

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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JUSTIN M. CORLISS,
Plaintiff,

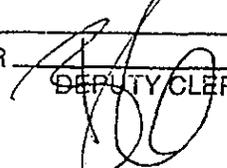
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: CIVIL NO. 3:CV-01-1799

vs.

: (JUDGE CAPUTO) FILED
: SCRANTON

POCONO RECORD, *et al.*,
Defendants.

OCT 03 2001

PER 
DEPUTY CLERK

MEMORANDUM AND ORDER

Justin Corliss, an inmate presently confined at the State Correctional Institution at Huntingdon, Pennsylvania ("SCI-Huntingdon"), filed the instant complaint entitled "Defamation/Libel." (Doc. 1). Plaintiff failed to submit this Court's application to proceed *in forma pauperis* and authorization to have funds deducted from his prison account pursuant to 28 U.S.C. § 1915. The Court issued an administrative order directing plaintiff to file an application to proceed *in forma pauperis* or pay the required filing fee.

Plaintiff contends that named defendants, Pocono Record and attorney Brian Germano, intended to libel and defame plaintiff. Corliss does not allege any federal constitutional violations or alternative grounds to warrant federal jurisdiction. Plaintiff could have brought a state law defamation claim against defendants pursuant to *Paul v. Davis*, 424 U.S. 693 (1976). Plaintiff does not provide any basis for transforming a state

law libel claim into a constitutional tort.¹ *Paul* teaches that there is no liberty interest in reputation. Corliss' allegations do not implicate a constitutionally-protected right.

Corliss has not presented a viable civil rights claim against the Pocono Record or Germano. Accordingly, plaintiff's complaint should be dismissed as state law would provide an adequate remedy. *Id.* The complaint will be dismissed without prejudice to any right Corliss may have to assert his claim in state court. In so holding, this Court takes no position as to the merits of any such claim(s). Plaintiff's motion for recusal (Doc. 2) will be dismissed as moot. This Court's administrative order (Doc. 4) dated September 25, 2001 will be vacated. An appropriate order follows.

ACCORDINGLY, THIS ^{3rd} DAY OF OCTOBER, 2001, IT IS HEREBY ORDERED

THAT:

1. The complaint is DISMISSED without prejudice to any right plaintiff may have to assert them in state court.
2. Plaintiff's motion for recusal (Doc. 2) is dismissed as moot.

1. A §1983 claim must be cognizable on the face of the complaint, articulating the transgression of a specific federally guaranteed right. *Landrum v. Moats*, 576 F.2d 1320 (8th Cir.), cert. denied 439 U.S. 912 (1978). This is part and parcel of the "heightened standard of pleading" imposed on §1983 plaintiffs. See *Branch v. Tunnell*, 937 F.2d 1382, 1386 (9th Cir. 1991). "In order to prove a violation of § 1983, a person must prove that the conduct complained of was committed by a person acting under "color of State law" and that the conduct deprived the persons of rights, privileges or immunities secured by the Constitution or Federal law." *Kost v. Kozakiewicz*, 1 F.3d 176, 183 (3d Cir. 1993).

3. This Court's administrative order (Doc. 4) is vacated.
4. The Clerk of Court is directed to close this case.
5. Any appeal from this Order will be deemed frivolous, without probable cause and not taken in good faith.



A. RICHARD CAPUTO
United States District Judge