

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACONARTIST,

Plaintiff,

v.

JSJSJBSD,

Defendant.

Civil Action No. 4:20-2321

Hon. AsteroSinz

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)(1) and 12(b)(6). The Complaint fails to state a claim for which relief can be granted and this court lacks jurisdiction to hear Plaintiff's claims in any event. 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 18, 2020

Respectfully submitted,

/s/ LEWIS F. POWELL, JR.

LEWIS F. POWELL, JR.

Washington, D.C., 20002

Attorney for Defendant jsjsjbsd

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ACONARTIST,

Plaintiff,

v.

JSJSJBSD,

Defendant.

Civil Action No. 4:20-2321

Hon. AsteroSinz

**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

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 HAS NOT ESTABLISHED THAT THIS COURT HAS
FEDERAL QUESTION JURISDICTION**

¹ Because of the brevity of plaintiff's complaint, defendant is only able to muster one short paragraph of supposed facts as part of plaintiff's background.

Plaintiff alleges that this court has federal question jurisdiction over this case pursuant to 28 U.S.C. § 1331, which states that the District Court shall have “original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” However, a suit “arises under” federal law for 28 U.S.C. § 1331 purposes “only when the plaintiff’s statement of his own cause of action shows that it is based upon [federal law].” *Vaden v. Discover Bank*, 556 U. S. 49, 60 (2009) (quoting *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 152 (1908)), see also *Beneficial Nat. Bank v. Anderson*, 539 U. S. 1, 6 (2003), *cf. Greenhill v. Spellings*, 482 F.3d 569, 575 (D.C. Cir. 2007) (under the well-pleaded complaint rule, jurisdiction arising under federal law is established by looking to the legal basis of plaintiff’s claim) (citing *Louisville & Nashville R.R. Co. v. Mottley*, 211 U.S. 149, 152–53 (1908)). In such a case, federal jurisdiction cannot be predicated on an actual or anticipated defense: It is not enough, for example, that the plaintiff “alleges some anticipated defense to his cause of action and asserts that the defense is invalidated by some provision of [federal law].” *Ibid.*

Here, plaintiff fails to demonstrate so. The only statement that even mentions federal question jurisdiction is plaintiff claiming that “This court has federal question jurisdiction.” Pl’s Civ. Compl., at 1. Plaintiff doesn’t even point to any federal law that would be the basis of his claim, which also mitigates plaintiff’s claim that this Court has federal question jurisdiction.

Plaintiff therefore has not established federal question jurisdiction within this Court.

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

Even if we disregard plaintiff’s major error in not demonstrating federal question jurisdiction (and therefore subject-matter jurisdiction) via 28 U.S.C. § 1331, plaintiff has also

failed 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.*

While 8(a)(1) is already grounds for dismissal (seeing that plaintiff has not established federal question jurisdiction, see *infra*, at *3), 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."

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. 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)), yet 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 18, 2020

/s/ LEWIS F. POWELL, JR.

LEWIS F. POWELL, JR.

Washington, D.C., 20002

Attorney for Defendant jsjsjbsd