UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

[redacted], (amended from John Doe)
Plaintiff,
-vs-
The City of Sheboygan, et al
Case No. [redacted]

CITY OF SHEBOYGAN, OFFICER JOHN WINTER,
OFFICER JOEL CLARK, OFFICER JEFF JOHNSTON,
POLICE CHIEF KIRK, NICOLE JOHNSON,
ART DIEDRICH, JUDGE SUTKIEWICZ,
JOSEPH DECECCO, NATHAN HABERMAN,
JOEL URMANSKI, JUDGE GARY LANGHOFF,
JUDGE STENGLE, JUDGE GUOKAS,
MIKE LITKE, and ERIC HELMKE,
Defendants.

SCREENING ORDER

The plaintiff, a former Wisconsin state prisoner, filed a *pro se* complaint under the RICO ACT, 42 U.S.C. § 1983, alleging that his civil rights were violated. This matter comes before the court on the plaintiff's petition to proceed *in forma pauperis*.
The plaintiff has been assessed and paid an initial partial filing fee of $5.68.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).
28 U.S.C. § 1915A(b). A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Denton v. Hernandez,* 504 U.S. 25, 31 (1992); *Neitzke v. Williams,* 490 U.S. 319, 325 (1989); *Hutchinson ex rel. Baker v. Spink,* 126 F.3d 895, 900 (7th Cir. 1997). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. *Neitzke,* 490 U.S. at 327. "Malicious," although sometimes treated as a synonym for "frivolous," "is more usefully construed as intended to harass." *Lindell v. McCallum,* 352 F.3d 1107, 1109-10 (7th Cir. 2003) (citations omitted).
This court finds this case is not frivolous or malicious.

To state a cognizable claim under the federal notice pleading system, the plaintiff is required to provide a "short and plain statement of the claim showing that [he] is entitled to relief[.]" Fed. R. Civ. P. 8(a)(2). It is not necessary for the plaintiff to plead specific facts and his statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson,* 355 U.S. 41, 47 (1957)). However, a complaint that offers "labels and conclusions" or "formulaic recitation of the elements of a cause of action will not do." *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Twombly,* 550 U.S. at 555). To state a claim, a complaint must contain sufficient factual matter, accepted as true, "that is plausible on its face." *Id.* (quoting *Twombly,* 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly,* 550 U.S. at 556). The complaint allegations "must be enough to raise a right to relief above the speculative level." *Twombly,* 550 U.S. at 555 (citation omitted).

The plaintiff provided sufficient evidence and adequate claim to proceed.

In considering whether a complaint states a claim, courts should follow the principles set forth in *Twombly* by first, "identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth." *Iqbal,* 556 U.S. at 679. Legal conclusions must be supported by factual allegations. *Id.* If there are well-pleaded factual allegations, the court must, second, "assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Id.*

To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that:
1) he was deprived of a right secured by the Constitution or laws of the United States; and
2) the deprivation was visited upon him by a person or persons acting under color of state law. *Buchanan-Moore v. County of Milwaukee,* 570 F.3d 824, 827 (7th Cir. 2009) (citing *Kramer v. Village of North Fond du Lac,* 384 F.3d 856, 861 (7th Cir. 2004)); *see also Gomez v. Toledo,* 446 U.S. 635, 640 (1980). The court is obliged to give the plaintiff's *pro se* allegations, "however inartfully pleaded," a liberal construction. *See Erickson v. Pardus,* 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble,* 429 U.S. 97, 106 (1976)).

Under USC Title 18 § 241 and 242 the plaintiff provided sufficient evidence of police corruption and conspirators in an open ended Pattern and Practice inconsistent with the law.

The plaintiff, a disabled person, was incarcerated at Fox Lake Correctional Institution for processing and release after it was discovered he had been unlawfully held in a private holding facility for nearly 6 years in Sheboygan Wisconsin following his testimony of Police blackmailing Mayor Juan Perez. During that time the plaintiff was Tortured and Obstructed. Upon transfer to Fox Lake he filed the RICO Suit and was then released. He now resides outside of Wisconsin. The primary defendants are a police chief; a district attorney and assistant district attorney; three judges; and two press agents who worked in collusion.

According to the complaint, for years until 2008, a group of "corrupt cops were involved in numerous felonious acts, including racial hate crimes." (Compl. ¶ IV.A.) When the scandal broke, the press buried most of the facts. This has been confirmed through news articles out of Milwaukee and satire from famous comedian Jay Leno. Also, the Federal Court records the Deposition of Officer John Winter, which proceeded his resignation, and admits to numerous Felony crimes as reported by the plaintiff. Further, the court and District Attorney failed to prosecute defendants, the F.B.I. and US Department of Justice refused investigation and the Attorney General failed to respond to charges. **This court notes this failure to investigate is not lawful and is Obstructive** of both State and US Constitutional laws. Additionally, client abandonment and ineffectualness of counsel occurred and witnesses were threatened, run out of town, or falsely imprisoned. The conspirators were permitted to resign and, in some cases, received promotions. Falsified police reports, fabricated evidence, evidence tampering, coercion, death threats, and burglary were all inflicted upon the plaintiff. He claims that the defendants violated several federal laws and he seeks monetary damages, prosecution of the conspirators, and expunction of his records.

This court also notes that the Sheboygan court, after being warned, with intent and in violation of Federal Mandates of the Adam Walsh Act, has committed extreme libel and defamation of the plaintiff for the sole purpose of causing harm. Further, on 6-26-2013, in violation of 18 U.S.C.A 3521 WITSEC and the 4th Amendment, the defendants, directed by Sandy Cornell, were approved by Governor Scott Walker, to seize the plaintiff, resulting in Federal Kidnapping of a RICO witness/plaintiff. These are criminal acts that could result in the whole state of Wisconsin's Judicial system being fined upward of two-hundred and fifty million dollars. The plaintiff was eventually released after the charges were dismissed. The plaintiff's records were not cleared.

This court is very disturbed by the findings and evidence provided by the plaintiff's and notes this case was originally filed under John Doe until all but one plaintiff remained. Although WITSEC was ordered in accordance with a RICO claim, no protection was ever provided.

Here, although the plaintiff properly filed the complaint on a Civil RICO form, the substance of his allegations demonstrate that he seeks to bring **criminal charges** against the defendants. **However**, the Executive Branch has the "exclusive authority and absolute discretion to decide whether to prosecute cases [involving officials]." *United States v. Nixon,* 418 U.S. 683, 693 (1974).
Further, a private citizen, such as the plaintiff, has no standing to sue based on any interest in prosecution of another. *Linda R.S. v. Richard D.,* 410 U.S. 614, 619 (1973). These are not matters for **this** Court and must be sought in a Civil court.

Thus, the plaintiff may not proceed on a criminal claim against the defendants. *See House v. Belford,* 956 F.2d 711, 720 (7th Cir. 1992) (quoting *Williams v. Faulkner,* 837 F.2d 304, 308 (7th Cir. 1988), aff'd sub nom. *Neitzke v. Williams,* 490 U.S. 319 (1989)).

- **IT IS THEREFORE ORDERED** that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and hereby is **GRANTED.**
- **IT IS FURTHER ORDERED** that the plaintiff's motion to appoint counsel (Docket #8) is **DENIED.**
- **IT IS FURTHER ORDERED** that the plaintiff's motion for Return of Property (Docket #10) is **DENIED.** This was later ordered by the Circuit Courts where upon investigation of property unlawfully seized it was discovered in the possession of the defendants (who denied seizure) and ordered returned. This substantiates the claims of unwarranted Search and Seizure along with armed robbery. The Wisconsin Supreme Court also received over 300 claims of unwarranted Search and Seizure by Sheboygan police officers during this same time period.
- **IT IS FURTHER ORDERED** that the plaintiff's second motion to appoint counsel (Docket #14) is **DENIED.**
- **IT IS FURTHER ORDERED** that this action be and hereby is **DISMISSED** pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1) for failure to state a claim pursuant to conditions set forth under the RICO ACT.
- **IT IS FURTHER ORDERED** that the Clerk of Court document that this plaintiff has brought an action that was dismissed for failure to state a claim under 28 U.S.C.
§§ 1915(e)(2)(B) and 1915A(b)(1).
- **IT IS FURTHER ORDERED** that the Clerk of Court document that this plaintiff has incurred a "strike" under 28 U.S.C. §1915(g).
- **IT IS FURTHER ORDERED** that the plaintiff shall pay the $344.32 balance of the filing fee to the Clerk of Court. Waived accordingly under *in forma pauperis*.

I FURTHER CERTIFY that any appeal from this matter would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) unless the plaintiff offers bonafide arguments supporting his appeal and which do not include civil or monetary charges.

Dated at Milwaukee, Wisconsin, this 19th day of April, 2014.
SO ORDERED,

HON. RUDOLPH T. RANDA
U. S. District Judge

GOODWILL v. CITY OF SHEBOYGAN

Case No. 12-CV-1093.

JASON GOODWILL, Plaintiff, v. CITY OF SHEBOYGAN, OFFICER JOHN WINTER, OFFICER JOEL CLARK, OFFICER JEFF JOHNSTON, POLICE CHIEF KIRK, NICOLE JOHNSON, ART DIEDRICH, JUDGE SUTKIEWICZ, JOSEPH DECECCO, NATHAN HABERMAN, JOEL URMANSKI, GARY LANGHOFF, MIKE LITKE, and ERIC HELMKE, Defendants.

United States District Court, E.D. Wisconsin.

April 19, 2013.

SCREENING ORDER

RUDOLPH T. RANDA, District Judge.

The plaintiff, a former Wisconsin state prisoner, filed a *pro se* complaint under 42 U.S.C. § 1983, alleging that his civil rights were violated. This matter comes before the court on the plaintiff's petition to proceed *in forma pauperis.* The plaintiff has been assessed and paid an initial partial filing fee of $5.68.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Denton v. Hernandez,* 504 U.S. 25, 31 (1992); *Neitzke v. Williams,* 490 U.S. 319, 325 (1989); *Hutchinson ex rel. Baker v. Spink,* 126 F.3d 895, 900 (7th Cir. 1997). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. *Neitzke,* 490 U.S. at 327. "Malicious," although sometimes treated as a synonym for "frivolous," "is more usefully construed as intended to harass." *Lindell v. McCallum,* 352 F.3d 1107, 1109-10 (7th Cir. 2003) (citations omitted).

To state a cognizable claim under the federal notice pleading system, the plaintiff is required to provide a "short and plain statement of the claim showing that [he] is entitled to relief[.]" Fed. R. Civ. P. 8(a)(2). It is not necessary for the plaintiff to plead specific facts and his statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson,* 355 U.S. 41, 47 (1957)). However, a complaint that offers "labels and conclusions" or "formulaic recitation of the elements of a cause of action will not do." *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Twombly,* 550 U.S. at 555). To state a claim, a complaint must contain sufficient factual matter, accepted as true, "that is plausible on its face." *Id.* (quoting *Twombly,* 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly,* 550 U.S. at 556). The complaint allegations "must be enough to raise a right to relief above the speculative level." *Twombly,* 550 U.S. at 555 (citation omitted).

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To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that: 1) he was deprived of a right secured by the Constitution or laws of the United States; and 2) the deprivation was visited upon him by a person or persons acting under color of state law. *Buchanan-Moore v. County of Milwaukee,* 570 F.3d 824, 827 (7th Cir. 2009) (citing *Kramer v. Village of North Fond du Lac,* 384 F.3d 856, 861 (7th Cir. 2004)); *see also Gomez v. Toledo,* 446 U.S. 635, 640 (1980). The court is obliged to give the plaintiff's *pro se* allegations, "however inartfully pleaded," a liberal construction. *See Erickson v. Pardus,* 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble,* 429 U.S. 97, 106 (1976)).

The plaintiff was incarcerated at Fox Lake Correctional Institution when he filed the complaint. He has been released and now resides in Michigan. The plaintiff is suing a variety of defendants, including the City of Sheboygan, Wisconsin; three officers and a police chief; a district attorney and assistant district attorney; three judges; and two press agents.

According to the complaint, for years until 2008, a group of "corrupt cops were involved in numerous felonious acts, including racial hate crimes." (Compl. ¶ IV.A.) When the scandal broke, the press buried most of the facts. Also, the court and District Attorney failed to prosecute, and witnesses were threatened, run out of town, or falsely imprisoned. The conspirators were permitted to resign and, in some cases, received promotions. Falsified police reports, evidence tampering, coercion, death threats, and burglary were all inflicted upon the plaintiff. He claims that the defendants violated several federal crimes and he seeks monetary damages, prosecution of the conspirators, and expungement of his records.

Here, although the plaintiff filed the complaint on a civil rights complaint form, the substance of his allegations demonstrate that he seeks to bring criminal charges against the defendants. However, the Executive Branch has the "exclusive authority and absolute discretion to decide whether to prosecute cases." *United States v. Nixon,* 418 U.S. 683, 693 (1974). Further, a private citizen, such as the plaintiff, has no standing to sue based on any interest in prosecution of another. *Linda R.S. v. Richard D.,* 410 U.S. 614, 619 (1973). Thus, plaintiff may not proceed on a criminal claim against the defendants.

This plaintiff has provided no arguable basis for relief, having failed to make any rational argument in law or fact to support his claims. *See House v. Belford,* 956 F.2d 711, 720 (7th Cir. 1992) (quoting *Williams v. Faulkner,* 837 F.2d 304, 308 (7th Cir. 1988), aff'd sub nom. *Neitzke v. Williams,* 490 U.S. 319 (1989)).

IT IS THEREFORE ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and hereby is GRANTED.

IT IS FURTHER ORDERED that the plaintiff's motion to appoint counsel (Docket #8) is DENIED.

IT IS FURTHER ORDERED that the plaintiff's motion for return of property (Docket #10) is DENIED.

IT IS FURTHER ORDERED that the plaintiff's second motion to appoint counsel (Docket #14) is DENIED.

IT IS FURTHER ORDERED that this action be and hereby is DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1) for failure to state a claim.

IT IS FURTHER ORDERED that the Clerk of Court document that this inmate has brought an action that was dismissed for failure to state a claim under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).

IT IS FURTHER ORDERED that the Clerk of Court document that this inmate has incurred a "strike" under 28 U.S.C. §1915(g).

IT IS FURTHER ORDERED that the plaintiff shall pay the $344.32 balance of the filing fee to the Clerk of Court.

IT IS FURTHER ORDERED that the Clerk of Court enter judgment accordingly.

I FURTHER CERTIFY that any appeal from this matter would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) unless the plaintiff offers bonafide arguments supporting his appeal.

SO ORDERED.

Comment

Your Name

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

May 7, 2014

Before

DIANE P. WOOD, *Chief Judge*
WILLIAM J. BAUER, *Circuit Judge*
FRANK H. EASTERBROOK, *Circuit Judge*

Nos.: 14-1822, 14-1888, 14-1899, 14-2006 and 14-2012	ERIC O'KEEFE and WISCONSIN CLUB FOR GROWTH INCORPORATED, Plaintiffs - Appellees v. JOHN T. CHISHOLM, BRUCE J. LANDGRAF and DAVID ROBLES, Defendants - Appellants
Originating Case Information:	
District Court No: 2:14-cv-00139-RTR Eastern District of Wisconsin District Judge Rudolph T. Randa	

The following are before the court:

1. **DEFENDANTS-APPELLANTS' EMERGENCY MOTION FOR STAY PENDING APPEAL & MEMORANDUM IN SUPPORT OF MOTION**, filed on May 5, 2014, by counsel for the appellants.

2. **DEFENDANTS-APPELLANTS' SECOND EMERGENCY MOTION FOR STAY AND REQUEST FOR SINGLE JUDICIAL REVIEW**, filed on May 7, 2014, by counsel for the appellants.

3. **DEFENDANTS-APPELLANTS' EMERGENCY MOTION FOR SUMMARY**

VACATION OF THE DISTRICT COURT'S MAY 6, 2014 ORDER AND MEMORANDUM IN SUPPORT OF MOTION, filed on May 7, 2014, by counsel for the appellants.

4. **ERIC O'KEEFE AND THE WISCONSIN CLUB FOR GROWTH'S RESPONSE TO DEFENDANT-APPELLANTS' EMERGENCY MOTION FOR STAY PENDING APPEAL**, filed on May 7, 2014, by counsel for the appellees.

Apostol v. Gallion, 870 F.2d 1335 (7th Cir. 1989), holds that, once a litigant files a notice of appeal, a district court may not take any further action in the suit unless it certifies that the appeal is frivolous. The district court failed to follow that rule when, despite the notice of appeal filed by several defendants, it entered a preliminary injunction. This court accordingly stays the injunction, and all further proceedings in the district court, until the judge has ruled definitively on the question posed by *Apostol*.

If the district court concludes that the appeal is non-frivolous with respect to the complaint's request for injunctive relief under the doctrine of *Ex parte Young*, 209 U.S. 123 (1908), then this stay will continue in force until this court has resolved the appeal on the merits.

If the district court concludes that the appeal is frivolous with respect to the complaint's request for injunctive relief under the doctrine of *Ex parte Young*, then proceedings in the district court may resume, though appellants would be entitled to renew in this court their request for a stay.

Whether or not the district court determines that the appeal is frivolous, the portions of the injunction that require defendants to return or destroy documents will remain stayed as long as proceedings continue in this court. Compliance with those portions of the injunction could moot some or all of the issues on appeal. Whether or not any pre-injunction order is appealable, the preliminary injunction is itself open to appeal under 28 U.S.C. §1292(a). It would be inappropriate to implement the injunction in a manner that effectively prevents appellate review. Plaintiffs' interests, pending the review authorized by §1292, can be protected if defendants hold the information in confidence and not use it. We hereby stay the return-and-destroy portions of the injunction and order defendants not to disclose or use the information they have gathered, and that is within the scope of the injunction, pending further order of this court.

Election Law Blog

Election Law Blog

The law of politics and the politics of law: election law, campaign finance, legislation, voting rights, initiatives, redistricting, and the Supreme Court nomination process ◊ Rick Hasen's blog

"Prosecutors seek stay of ruling halting Doe probe into Walker recall"

Posted on May 7, 2014 1:35 pm by **Rick Hasen**

Prosecutors to 7th Circuit:

> *Attention now shifts to the 7th Circuit Court of Appeals. The prosecutors told that court Wednesday that Randa's order to permanently destroy the documents they had gathered was inappropriate because it was only a preliminary ruling. Destroying that evidence "cannot be undone" if they are ultimately allowed to continue their investigation, they argued….*
>
> *In their latest filing, they contended Randa did not have the ability to issue Tuesday's decision because of their earlier appeals.*
>
> *"The order was issued without jurisdiction and is void for that reason," they wrote.*
>
> *They noted Randa issued his decision without holding a hearing. He had twice scheduled hearings, only to cancel them.*
>
> *"The district court denied defendants an opportunity to either present evidence or argue the law," the prosecutors wrote.*
>
> *Randa has been reversed by the federal appeals court in another past criminal case with strong political overtones.*
>
> *In April 2007, the appeals court ruled that state purchasing supervisor Georgia L. Thompson was wrongly convicted of making sure a state travel contract went to a firm linked to Democratic Gov. Jim Doyle's re-election campaign.*
>
> *In that case, in which Randa sentenced Thompson to 18 months in prison, one appellate judge called the evidence used to convict Thompson "beyond thin."*
>
> *In his decision Tuesday, Randa ordered an immediate halt to the investigation, the return of all property seized during it, and the destruction of any information and materials gained in the investigation. He told the Wisconsin Club for Growth it did not need to cooperate with prosecutors in any way.*
>
> *Special prosecutor Francis Schmitz, who was leading the investigation, said late Tuesday he expects to challenge the decision by appealing to the 7th Circuit Court of Appeals in Chicago.*

“I’m virtually assured we will appeal this decision,” Schmitz said. “I have to consult with the others and my attorney” before making a final decision.

This entry was posted in campaign finance, chicanery by Rick Hasen. Bookmark the permalink [http://electionlawblog.org/?p=61292] .