UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION

GARY LYNN SCOTT, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-CV-272
	)	
CHILD SUPPORT PROGRAM, *et al.*,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

This matter is before the Court on the Defendants' numerous motions to dismiss [docs. 49, 51, 53, 58, 60], and Plaintiff's motion to dismiss the Defendants' motion to dismiss [doc. 66], which the Court construes as a response to the Defendants' motions to dismiss. For the reasons stated below, the Court will **GRANT** Defendants' motions to dismiss [docs. 49, 51, 53, 58, 60], and **DENY** Plaintiff's motion to dismiss the motions to dismiss [doc. 66].

I. BACKGROUND

In his amended complaint, Plaintiff states that he seeks to bring an action pursuant to 42 U.S.C. § 1983 for deprivation of his rights by "45 C.F.R. § 75.2 contractors masquerading as State and local officials." [Doc. 40-1 at 3]. Plaintiff contends that jurisdiction is proper because his complaint raises questions of federal constitutional law. [*Id.* at 5]. Plaintiff asserts that Defendants "certified that the current IV-D case was established in compliance with Title IV-D of the Social Security Act," however, the title

containing section IV-D "has never been enacted into positive law," and therefore "IV-D provision are not law[.]" [*Id.* at 5-6].

Plaintiff states that the events giving rise to his claim occurred at the Hamilton County Circuit Court.[1] [*Id.* at 6]. Plaintiff alleges that, in 1997, the clerk of court "sold" him a marriage license, but failed to inform him that, by applying for said license, if the marriage failed, and offspring were born from the marriage "he would by default become liable for debt to the" Child Support Program. [*Id.*]. Plaintiff alleges that, under the Fifth Amendment, the clerk of court was required to inform him of this consequence "orally, through audio or video equipment and in writing" before he signed the marriage license. [*Id.*]. In 2009, Plaintiff was divorced, and alleges that he was then "fraudulently induced under threat, duress, and coercion by 45 C.F.R. § 75.2 contractor W. Neil Thomas[2] to sign a parenting plan to which he was deprived of his [r]ight to due process pertaining to the legal consequences that arise from signing the contract." [*Id.* at 7]. In 2017, Plaintiff attended "an IV-D modification hearing under threat, duress and coercion," and, at that hearing, refused to sign the contract offer, because he did not agree to the terms and conditions. However, Plaintiff alleges that his attorney signed the contract, despite having no authority to do so. [*Id.*].

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[1] Specifically, Plaintiff states that the events occurred at "500 Courthouse, 625 Georgia Ave. Chattanooga TN 37402." An internet search revealed that this is the address for the Hamilton County Circuit Court.

[2] Plaintiff appears to be referencing former Hamilton County Circuit Judge W. Neil Thomas III.

Plaintiff further alleges that the Defendants "enter[ed] into a contract with OCSE to offer and sell IV-d services in return for a share of billions in federal profits." [*Id*. at 7]. Plaintiff essentially alleges that the child support program is a private, for-profit business, that "offers and sells IV-D services[.]" [*Id*. at 8]. As his injury, Plaintiff alleges that "[s]tate and family law did do 'major damage' to clear and substantial federal interest and [he] can now demand intervention in federal court." [*Id*.]. Plaintiff states that the following constitutional violations occurred: (1) infliction of a Bill of Attainder, in violation of Article I, Section 9, Paragraph 3; (2) compelled association, in violation of the First Amendment; (3) violation of the rights to be secure and to privacy, under the Fourth Amendment; (4) violation of Fifth Amendment rights against double jeopardy and self-incrimination, and providing for due process; (5) denial of a trial by jury and the right to counsel, in violation of the Sixth Amendment; (6) involuntary servitude, in violation of the Thirteenth Amendment; and (7) denials of due process and equal protection, in violation of the Fourteenth Amendment. [*Id*. at 4]. Scott also states that he is bringing claims for fraudulent inducement, fraud, dissemination of false advertisements, compelled use of a social security number, and peonage. [*Id*. at 4-5].

As relief, Plaintiff asks the Court to: (1) "terminate the current private for profit contractually enforced IV-D Case effective immediately[;]"; (2) "enter judgment in his favor for a full refund of $80,000.00" as well as for various amounts of "profits" and interest; (3) award punitive damages of $1,000,000 as to each Defendant; (4) reverse all negative credit reports; and (5) order all Defendants to issue a letter of apology. [*Id*. at 9].

Each named defendant has filed a motion to dismiss, arguing, *inter alia*, that the Court lacks jurisdiction over this matter, Plaintiff has failed to properly effectuate service of process, and the complaint fails to state a claim for which relief can be granted. [Docs, 49-53, 58-62, 69].

Plaintiff responds with a motion to dismiss the Defendants' motions to dismiss, in which he reiterates the arguments from his complaint, contends that he does not want or need IV-D services to provide for his children, and spends significant time explaining why Defendants are "contractors." [Doc. 66]. However, Plaintiff does not address any of the substantive arguments raised by Defendants in their motions to dismiss. The Court construes this filing as a response to Defendants' motions to dismiss.

II. STANDARD OF REVIEW

"Federal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). In other words, federal courts "have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto." *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). As such, subject matter jurisdiction is a threshold issue that the Court must address and resolve prior to reaching the merits of the case. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94-95 (1998); *see also* Fed. R. Civ. P. 12(h)(3) (providing that, "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action"). Unlike a motion to dismiss for failure to state a claim under Rule 12(b)(6), "where subject matter jurisdiction is challenged under Rule 12(b)(1)[,] . . . the plaintiff has the burden of proving jurisdiction in order to survive the motion." *RMI Titanium Co. v.*

Westinghouse Elec. Corp., 78 F.3d 1125, 1134 (6th Cir. 1996) (quoting *Rogers v. Stratton Indus.*, 798 F.2d 913, 915 (6th Cir. 1986)).

Rule 12(b)(1) motions fall into two categories: "facial attacks and factual attacks." *United States v. Ritchie*, 15 F.3d 592, 598 (6th Cir. 1994). "A facial attack is a challenge to the sufficiency of the pleading itself." *Id.* In considering whether jurisdiction has been established on the face of the pleading, "the court must take the material allegations of the [pleading] as true and construed in the light most favorable to the nonmoving party." *Id.* (citing *Scheuer v. Rhodes*, 416 U.S. 232, 235-37 (1974)). "A factual attack, on the other hand, is not a challenge to the sufficiency of the pleading's allegations, but a challenge to the factual existence of subject matter jurisdiction." *Id.*

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, a complaint may be dismissed for failure to state a claim if a plaintiff fails to proffer "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). When considering a Rule 12(b)(6) motion, a court must treat all of the well-pleaded allegations of the complaint as true and construe all of the allegations in the light most favorable to the non-moving party. *DIRECTTV, Inc. v. Treesh*, 487 F.3d 471, 476 (6th Cir. 2007). However, the Court "need not accept as true legal conclusions or unwarranted factual inferences, and [c]onclusory allegations or legal conclusions masquerading as factual allegations will not suffice." *In re Travel Agent Comm'n Antitrust Litig.*, 583 F.3d 896, 903 (6th Cir. 2009) (internal citations and quotation marks omitted). Dismissal under Rule 12(b)(6) "is proper when there is no set of facts that would allow the plaintiff to recover." *Carter by Carter v. Cornwell*, 983 F.2d 52, 54 (6th Cir. 1993); *see*

also Mezibov v. Allen, 411 F.3d 712, 716 (6th Cir. 2005) ("To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory.").

III. DISCUSSION

A. Jurisdiction

"Subject matter jurisdiction is always a threshold determination[.]" *Am. Telecom Co. v. Republic of Lebanon*, 501 F.3d 534, 537 (6th Cir. 2007). "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). Generally, federal courts lack jurisdiction over domestic relations matters, because state courts have exclusive jurisdiction over these matters. *Danforth v. Celebrezze*, 76 F. App'x 615, 616 (6th Cir. 2003). Although this exception to federal jurisdiction does not apply to a civil action that "merely has domestic relations overtones," federal courts "lack jurisdiction where the action is a mere pretense and the suit is actually concerned with domestic relations issues." *Id.* (citing *Drewes v. Ilnicki*, 863 F.2d 469, 471 (6th Cir. 1988)). Moreover, "federal courts lack jurisdiction to review a case litigated and decided in state court because only the United States Supreme Court has jurisdiction to correct state court judgment[s]." *Id.*

Typically, the federal courts refrain from entering domestic relations cases. "Even when brought under the guise of a federal question action, a suit whose substance is domestic relations generally will not be entertained in a federal court." *Denman v. Leedy,* 479 F.2d 1097, 1098 (6th Cir. 1973). Further, the Supreme Court has found that "[t]he whole subject of the domestic relations of husband and wife, parent and child, belongs to

the laws of the states and not to the laws of the United States." *In re Burrus,* 136 U.S. 586, 593-94 (1890). Because state courts historically have decided these matters, they have developed a proficiency and expertise in these cases and a strong interest in disposing of them. *Solomon v. Solomon,* 516 F.2d 1018, 1025 (3d Cir. 1985); *Firestone v. Cleveland Trust Co.*, 654 F.2d 1212, 1215 (6th Cir. 1981).

However, the Sixth Circuit has clarified that the domestic relations exception applies only to a narrow range of circumstances and "does not deprive federal courts of jurisdiction to adjudicate a claim . . . unless a plaintiff positively sues in federal court for divorce, alimony, or child custody, or seeks to modify or interpret an existing divorce, alimony, or child custody decree" *Alexander v. Rosen*, 804 F.3d 1203, 1205 (6th Cir. 2015) (quoting *Chevalier v. Estate of Barnhart*, 803 F.3d 789, 797 (6th Cir. 2015)). The domestic relations exception does not apply when a plaintiff requests that the federal court apply federal law to determine whether officials conspired against him in the course of administering a child support program, because this inquiry does not require application of state child custody law, question the state's calculation of child support payments, or otherwise address the merits of the underlying dispute. *Id*. at 1205-06. Accordingly, the fact that the alleged violations of federal law occurred in the course of deciding a plaintiff's child support obligations does not invoke the domestic relations exception. *Id*. at 1206.

The ultimate inquiry in determining the applicability of the domestic relations exception focuses on the remedy that the plaintiff seeks: "Does the plaintiff seek an issuance or modification of enforcement of a divorce, alimony, or child-custody decree." *Chevalier*, 803 F.3d at 797.

The Court concludes that it lacks jurisdiction over this matter based on the domestic relations exception. Although Plaintiff purports to raise various questions of federal constitutional law, the Court finds that these arguments are mere pretense for seeking review of domestic relations matters. In making this determination, the Court notes that the allegations and claims in Plaintiff's amended complaint are largely unintelligible assertions which appear to be based on the common sovereign citizen belief that the federal government is a corporation. Courts around the country have routinely rejected these frivolous arguments. *See United States v. Coleman*, 871 F.3d 470, 476 (6th Cir. 2017) (collecting cases). Indeed, this Court has recognized that "[s]overeign citizen pleadings are 'dense, complex, and virtually unreadable,' and a branch of sovereign citizen case law has grown to address the voluminous and often frivolous workload." *United States v. Cook*, No. 3:18-cr-19, 2019 WL 2721305, at *2 (E.D. Tenn. June 28, 2019) (quoting Francis X. Sullivan, *The "Usurping Octopus of Jurisdictional/Authority": The Legal Theories of the Sovereign Citizen Movement*, 1999 Wis. L. Rev. 785, 795-813 (1999)). Because Plaintiff's claims appear to be based on these frivolous sovereign citizen arguments, the Court concludes that Plaintiff's alleged federal claims are mere pretense to seek review of the state child support order.

In making this decision, the Court also finds instructive the relief that Plaintiff seeks: overturning the state court's child support order and return of past child support payments. Such relief is the classic type sought in a case that falls within the domestic relations exception. Accordingly, the Court concludes that it lacks jurisdiction over this matter,

based on the domestic relations exception, and Defendant's motions to dismiss [docs. 49, 51, 53, 58, 60] are **GRANTED** on this ground.

B. Statute of Limitations

"Federal district courts apply state statutes of limitations in proceedings brought under 42 U.S.C. § 1983." *Pendergrass v. Sullivan*, No. 1:19-cv-115, 2019 WL 4264377 at *2 (E.D. Tenn. Aug. 14, 2019) (quoting *Cooper v. Rhea Cnty., Tenn.*, 302 F.R.D. 195, 199 (E.D. Tenn. 2014)). Although § 1983 has no statute of limitations on its own, the applicable limitations period is the same period that "state law provides for personal injury torts, which is one year in Tennessee." *Id.* (citing Tenn. Code Ann. § 28-3-104).

Under the "discovery rule," a statute of limitations begins to run from the time when "a plaintiff discovers, or in the exercise of reasonable care and diligence, should have discovered, his injury and the cause thereof." *City State Bank v. Dean Witter Reynolds, Inc.*, 948 S.W.2d 729, 735 (Tenn. Ct. App. 1996) (citation omitted). Thus, in Tennessee, "a cause of action accrues and the statute of limitations begins to run not only when the plaintiff has actual knowledge of a claim, but also when the plaintiff has actual knowledge of facts sufficient to put a reasonable person on notice that he [or she] has suffered an injury as a result of wrongful conduct." *Redwing v. Catholic Bishop for Diocese of Memphis*, 363 S.W.3d 436, 459 (Tenn. 2012) (internal quotation marks omitted); *see also Pero's Steak and Spaghetti House v. Lee*, 90 S.W.3d 614, 621 (Tenn. 2002).

By Plaintiff's own admission, "[t]he date[s] that give[] rise to [his] claims [are] May 2009, August 2017 to current[.]" [Doc. 40-1 at 6]. A review of the full docket in this case indicates that Plaintiff's first child support order was entered after his divorce, in May

2009, and the child support order was amended in August 2017. Plaintiff's filings also make clear that Plaintiff knew about these child support orders at the time when they were entered. Accordingly, by his own admission, Plaintiff knew of the latest event giving rise to his claims in August 2017, yet did not file his initial complaint until November 13, 2018 [doc. 1], after the one-year limitations period had expired. Because even reviewing the allegations in the light most favorable to Plaintiff, his claims are barred by the one-year statute of limitations, Defendants' motions to dismiss [docs. 49, 51, 53, 58, 60] are **GRANTED** on this alternative ground.

IV. CONCLUSION

The Court acknowledges that Defendants have raised numerous other grounds for dismissal, however, in light of the conclusions above, and the utter frivolity of Plaintiff's amended complaint, the Court will not waste judicial time and resources addressing each ground. For the two alternate reasons discussed above, Defendants' motions to dismiss [docs. 49, 51, 53, 58, 60] are **GRANTED,** and Plaintiff's motion to dismiss Defendants' motions to dismiss [doc. 66] is **DENIED**. This matter is **DISMISSED**. The remaining pending motions [docs. 73, 76, and 81], which relate to summary judgment, are **DENIED AS MOOT**. The Clerk of Court is directed to **CLOSE** this case.

IT IS SO ORDERED.

s/ Leon Jordan
United States District Judge