

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

PIERRE BOYER, JR. : CIVIL ACTION  
 :  
v. :  
 :  
JAMES W. HALL, POSTAL CARRIER :  
UNITED STATES POSTAL SERVICE :  
et al. : NO. 99-906

MEMORANDUM AND ORDER

Fullam, Sr. J.

April , 2000

Plaintiff, a state prisoner, is suing the United States Postal Service and James W. Hall, formerly employed as a mail carrier by the Postal Service. The facts of his complaint are set forth clearly and succinctly: Plaintiff mailed a letter to his wife. He was later notified by a Postal Inspector that the defendant Hall had apparently stolen the letter from the mail; the Postal Service returned a copy of the letter to plaintiff, and notified him that the original of the letter would be kept for use as evidence in a pending criminal trial against Mr. Hall. Plaintiff was later advised that Mr. Hall was convicted and sentenced.

From the facts set forth in plaintiff's complaint, two conclusions are obvious: (1) plaintiff has no possible claims against the Postal Service. The Postal Service cannot be held liable for the criminal acts of one of its carriers. Moreover, plaintiff cannot satisfy the requirements of the Federal Tort

Claims Act, since he has never pursued an administrative claim, and has not named the United States as a defendant. Thus, in addition to the fact that plaintiff's complaint fails to set forth any valid claim against the Postal Service, the complaint also reveals that this court lacks subject matter jurisdiction. (2) since the defendant Hall was employed by a federal agency, plaintiff has no claim against him under the Civil Rights Act, 42 U.S.C. §1983; that statute applies only to persons acting under color of state law. And even assuming that plaintiff could establish that he was damaged by the temporary mis-routing of his mail, and thus might have a tort claim under state law, any such claim can be pursued only in the state courts (since there is no diversity of jurisdiction between plaintiff and Mr. Hall). Thus, this Court lacks jurisdiction of the subject matter with respect to Mr. Hall as well.

An Order follows.

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ORDER

AND NOW, this day of April, 2000, IT IS ORDERED:

1. As to the defendant United States Postal Service, this action is DISMISSED WITH PREJUDICE.

2. As to the defendant James W. Hall, this action is DISMISSED WITHOUT PREJUDICE to plaintiff's right to proceed in a state court, if appropriate.

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John P. Fullam, Sr. J.