

FILED
Clerk
District Court

APR 10 2000

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

RUI LIANG and LIAO DA NIAN,	)	Civil Action No. 99-0046
	)	
Plaintiffs,	)	ORDER GRANTING DEFENDANT
	)	UNITED STATES' MOTION TO
v.	)	DISMISS
	)	
UNITED STATES OF AMERICA and	)	
DOES 1-25	)	
Defendants.	)	
_____	)	

THIS MATTER came before the Court on March 2, 2000 for hearing on Motion of Defendant, United States, to Dismiss Plaintiffs' First Amended (Verified) Complaint for Insufficiency of Service of Process and Failure to State a Claim Upon Which Relief Can Be Granted.

Plaintiffs were represented by Bruce L. Jorgensen. Defendant United States was represented telephonically by Gretchen M. Wolfinger of the Office of Immigration Litigation, Civil Division, U.S. Department of Justice, and in person by Assistant United States Attorney Gregory Baka.

1 Upon consideration of the written and oral argument of counsel, the Court
2 GRANTS defendant's motion to dismiss without prejudice to re-filing the complaint.
3

4 Plaintiffs' First Amended (Verified) Complaint sets forth counts for constitutional
5 and related deprivations, injunctive relief to preclude violation of Article 33 of the 1951
6 Convention Relating to the Status of Refugees (1951 Convention), concealed knowledge or
7 information, emotional distress, estoppel, and punitive damages against defendant United
8 States. Plaintiffs' complaint very broadly alleges defendants' conduct violated the United
9 States Constitution, United States laws, Customary International Law, the 1951 Convention
10 and the 1967 Protocol Relating to the Status of Refugees (1967 Protocol). Although
11 Fed.R.Civ.P. 8(a) established a liberal system of notice pleading, plaintiffs' generalized
12 allegations are insufficient to give defendant fair notice of the bases upon which they rest
13 their claims.
14

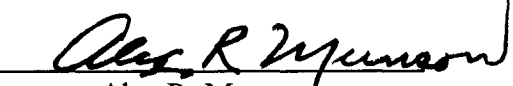
15 "[A]ll the Rules require is 'a short and plain statement of the claim' that will give the
16 defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests."
17 Conley v. Gibson, 355 U.S. 51, 78 S.Ct. 99, 103 (1957). Plaintiffs claims and allegations
18 fail to give defendants fair notice of the grounds for their claims and this lack of sufficient
19 specificity concerning the grounds for their claims raises the issue of plaintiffs' standing to
20 assert some of those claims. "[T]he source of the plaintiff's claim to relief assumes critical
21 importance with respect to the prudential rules of standing.... Essentially, the standing
22 question in such cases is whether the constitutional or statutory provision on which the
23 claim rests properly can be understood as granting persons in the plaintiff's position a right
24 to judicial relief." Warth v. Seldin, 422 U.S. 490, 95 S.Ct. 2197, 2206 (1975).
25
26

1 Plaintiffs only specifically cite violations of the 1967 Protocol and the 1951
2 Convention. Defendant challenges the claims based on those international instruments
3 because the treaties are not self-executing and thus provide no enforceable private right.
4 Plaintiffs oppose defendant's argument by stating their claims are also based upon violations
5 of customary international law, due process and equal protection. Although plaintiffs
6 attempt to redress the shortcomings of their complaint in their opposition to defendant's
7 motion, plaintiffs generalized invocation of customary international law is not sufficient to
8 provide defendant with fair notice of the basis for plaintiffs' claims.
9

10 "A complaint should not be dismissed unless it appears beyond doubt that plaintiff
11 can prove no set of facts that would entitle her to relief." Smith v. Jackson, 84 F.3d 1213,
12 1217 (9th Cir. 1996). While plaintiffs' complaint appear to contain facts that would entitle
13 them to relief, plaintiffs have pleaded with such equivocation, it is impossible for defendants
14 to respond meaningfully. Accordingly, plaintiffs' First Amended (Verified) Complaint is
15 dismissed without prejudice to amend and re-file.¹
16

17 IT IS SO ORDERED.
18

19 DATED this 10th day of April, 2000.
20

21 
22 Alex R. Munson
23 District Judge
24

25 ¹ The Court has not addressed the issue of insufficiency of service of process based upon its
26 finding that the First Amended Complaint does not properly state a claim upon which relief
can be granted.