All of the claims of misconduct involve acts of alleged misconduct committed by Plaintiff's ex-wife and her supervisor. Plaintiff asserts Defendant SAP is liable under a theory of respondeat superior. He claims negligence, defamation of character, reckless destruction of property, and wrongful prosecution. ECF 1. Plaintiff provides no evidence that his criminal conviction has been overturned on appeal or otherwise expunged. *See State of Maryland v. Jean-Baptiste*, Case No. 4D00278324 (D. Md. for Mont. Co.), [see http://casesearch.courts.state.md.us/inquiry](http://casesearch.courts.state.md.us/inquiry).

...

While a corporation may be sued for the tortious conduct of its employees, that conduct must have occurred within the scope of their employment. *See Southern Management Corp. v. Taha*, 378 Md. 461, 480, 836 A.2d[] 627 (Md. 2003). In the instant case, all of the alleged tortious conduct involved allegations of domestic violence in the context of Plaintiff's marriage and his bald assertions that Defendant's employees conspired with her to file criminal charges against him. In order to be considered conduct within the scope of employment, "the act must have been in furtherance of the employer's business and authorized by the employer." *Id.* at 481, citing *Sawyer v. Humphries*, 322 Md. 247, 255, 587 A.2d 467 (Md. 1991). Authorized does not mean "authority expressly conferred, but whether the act was such as was incident to the performance of the duties entrusted to the employee by the employer." *Ennis v. Crenca*, 322 Md. 285, 294, 587 A.2d 485 (Md. 1991).

Plaintiff's claims that his ex-wife was having an affair with her boss and was then encouraged or cajoled into pursuing domestic violence charges to hide the affair, is not conduct attributable to the employer in furtherance of its business. ...

Mem. Op. 1-4 in *Jean-Baptiste*, PJM-15-187.

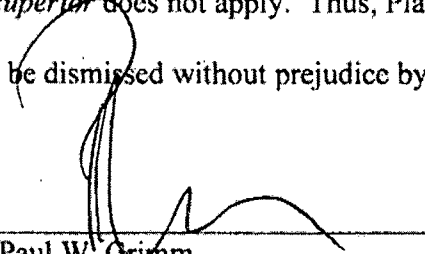
Here, again, as noted, Plaintiff invokes the theory of *respondeat superior* to impose liability on SAP. *See* Compl. 1. Under Maryland law, vicarious liability for the tortious conduct of employees is only viable where "the conduct is in furtherance of the business of the

employer and is authorized by the employer.” *Tall v. Bd. of Sch. Comm'rs*, 706 A.2d 659, 667 (Md. Ct. Spec. App. 1998).

The common law doctrine of respondeat superior not only holds employers liable for the actions of their employees in furtherance of the employer's business, but also limits an employer's liability to those situations. It is central to the doctrine that an employee's acts committed outside the scope of employment, i.e., not in the furtherance of the employer's business, are not attributable to the employer.

Antonio v. SSA Sec., Inc., 110 A.3d 654, 658–59 (Md. 2015). Consequently, “[t]he universe of the types of employee acts for which the employer might be held strictly liable is limited.” *Id.* As this Court previously noted in *Jean-Baptiste*, PJM-15-187, the alleged conduct is not attributable to the employer and *respondeat superior* does not apply. Thus, Plaintiff fails to state a claim against SAP, and his Complaint shall be dismissed without prejudice by separate Order.¹

February 15, 2017
Date


Paul W. Grimm
United States District Judge

¹ The complaint is dismissed without prejudice to any claim Plaintiff chooses to file in State Court.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HENRI JEAN-BAPTISTE

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Plaintiff

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v.

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Civil Action No. PWG-17-95

SAP, NATIONAL SECURITY SERVICES INC.
And CORPORATION TRUST, INC.

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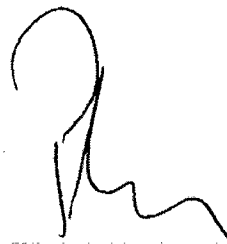
Defendants

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ORDER

For the reasons stated in the foregoing Memorandum Opinion, it is this 15th day of February, 2017, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. Plaintiff's Motion to Proceed in Forma Pauperis (ECF No. 2) IS GRANTED;
2. The Complaint IS DISMISSED without prejudice;
3. The Clerk SHALL PROVIDE a copy of the foregoing Memorandum Opinion and a copy of this Order to Plaintiff; and
4. The Clerk SHALL CLOSE this case.



Paul W. Grimm
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

HENRI JEAN-BAPTISTE

*

Plaintiff

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v.

*

Civil Action No. PWG-17-95

SAP, NATIONAL SECURITY
SERVICES, INC., *et al.*

*

*

Defendants

MEMORANDUM AND ORDER

On February 15, 2017, I dismissed Plaintiff Henri Jean-Baptiste's Complaint against Defendants SAP, National Security Services, Inc. ("SAP") and Corporation Trust, Inc. for lack of jurisdiction and failure to state a claim. Mem. Op. & Order, ECF Nos. 5 & 6. Plaintiff now moves for reconsideration of that Order and also seeks leave to amend his Complaint. ECF No. 7. I construe Plaintiff's motion for reconsideration as one filed pursuant to Fed. R. Civ. P. 59(e). Because Plaintiff does not present any valid grounds for reconsideration and I cannot grant leave to amend without vacating the judgment, I will deny his motion in its entirety.

Plaintiff insists that "[t]he Memorandum Opinion[s] alleged summary or interpretation of Plaintiff[s] Complaint is somewhat incorrect" insofar as it relied on a letter from Vikki Jean-Baptiste in which she made statements that, according to Plaintiff, she recanted under oath. Pl.'s Mot. ¶¶ 4–5. He also argues that criminal cases against him were "dismissed and expunged," and one that was "on Appeal status" has been "changed . . . to closed status." *Id.* ¶ 6. Additionally, Plaintiff contends that his prior case in this Court, *Jean-Baptiste v. SAP, National Security Services*, No. PJM-15-187 (D. Md. 2015), was dismissed because he did not have counsel. *Id.* ¶ 6.

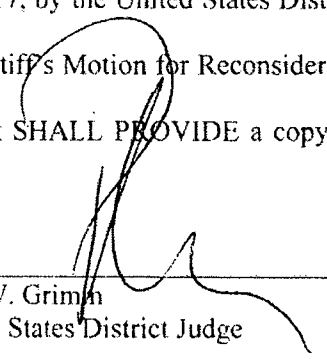
A motion to alter or amend judgment that “call[s] into question the correctness of that order” and is filed within twenty-eight days of the judgment, such as Plaintiff’s, is analyzed under Rule 59(e). See *MLC Auto., LLC v. Town of So. Pines*, 532 F.3d 269, 277–80 (4th Cir. 2008); Fed. R. Civ. P. 59(e). “Courts have recognized three limited grounds for granting a motion for reconsideration under Rule 59(e): (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not previously available; or (3) to correct clear error of law or prevent manifest injustice.” *Knott v. Wedgwood*, No. DKC 13-2486, 2014 WL 4660811, at *2 (D. Md. Sept. 11, 2014) (citations omitted); see *Robinson v. Wix Filtration Corp. LLC*, 599 F.3d 403, 411 (4th Cir. 2010) (same); *Hill v. Braxton*, 277 F.3d 701, 708 (4th Cir. 2002) (holding that Rule 59(e) provides a district court with discretion to grant a motion to amend a judgment “only in very narrow circumstances”).

Plaintiff does not argue that the law has changed or that new evidence is available. Nor does he assert convincingly that this Court’s decision relies upon a clear error of law or that he is entitled to the relief sought in order to prevent a manifest injustice. Rather, he challenges the bases for the Court’s dismissal of his state law claims, while seeking leave to amend to state a claim under federal law so that this Court would have jurisdiction over his action. Insofar as he argues that the Court incorrectly summarized the facts regarding Vikki Jean-Baptiste’s statements or the status of the criminal cases against him, those facts were not relevant to the grounds for dismissal. Nor were the grounds for dismissal of *his* claims in *Jean-Baptiste v. SAP, National Security Services*, No. PJM-15-187, incorrectly stated. While the claims asserted by his *co-plaintiffs* Express Services Co., Inc., Express Mortgage [sic] & Co., and H.J.B. General Contractors in *Jean-Baptiste v. SAP, National Security Services*, No. PJM-15-187, were dismissed because they were not individuals and did not have counsel, and “[a]ll parties other

than individuals must be represented by counsel,” Loc. R. 101.1(a), *Plaintiff’s* claims were dismissed for lack of jurisdiction and failure to state a claim. Mem. Op., ECF No. 3 in PJM-15-187.

In any event, Plaintiff has not shown that this Court has jurisdiction or that he stated a claim under state law. Thus, there was no error of law or manifest injustice. Accordingly, I will deny Plaintiff’s Motion for Reconsideration. *See Robinson*, 599 F.3d at 411; *Hill*, 277 F.3d at 708; *Knott v.*, 2014 WL 4660811, at *2. And, because I am denying the Motion for Reconsideration, I also must deny Plaintiff’s request to amend the complaint. *See Laber v. Harvey*, 438 F.3d 404, 427 (4th Cir. 2006) (“There is one difference between a pre- and a post-judgment motion to amend: the district court may not grant the post-judgment motion unless the judgment is vacated pursuant to Rule 59(e) or Fed. R. Civ. P. 60(b).”). I note, however, that Plaintiff is proceeding in forma pauperis and that his Complaint was dismissed without prejudice, *see* Order, such that he may file a new civil action without incurring an additional filing fee.

Accordingly, it is this ^{6E}10 day of April, 2017, by the United States District Court for the District of Maryland, hereby ORDERED that Plaintiff’s Motion for Reconsideration and request to amend, ECF No. 7, IS DENIED; and the Clerk SHALL PROVIDE a copy of this Order to Plaintiff.



Paul W. Grimm
United States District Judge

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-1533

HENRI JEAN-BAPTISTE,

Plaintiff - Appellant,

v.

SAP, NATIONAL SECURITY SERVICES, INC.; CORPORATION TRUST,
INC.,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Paul W. Grimm, District Judge. (8:17-cv-00095-PWG)

Submitted: September 26, 2017

Decided: September 28, 2017

Before NIEMEYER and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit
Judge.

Affirmed by unpublished per curiam opinion.

Henri Jean-Baptiste, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Henri Jean-Baptiste appeals the district court's orders dismissing his civil action and denying his motion to reconsider under Fed. R. Civ. P. 59(e). We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Jean-Baptiste v. SAP, Nat'l Sec. Servs., Inc.*, No. 8:17-cv-00095-PWG (Feb. 15, 2017 & Apr. 11, 2017). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: October 20, 2017

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1533
(8:17-cv-00095-PWG)

HENRI JEAN-BAPTISTE

Plaintiff - Appellant

v.

SAP, NATIONAL SECURITY SERVICES, INC.; CORPORATION TRUST,
INC.

Defendants - Appellees

M A N D A T E

The judgment of this court, entered September 28, 2017, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

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