

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GEORGE ADOLPHUS PHILLIPS	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	
	:	No. 00-430
EASTERN PENNSYLVANIA	:	
CONFERENCE, et al.	:	
Defendants.	:	

**MEMORANDUM**

BUCKWALTER, J.

April 11, 2000

Presently before the Court in this Title 42 U.S.C. § 1983 action is Defendants United Methodist Church, Bishop Weaver, Dr. J. Evans Dodds, Wendy Warner, and Anna Shaw’s (“Defendants”) Motion to Dismiss Plaintiff’s Complaint, and Plaintiff’s response thereto. For the reasons stated below, the Motion will be granted.

**I. BACKGROUND**

On July 17, 1998, Plaintiff enrolled in the Northeastern Jurisdictional Local Pastor’s School, and claims that he completed all of the school’s requirements, thereby entitling him to appointment as a local pastor of the United Methodist Church. Plaintiff contends that named defendant Wendy Warner, an employee of co-defendant United Methodist Church, denied Plaintiff his Local Pastor Certificate by not recommending him for it. The Complaint alleges that Woodrow Wilson, a white male, did not complete all of the requirements for the Local Pastor Certificate, nor did William Miles, a black male, yet both received the certification.

On August 14, 1999, Plaintiff was interviewed by the District Committee on Ordained Ministry (not a defendant herein) and was informed that the United Methodist Church did not want Plaintiff to become a local pastor because of his race.

Plaintiff's two-count Complaint alleges, in Count One, that Defendants violated his constitutional and civil rights and asserts a claim under Title 42 U.S.C. § 1983, and in Count Two, that he was subjected to Defendants' intentional infliction of emotional distress.

Defendants moves this Court to dismiss Plaintiff's claim on the grounds that none of the defendants are "state actors" as is required under Section 1983.

## **II. STANDARD**

In reviewing a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), the district court must accept all well-pleaded allegations in the complaint as true and view them in the light most favorable to plaintiffs. See In re Burlington Coat Factory Sec. Litig., 114 F.3d 1410, 1420 (3d Cir. 1997). While a motion to dismiss may be treated as one for summary judgment if "matters outside the pleadings are presented to and not excluded by the court," Fed. R. Civ. P. 12(b)(6), the court may not consider items of information presented in briefs or memoranda of law without presentation in affidavit form, see Kramer v. Scientific Control Corp., 365 F. Supp. 780, 786 (E.D. Pa. 1973) (Bechtel, J.).

## **III. DISCUSSION**

To maintain a cause of action under § 1983, a plaintiff must establish: (1) the alleged conduct was committed by a person acting under color of state law; and (2) the conduct deprived the plaintiff of rights, privileges and immunities secured by the Constitution or laws of

the United States. See e.g., Hicks v. Feeney, 770 F.2d 375, 377 (3rd Cir. 1985). Section 1983 is not a source of substantive rights; it only provides “a method for vindicating federal rights elsewhere conferred.” Graham v. Connor, 490 U.S. 386, 393-94 (1989). Consequently, Section 1983 does not provide “a right to be free of injury wherever the State may be characterized as the tortfeasor,” the plaintiff must show a deprivation of a federally protected right. Paul v. Davis, 424 U.S. 693 (1976).

Defendants correctly contend that they are not state actors and therefore, do not fall within the purview of Section 1983. Recovery under Section 1983 is predicated upon action which is taken “under color of state law.” This requirement is satisfied by a showing of misuse of official power possessed by virtue of state law. Hicks v. Feeney, 770 F.2d 375 (3d.Cir.1985). Actions of a private party can be attributable to the government if the government has so far insinuated itself into a position of interdependence with the private entity that it must be recognized as a joint participant in the challenged activity. In this case, the government has not taken any action whatsoever, nor could it, under the separation of church and state doctrine mandated by the U.S. Constitution. There could be no state action nor any action taken “under color of state law” by employees in their official capacity acting within the scope of their employment with defendant United Methodist Church. The entities being sued in this case are religious institutions, or individuals employed thereby, and thus, pursuant to the constitutionally mandated separation of church and state, no action was taken under color of state law. Therefore, Plaintiff’s Section 1983 claim must fail.

Notwithstanding, Plaintiff has filed this cause of action, in part, against the Eastern Pennsylvania Conference. As the Eastern Pennsylvania Conference encompasses both

defendants United Methodist Church and the Anna Shaw District, the latter two entities are not separate jural entities subject to suit. Instead, the Eastern Pennsylvania Conference is the governing body presiding over all United Methodist Churches in the eastern half of the Commonwealth of Pennsylvania, while the Anna Shaw District is but one of seven districts in the Eastern Pennsylvania Conference. Therefore, the United Methodist Church and the Anna Shaw District are not properly named defendants in this action and are hereby dismissed. For the reasons stated above, so to is Plaintiff's Section 1983 claim against the Eastern Pennsylvania Conference.

Count Two of Plaintiff's Complaint alleges the state claim of intentional infliction of emotional distress against Defendants. As there are no federal anchor claims upon which original subject matter jurisdiction may be exercised, this Court dismisses the pendent state law claims pursuant to 28 U.S.C. § 1367(c)(3). See Markowitz v. Northeast Land Co., 906 F.2d 100, 106 (3d Cir. 1990) ("the rule within this Circuit is that once all claims with an independent basis of federal jurisdiction have been dismissed the case no longer belongs in federal court").

An appropriate Order follows.

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**ORDER**

AND NOW, this 11th day of April, 2000 upon consideration of Defendants United Methodist Church, Bishop Weaver, Dr. J. Evans Dodds, Wendy Warner, and Anna Shaw's Motion to Dismiss Plaintiff's Complaint and Plaintiff's response thereto it is hereby ORDERED and DECREED that said Motion is GRANTED, for Plaintiff's 42 U.S.C. § 1983 claim is not viable as Defendants are not state actors.

It is further ordered that:

1. Count One of Plaintiff's Complaint is DISMISSED with prejudice as it pertains to the Eastern Pennsylvania Conference, United Methodist Church, Bishop Weaver, Dr. J. Evans Dodds, Wendy Warner, and the Anna Shaw District;

2. Count Two of Plaintiff's Complaint, as it pertains to the Eastern Pennsylvania Conference, the United Methodist Church, Bishop Weaver, Dr. J. Evans Dodds, Wendy Warner, and the Anna Shaw District, is DISMISSED as jurisdiction no longer exists within this Court.

This case shall be marked CLOSED.

BY THE COURT:

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RONALD L. BUCKWALTER, J.