

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACONARTIST,

Plaintiff,

v.

JSJSJBSD,

Defendant.

Civil Action No. 4:20-2320

Hon. Puppyloftus18

DEFENDANT JSJSJBSD'S MOTION TO DISMISS

Defendant jsjsjbsd, by and through undersigned counsel, hereby moves to dismiss this action, pursuant to Fed. R. of Civ. P. 12(b)(6). The Complaint fails to state a claim for which relief can be granted. The reasons supporting this motion are set forth in more detail in the accompanying Memorandum of Points and Authorities and attached exhibits.

THEREFORE, defendant jsjsjbsd respectfully requests that the instant motion be **GRANTED** and that this action be **DISMISSED**.

Dated: November 25, 2020

Respectfully submitted,

/s/ LEWIS F. POWELL, JR.

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Washington, D.C., 20002

Attorney for Defendant jsjsjbsd

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**DEFENDANT JSJSJBSD’S MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF THE DEFENDANT’S MOTION TO DISMISS**

I. Background

On November 18th, 2020, plaintiff aConArtist initiated proceedings against defendant jsjsjbsd, alleging that defendant defamed him by accusing him of bribing defendant for a vote in a certain election. Pl’s. Civ. Compl., at 1.¹

Two cases were docketed on the United States Court Process Board. The first, *aConArtist v. jsjsjbsd*, was docketed to Judge Puppyloftus18’s docket. The second, also by the same name, was docketed to Judge AsteroSinz’ docket.² Plaintiff initially proceeded with the case under Judge

¹ Since this is a motion to dismiss under Rule 12(b)(6), this court must accept as true all factual allegations within plaintiff’s complaint. *Leatherman v. Tarrant Cty. Narcotics Intelligence & Coordination Unit*, 507 U. S. 163, 164 (1993); *United States v. Gaubert*, 499 U. S. 315, 327 (1991). As such, defendant has conveniently described the factual allegations that can be derived from plaintiff’s complaint. Because of the brevity of plaintiff’s complaint, however, defendant is only able to muster one short paragraph of supposed facts as part of the background for this motion.

² See 4:20-2321.

Sinz. After that case was dismissed, however, plaintiff opted to continue the case under Judge Loftus.

Defendant now moves to dismiss this case without prejudice due to lack of subject-matter jurisdiction and of plaintiff's failure to state a claim upon which relief can be granted.

II. Argument

A. PLAINTIFF FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

Plaintiff's complaint contains a simple yet fatal flaw that prevents his case from being advanced: it fails to state a claim upon which relief can be granted in such a case. Under the current pleading standards, Fed. R. of Civ. P. 8(a) requires that each pleading for relief includes:

“(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.” *Id.*

Rule 12(b)(6) of the Federal Rules of Civil Procedure supplements 8(a)(2) by specifically allowing for the dismissal of a case if plaintiff does not demonstrate a claim upon which relief can be granted.

To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Wood v. Moss*, 572 U. S. 744, 757-758 (2014) (quoting *Ashcroft v. Iqbal*, 556 U. S. 662, 678 (2009)), *Zukerman v. United States Post. Serv.*, 961 F.3d 431, 441 (D.C. Cir. 2020). A claim has facial

plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Iqbal*, 556 U. S. at 678. The plausibility standard is not akin to a “probability requirement,” but it asks for more than a sheer possibility that a defendant has acted unlawfully. *Id.*, see also *Banneker Ventures, LLC v. Graham*, 418 U.S.App.D.C. 398, 408, 798 F.3d 1119, 1129 (D.C. Cir. 2015).

And while the judge must accept the complaint's well-pleaded allegations as true and "draw all reasonable inferences from those allegations in the plaintiff's favor," *Leatherman v. Tarrant Cty. Narcotics Intelligence & Coordination Unit*, 507 U. S. 163, 164 (1993), see also *Banneker Ventures*, 418 U.S.App.D.C. at 408, 798 F.3d at 1129, plaintiff's complaint is still lacking in factual allegations. The only statement that plaintiff has to offer in support of his claim for defamation is one simple sentence: “The defendant baselessly accused the complainant of bribing him for a vote in the public NUSA Discord Server in order to tarnish his reputation.”

Deconstruct the statement. First, plaintiff immediately concludes that an alleged accusation the defendant made was “baseless.” Without providing the court with facts that would demonstrate that this alleged accusation was baseless, the court cannot take the baselessness as true. Second, plaintiff has not demonstrated using factual allegations that his reputation was tarnished. He could have provided a statement from another that could have indicated that plaintiff was no longer seen in the same view before the alleged accusation was sent, but plaintiff refuses to even do so. Both of these statements essentially turn plaintiff's statement into a legal conclusion couched as a factual allegation.

While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. *Id.* Legal conclusions “couched as factual allegations” will never suffice. *Papasan v. Allain*, 478 U. S. 265, 286 (1986), *Trudeau v. Fed. Trade Comm'n*,

372 U.S.App.D.C. 335, 350, 456 F.3d 178, 193 (D.C. Cir. 2006). Here, plaintiff's statement is just that — a legal conclusion couched as a factual allegation. Nowhere does plaintiff list facts that demonstrate that the defendant was baseless in his conduct, and nowhere does plaintiff list facts that demonstrate that the defendant tarnished his reputation.

The most unfortunate part is that the pleading standard Rule 8 of the Federal Rules of Civil Procedure announces does not require “detailed factual allegations,” but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation, *Iqbal*, 556 U. S. at 678 (quoting *Bell Atlantic Corp v. Twombly*, 550 U. S. 544, 555 (2006)). And while that standard is fairly low, plaintiff is still unable to satisfy this standard. A pleading that offers “labels and conclusions” or “a formulaic recitation of the elements of a cause of action will not do.” *Id.*

Plaintiff therefore has not stated a claim upon which relief can be granted.

III. Conclusion

For the reasons stated above, this court should grant defendant's motion for dismissal without prejudice. Pursuant to Rule 11(b), this pleading is made in good faith to the Court.

Respectfully submitted.

Date: November 25, 2020

/s/ LEWIS F. POWELL, JR.

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