

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM J. KEEFE and
RANDY J. KEEFE,

Plaintiff,

v.

RONALD A. ARTHUR, State Bar Number
01009-482, and KATHLEEM M. ARTHUR,
State Bar Number 01017413,

Defendants.

ORDER

00-C-0016-C

All of the defendants plaintiffs named in their complaint except Ronald A. Arthur and Kathleen M. Arthur (named in the caption as *Kathleem* M. Arthur but referred to elsewhere as Kathleen) were dismissed from this lawsuit on March 2, 2000. In the order of dismissal, I gave plaintiffs until May 3, 2000, in which to file proof of service of their complaint on defendants Ronald and Kathleen Arthur. (Plaintiffs had admitted that they were having difficulty locating the Arthurs.) Shortly before the May 3 deadline, plaintiffs asked for another 120 days to serve the defendants, alleging that the defendants had filed for bankruptcy and were “jointly scheming” to avoid being served. In an order dated April 25,

2000, I dismissed this case without prejudice to plaintiff's requesting vacation of the dismissal order on two conditions: 1) if the bankruptcy proceeding was terminated without disposing of the rights of the plaintiffs and the Arthurs; and 2) so long as plaintiffs could show that they would be able to serve their complaint on the Arthurs within the time allowed under the Federal Rules of Civil Procedure.

Now plaintiff William Keefe has filed a motion to vacate the dismissal order and allow him to amend the complaint to add parties. The motion will be denied.

Plaintiff asserts that his rights have not been disposed of in the bankruptcy proceeding and that he can "guarantee" that service can be accomplished, but he has not submitted proof to support either of these bald assertions. In particular, he has not submitted a copy of the bankruptcy court's decision or other legal document showing that the bankruptcy court did not dispose of plaintiffs' claim for money damages against the Arthurs or the Arthurs' claim that plaintiffs owed them money. In addition, he has not provided proof that he is aware of the Arthurs' current whereabouts.

In any event, I do not intend to allow plaintiff William Keefe to reopen this case to amend his complaint to eliminate plaintiff Randy Keefe and to name new defendants. If plaintiff William Keefe believes he has claims against new persons for alleged violations of his constitutional rights, he will have to raise them in a separate lawsuit.

ORDER

IT IS ORDERED that plaintiff William J. Keefe's motion to vacate dismissal order and amend complaint to add parties is DENIED.

Entered this 8th day of May, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge