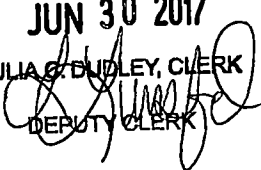


IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION

JUN 30 2017  
JULIA C. DUDLEY, CLERK  
BY:   
DEPUTY CLERK

MELINDA SCOTT,

Plaintiff,

v.

WISE COUNTY COMMONWEALTH'S  
ATTORNEY, ET AL.,

Defendants.

Case No. 2:17CV 00023

**ORDER**

By: James P. Jones  
United States District Judge

The pro se plaintiff has filed an Application to Proceed in District Court without Prepaying Fees or Costs. While I will grant the application, I will dismiss her case.

In her Complaint, the plaintiff alleges that she is the victim of cyber stalking. She request the court to direct the state prosecutor in Wise County, Virginia, to obtain the extradition of the alleged perpetrator and to order the United States Attorney for this District to prosecute the alleged perpetrator for interstate stalking in violation of 18 U.S.C. § 2261A. The plaintiff asserts that her cause of action arises under the Victims Rights Act, 18 U.S.C. § 3771.

The judiciary does not have the authority to direct that persons be prosecuted for crime. State and federal prosecutors make such decisions. The Victims Rights

Act expressly provides that “[n]othing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.” 18 U.S.C. § 3771(d)(6).

The plaintiff also requests the court to issue a restraining order pursuant to 18 U.S.C. § 1514 directing that all online postings published by a third party “that are aimed at harassing the Plaintiff as a victim of cyber stalking” be removed. Section § 1514 provides that a district court may issue a restraining order prohibiting harassment of a victim or witness in a federal criminal case. However, there is no federal criminal case existing at this time. Moreover, for such a restraining order to issue, “specific facts” must be alleged under oath showing “that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists.” 18 U.S.C. § 1514(a)(1). No such specific facts have been alleged.

Finally, the plaintiff requests that her lawsuit be sealed. Sealing is the exception and not the rule and no specific facts have been alleged that would justify sealing in this case.

For the foregoing reasons, it is **ORDERED** as follows:

1. The Application to Proceed in District Court without Prepaying Fees or Costs is GRANTED; and

2. Plaintiff's action is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The Clerk shall close the case.

ENTER: June 30, 2017

  
United States District Judge