

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

SCOTT A. HEIMERMANN,

Plaintiff,

v.

MINNCOR INDUSTRIES, PAUL ANDERSON,
DENNIS BENSON, DANIEL A. FERRISE,
FLOAT-RITE-PARK, JOHN GALZKI, LARRY
LINDSTROM, JOHN MONTPETIT, ERIK
SKON, JAMES SUTHERLAND and DOES 1-100,

Defendants.

ORDER

02-C-426-C

This is a proposed civil action for injunctive and monetary relief. Plaintiff is a prisoner presently confined at the Waupun Correctional Institution in Waupun, Wisconsin. Although plaintiff has paid the full filing fee (and thus is not proceeding in forma pauperis), his complaint must still be screened because he is a prisoner proceeding pro se. See 28 U.S.C. § 1915A. In addressing any pro se litigant's complaint, the court must construe the complaint liberally. See Haines v. Kerner, 404 U.S. 519, 521 (1972). However, the prisoner's complaint must be dismissed if, even under a liberal construction, it is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks money

damages from a defendant who is immune from such relief. See 42 U.S.C. § 1915A(b).

Plaintiff has a long history of filing frivolous and fanciful lawsuits in federal and state court. In an earlier order in this case, I described some of plaintiff's previous suits. In Heimermann v. California Federal Bank, No. 95-1818, 1995 WL 649926 (7th Cir. Nov. 2, 1995) (unpublished opinion), plaintiff sued California Federal Bank and Cantor Fitzgerald Brokerage for the illegal rejection of a \$240 million cash bid on certain loans they were selling. Noting plaintiff's "fantastical allegations," the district court dismissed his complaint for failure to state a claim and the Court of Appeals for the Seventh Circuit summarily affirmed the dismissal. In Heimermann v. Global Securities Trust Co., No. 96-2963, 1997 WL 764389 (7th Cir. Nov. 25, 1997) (unpublished opinion), plaintiff alleged that Global Securities had contracted to buy \$87 million in treasury bonds from him and had reneged on the agreement. The district court dismissed the case as frivolous, finding plaintiff's factual allegations "wholly incredible," "fanciful," and "wholly unbelievable." Id. at *2. Concluding that "[t]o say the least, an allegation that anyone would use an incarcerated double murderer to broker a T-Bond transaction is puzzling at best," the Court of Appeals for the Seventh Circuit found that plaintiff's allegations were frivolous and affirmed the district court. In Heimermann v. Ramp, No. Civ. 01-437 ADM/AJB, 2001 WL 1628739 (D. Minn. Sept. 6, 2001), plaintiff alleged that the respondent had engaged in an abuse of process by seeking to place a lien against his prison trust account in an effort to enforce

previously imposed court sanctions. Petitioner alleged that he was the victim of slander and a conspiracy to block him from litigating another case. The court found petitioner's claims frivolous and vexatious and sanctioned him \$750 pursuant to Fed. R. Civ. P. 11(b).

Plaintiff's latest complaint is entirely in keeping with his history of frivolous claims. In a 75 page complaint comprising 187 paragraphs, most with multiple sub-parts, petitioner alleges a host of federal and state statutory and common law claims against defendants. However, the underlying facts that plaintiff alleges are wholly incredible. A suit may be dismissed where "the facts alleged in the complaint are so nutty ('delusional' is the polite word) that they're unbelievable, even though there has been no evidentiary hearing to determine their truth or falsity." Gladney v. Pendleton Correctional Facility, 302 F.3d 773, 774 (7th Cir. 2002). The factual allegations in plaintiff's complaint fit that bill. According to plaintiff, while he was incarcerated for murder in Minnesota, defendants hired him to "develop a 21st Century — state of the art — government e-procurement concept into a workable system design, capable of billion-dollar savings for MINNCOR and the State of Minnesota." In the course of developing his e-procurement system, plaintiff discovered a "massive scheme or artifice to defraud" that amounted to "one of the largest governmental financial frauds in the history of Minnesota and perhaps the United States." Plaintiff then contacted the FBI, whose special agents hired him to continue investigating defendant MINNCOR. Because plaintiff was about to blow the lid off defendants' scheme, they stole

his “advanced government trade secret property and e-procurement system.” The frivolity of these factual allegations is readily apparent.

Gladney was a suit against prison officials and was dismissed as frivolous pursuant to 28 U.S.C. § 1915A, which applies to prisoner suits seeking redress from “a governmental entity or officer or employee of a governmental entity.” It is not clear from plaintiff’s complaint whether defendants are governmental entities, employees or officers but this makes little difference because in any case a “frivolous suit does not engage the jurisdiction of the federal courts.” Walters v. Edgar, 163 F.3d 430, 433 (7th Cir. 1998). Accordingly, plaintiff’s complaint will be dismissed because it is frivolous. The dismissal will be with prejudice because although “a frivolous suit does not engage the jurisdiction of the district court to decide the merits of the suit, the court has jurisdiction to determine its jurisdiction, and its determination precludes the plaintiff from filing a new suit with the same jurisdictional defect.” Gladney, 302 F.3d at 775.

ORDER

IT IS ORDERED that this case is DISMISSED with prejudice for lack of jurisdiction.

Entered this 21st day of November, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge