

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

)  
ERIC J. DUARTE, )  
Plaintiff, )  
v. ) Civil Action No.  
Defendants. ) 23-11009-NMG  
)  
DANIELLE FRANE, et al., )  
Defendants. )  
)

**ORDER**

**GORTON, J.**

Now before the Court are the second amended complaint (Docket # 27) and motion for appointment of counsel (Docket # 28) filed by Eric Duarte, a pretrial detainee confined at Bridgewater State Hospital. Upon review of these filings, the Court hereby orders:

1. The following counts of the second amended complaint are DISMISSED:

(a) Count 1 (Breach of Contract). Duarte does not identify a contract to which he is a party or for which he would otherwise have standing to enforce.

(b) Count 11 (Stalking to Harass). Duarte asserts a "Stalking to Harass" claim under M.G.L. ch. 265, §§ 43, 43A. These are state criminal statutes that are not subject to enforcement in a federal civil action.

2. The Clerk shall issue a summons for each defendant identified in the second amended complaint. Duarte is responsible for serving the second amended complaint, a summons, and this order on each of these defendants in compliance with Rule 4 of the Federal Rules of Civil Procedure.

3. Because Duarte is proceeding in forma pauperis, he may elect to have service completed by the United States Marshals Service ("USMS"). If Duarte chooses to have service completed by the USMS, he shall provide the agency with all papers for service on each defendant and a completed USM-285 form for each defendant. The USMS shall complete service as directed by Duarte with all costs of service to be advanced by the United States. The Clerk shall provide Duarte with the forms and instructions for service by the USMS.

4. Duarte must ensure that the aforesaid service is completed within 90 days of the date of this order. To comply with this deadline, the person or agency effecting service must receive the papers for service well before the deadline. Failure to complete service in a timely fashion may result in dismissal of this action without prior notice to Duarte. See L.R. Rule 4.1 (D. Mass.).

5. The motion for appointment of counsel (Docket # 28) is DENIED without prejudice to renewal after the defendants have

been served and have had an opportunity to respond to the second amended complaint.

**So ordered.**

/s/ Nathaniel M. Gorton

Nathaniel M. Gorton  
United States District Judge

Dated: January 8, 2024