

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-13211-A

PATRICIA HAVRILLA BEAN,

Plaintiff - Appellant,

versus

UNITED STATES OF AMERICA FEDERAL GOVERNMENT,

Defendant - Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Patricia Havrilla Bean has failed to pay the filing and docketing fees to the district court within the time fixed by the rules, effective December 29, 2017.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

by: Denise E. O'Guin, A, Deputy Clerk

FOR THE COURT - BY DIRECTION

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PATRICIA HAVRILLA BEAN,

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UNITED STATES OF AMERICA FEDERAL GOVERNMENT,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

ORDER:

Patricia Havrilla Bean's motion for leave to proceed on appeal *in forma pauperis* is DENIED because the appeal is frivolous. See *Pace v. Evans*, 709 F.2d 1428, 1429 (11th Cir. 1983).

/s/ Stanley Marcus
UNITED STATES CIRCUIT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PATRICIA H. BEAN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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1:15-CV-04501-ELR

ORDER

This matter is before the Court on Defendant's Motion to Dismiss (Doc. No. 10). For the reasons below, the Court grants the motion.

I. Background

Plaintiff Patricia H. Bean, proceeding *pro se*, filed this action against the United States of America for a "crime against humanity that a mother was denied visits with her children for ten years for no good reason" and seeks twenty million dollars in damages (Doc. No. 1). In addition, Plaintiff seeks "federal mandates for fair divorces in all 50 states." Id. The dispute stems from a 1998 divorce proceeding where Plaintiff agreed to be a non-custodial parent and was subsequently denied

visits with her children by state judges. Id. The “Complaint” contains 219 pages of correspondence where Plaintiff sought personal assistance and new legislative enactments regarding family law from elected officials, agency representatives, and lawyers. Id. Defendant now moves to dismiss this action (Doc. No. 10).

II. Discussion

a. Lack of Jurisdiction

First, Defendant argues that the Court should dismiss the case for lack of jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1). A federal court is required to dismiss an action if subject-matter jurisdiction is lacking. Steel Co. v. Citizens for a Better Env’t, 523 U.S. 83, 94–95 (1998). The plaintiff bears the burden to “establish the existence of federal subject matter jurisdiction.” Sweet Pea Marine, Ltd. V. APJ Marine, Inc., 411 F.3d 1242, 1248 n.2 (11th Cir. 2005). In a suit against the federal government, a court’s “jurisdiction to grant relief depends wholly upon the extent to which the United States has waived its sovereign immunity to suit and . . . such a waiver cannot be implied but must be unequivocally expressed.” United States v. King, 395 U.S. 1, 4 (1969) (citing United States v. Sherwood, 312 U.S. 584 (1941)).

Here, Plaintiff has not identified any waiver of sovereign immunity by the United States. Although Plaintiff contends that jurisdiction is proper because “I [Plaintiff] was born in the United States,” the Court finds no legal basis for such an argument. (Pl’s Resp. to Mtn. to Dismiss, Doc. No. 11). Accordingly, the Court

finds that jurisdiction is lacking and dismissal is proper pursuant to Fed. R. Civ. P. 12(b)(1).

b. Failure to State a Claim

Second, Defendant argues that even if this Court had jurisdiction, Plaintiff fails to state a claim upon which relief can be granted, and thus, the Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6).

To withstand a 12(b)(6) motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)). A complaint is plausible on its face “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the conduct alleged.” Id. At the motion to dismiss stage, “all well-pleaded facts are accepted as true, and the reasonable inferences therefrom are construed in the light most favorable to the plaintiff.” Bryant v. Avado Brands, Inc., 187 F.3d 1271, 1273 n.1 (11th Cir. 1999). The complaint itself must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” FED. R. CIV. P. 8(a)(2). While this standard does not require “detailed factual allegations,” mere “labels and conclusions” or a “formulaic recitation of the elements of a cause of action” are insufficient. Ashcroft, 556 U.S. at 678. For a *pro se* plaintiff, as the case here, the complaint is construed leniently and held to “less

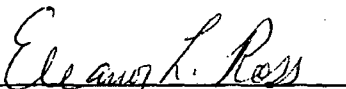
stringent standards than formal pleadings drafted by lawyers.” Erickson v. Pardus, 551 U.S. 89, 94 (2007). Even so, that leniency does not excuse a plaintiff from compliance with threshold requirements of the federal rules or allow courts to “rewrite an otherwise deficient pleading.” Odion v. Google, Inc., 628 F. App’x 635, 637 (11th Cir. 2015) (internal quotations omitted).

Here, Plaintiff’s claims against the federal government for a crime against humanity and for federal mandates for fair divorces in all 50 states are not plausible claims. First, crimes against humanity are typically only recognized in the context of international war crimes in suits brought for violations of international norms. See Doe v. Drummond Co., 782 F.3d 576, 580 (11th Cir. 2015). Here, accepting all allegations and reasonable inferences as true, there is nothing to support the existence of such crimes. Although child-visitation rights are significant, the current state of family law policy and procedure does not implicate potential crimes against humanity. Second, Plaintiff’s request for federal mandates for fair divorces is a policy decision firmly within the purview of the legislative branch. See I.N.S. v. Chadha, 462 U.S. 919, 954 (1983). Accordingly, the Court finds that the Complaint fails to state a claim upon which relief can be granted and finds that dismissal is proper pursuant to Fed. R. Civ. P. 12(b)(6).

III. Conclusion

For the foregoing reasons, the Court **GRANTS** Defendant's Motion to Dismiss (Doc. No. 10), and **DIRECTS** the Clerk to **CLOSE** this case.

SO ORDERED, this 1st day of December, 2016.


Eleanor L. Ross
United States District Judge
Northern District of Georgia

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