

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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EARL GENE GRANT,      :
                       :
    Plaintiff,        :
                       :
v.                     :      Civil No. 3:06CV01291 (AWT)
                       :
JOHN L. STAWICKI,    :
                       :
    Defendant.        :
                       :
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ORDER OF DISMISSAL

Plaintiff Earl Grant brings this action pro se and in forma pauperis. The plaintiff identifies his first claim as follows:

"The Division of Music Copyright has release my music material without my permission and allowed it to be sold by persons that does not own them in which Marchal Mathes and Dr Dre illegally wrote the music without my permission." (Compl. at 3). In support of his claim, the plaintiff states the following:

"Plaintiff sent music to be copyrighted since 1993. Upon my being incarcerated my music was illegaly confiscated and sold to various artisted in the music industry . . . These are just some of the artist that has used my material: Marchal Mathes/Curtis Jackson/Uersha/luticris/ACon/Tera Squad/Bow Wow Alicia Keys Conyea West Jaydicous Camron and more[.]" Id.

Based on the plaintiff's assertion of jurisdiction pursuant to 42 U.S.C. § 1983, the court concludes that the plaintiff is

attempting to bring an action pursuant to 42 U.S.C. § 1983. This statute “creates a federal cause of action against any person who, under color of state law, deprives a citizen or person within the jurisdiction of the United States of any right, privilege, or immunity secured by the Constitution or the laws of the United States.” Montero v. Travis, 171 F.3d 757, 760 (2d Cir. 1999). Here, the plaintiff has not alleged a violation of a protected civil right, nor has he alleged how the defendant acted under color of state law. See Rodriguez v. Phillips, 66 F.3d 470, 473 (2d Cir. 1995). Also, the plaintiff’s complaint expressly states that the defendant was not acting under color of state law. (Compl. at 2). Moreover, the court construes the identity of the defendant “Division of Music Copyright,” whose address is listed in the complaint as “Independence Avenue Washington D.C.,” as the United States Copyright Office, which has its headquarters at 101 Independence Avenue, S.W., Washington, D.C. Because the defendant is an arm of the federal government, no alleged conduct could have taken place under color of state law. Thus, the plaintiff has failed to state a claim under 42 U.S.C. § 1983.

Because the complaint fails to state a claim upon which relief can be granted, the court is required to dismiss his case pursuant to 28 U.S.C.A. § 1915(e)(2)(B)(ii) (West 2007) (“[T]he court shall dismiss the case [brought in forma pauperis] at any time if the court determines that the action or appeal fails to

state a claim on which relief may be granted.”) (emphasis added).

This case is hereby DISMISSED, without prejudice to being reopened if a legally sufficient complaint is filed within forty-five (45) days. The Clerk shall close this case.

It is so ordered.

Dated this 9th day of March 2007 at Hartford, Connecticut.

/s/AWT

Alvin W. Thompson
United States District Judge