

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

GREGORY JOHN McGRATH
TTEE (True Name),

Petitioner,

v.

UNITED STATES INC.,
SOCIAL SECURITY ADMINISTRATION,
KENNETH S. APFE: Commissioner,
Regional Administrator: RICIADO ACEVEDO,
STATE OF WISCONSIN, INC.,
DEPARTMENT OF HEALTH AND
FAMILY SERVICES, PHYLILS J. DUBE,
Secretary, and SARAH E. SPRECHER, Disability Specialist,

Respondents.

This is a proposed civil action for declaratory relief brought pursuant to the Uniform Commercial Code and Social Security Act of 1935, in which petitioner Gregory John McGrath requests leave to proceed in forma pauperis. For the most part, petitioner's proposed complaint is filled with incoherent strings of legal jargon. However, I infer from his allegations that he is seeking a judgment declaring him to be the trustee of "his" social

security “account” and that, as trustee, no one (including President George W. Bush) may eliminate the trust’s assets or benefits, deny that the trust exists or privatize the funds.

Petitioner is unemployed with no dependents and does not have any extraordinary assets or debts. Under this court’s standard, petitioner is indigent and may proceed without any prepayment of fees and costs.

In addressing petitioner’s pro se complaint, the court must construe it liberally. See Haines v. Kerner, 404 U.S. 519, 521 (1972). However, this court must dismiss petitioner’s case if, even under a liberal construction, it is legally frivolous, fails to state a claim upon which relief may be granted or seeks damages from a respondent who is immune from such relief. See 28 U.S.C. § 1915(e).

Because I find the petitioner’s claim is legally frivolous, I will deny his request for leave to proceed in forma pauperis.

In his complaint, petitioner makes the following allegations of fact.

ALLEGATIONS OF FACT

Under the Social Security Act of 1935, the Social Security Administration set up a trust in petitioner’s name. By issuing petitioner a social security card and instructing him to sign it, the Social Security Administration offered him the position of trustee of his social security trust fund account. Petitioner accepted that offer by signing his card.

The Social Security Administration created petitioner's trust "in construct without indenture with nothing limiting the Trustee from creating an actual indenture to move the Trust out of Construct." As of January 2002, the trust contained \$12,800, exclusive of wages, fees and interest.

DISCUSSION

Petitioner alleges that his signing of his social security card created a trust in which he was appointed trustee. However, under 42 U.S.C. § 901(b), "[i]t shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program . . . and the supplemental security income program." Petitioner does not cite any specific provision of the Social Security Act that confers the status of trustee on him by virtue of signing his social security card and I am aware of none. Moreover, petitioner alleges nebulously that the Uniform Commercial Code somehow bolsters his legal position. However, I am unable to discern how the UCC would have any application to petitioner's claim that he is the trustee of his social security fund. Because petitioner's claim is legally frivolous, I will deny his request for leave to proceed in forma pauperis.

ORDER

IT IS ORDERED that

1. Petitioner Gregory John McGrath's request for leave to proceed in forma pauperis is DENIED because his claim is legally frivolous.

2. The clerk of court is directed to close the file.

Entered this 28th day of March, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge