

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RONALD E. HUGHES, :
 :
 Plaintiff, :
 :
 V. : Case No. PRISONER 3:05-CV-493 (RNC)
 :
 SHAWN MADINA, ET AL., :
 :
 Defendants. :

RULING AND ORDER

Plaintiff, a Connecticut inmate proceeding pro se and in forma pauperis, brings this action against his daughter, her grandmother, a Connecticut probation officer, the Connecticut Department of Children and Families ("DCF"), Waterbury police detectives, his former attorney and a newspaper. When leave to proceed in forma pauperis has been granted, the court must review the complaint and dismiss it if it fails to state a claim on which relief may be granted. See 28 U.S.C. § 1915 (e) (2) (B) (i) - (iii). In accordance with this requirement, I have reviewed the complaint and determined that it must be dismissed.

The complaint alleges that plaintiff has been wrongly accused of risk of injury to a minor for allegedly engaging in inappropriate sexual contact with his daughter. Plaintiff was arrested on this charge in 2000 based on information provided by his daughter and her grandmother after he complained to state and local officials that his daughter was engaging in prostitution at the behest of her grandmother. Plaintiff brings the case hoping it will lead to his exoneration. He also wants to be compensated

for emotional distress and harm to his reputation.

Liberally construed, plaintiff's complaint alleges a claim for malicious prosecution against his daughter and her grandmother for causing him to be prosecuted based on false accusations; a malpractice claim against his lawyer, who failed to take appropriate action after he learned from plaintiff's daughter that her accusation of improper sexual contact was false;¹ negligence claims against the probation officer, the detectives and DCF for failing to act on his complaints that his daughter was engaging in prostitution at her grandmother's behest;² and a claim against the newspaper for invasion of privacy for publishing a photograph of him kissing his girl friend. None of these claims provides a basis for a lawsuit in this court.

Generally speaking, a claim may be brought in federal court only if it is (1) based on federal law or (2) based on state law and the plaintiff and defendant are citizens of different states. Here, none of the claims that can be gleaned from a liberal

¹ To the extent the complaint can be read to suggest that plaintiff is claiming a right to be released from custody because his incarceration results from a violation of his Sixth Amendment right to effective assistance of counsel, it provides no basis for a suit in this court at this time. Instead, any such claim would have to be brought initially in state court by means of a petition for a writ of habeas corpus.

² Plaintiff does not allege that the state and local officials' failure to act on his complaints violated a right secured to him by federal law and no such claim is reasonably conceivable.

construction of the allegations of the complaint is based on federal law. Rather, all of them are based on state law. In light of this, plaintiff can maintain his claims in this court only if he and the defendants are citizens of different states. No such allegation of diverse citizenship is made in plaintiff's complaint. It is apparent from the complaint's allegations, moreover, that plaintiff is a citizen of Connecticut and the defendants are too. Thus, the complaint must be dismissed.³

Accordingly, the complaint is hereby dismissed without prejudice to plaintiff's right to bring his claims in state court.

So ordered this 18th day of October 2005.

_____/S/_____
Robert N. Chatigny, U.S.D.J.

³ State and local police who cause a person to be arrested and prosecuted without probable cause can be sued in federal court for violating the accused's rights under the Fourth Amendment of the United States Constitution, but no such claim can be gleaned from the complaint and, in any event, such a claim cannot be brought unless and until the criminal charge against the accused is dismissed or the accused is acquitted, which is not the case here.