

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ELVIS J. GRUBBS,

Plaintiff,

v.

THE SALVATION ARMY,

Defendant.

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Case No. 13-cv-4017-DDC-TJJ

MEMORANDUM AND ORDER

This matter is before the Court on pro se Plaintiff's Motion for Perjury [sic] (ECF No. 35), in which Plaintiff "is asking for perjury charges" against Defendant's counsel. Plaintiff cites no authority for his motion. Upon consideration of the matter, the Court finds that the motion should be denied.

In his motion, Plaintiff refers to a police report in which Defendant's counsel expressed concern about messages Plaintiff had left in dozens of telephone calls, and also to a discussion of those phone calls with the Court during a June 19, 2014 telephone status conference.¹ In determining what constitutes perjury, the Court looks to the generally accepted definition under the federal criminal perjury statute, 18 U.S.C. § 1621. "A witness testifying under oath or affirmation violates this statute if she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory."² Plaintiff has set forth no facts which meet any of the elements of perjury, and accordingly the motion is wholly without support.

¹ See ECF No. 29.

² *United States v. Dunnigan*, 507 U.S. 87, 94 (1993).

IT IS THEREFORE ORDERED THAT Plaintiffs' Motion for Perjury [sic] (ECF No. 35) is **DENIED**. The Court cautions Plaintiff against filing additional unsubstantiated motions.

Dated this 31st day of July, 2014 at Kansas City, Kansas.

s/ Teresa J. James

Teresa J. James

United States Magistrate Judge