

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

MICHAEL O'GRADY,

Plaintiff,

v.

MARATHON COUNTY CHILD SUPPORT
AGENCY, JENIFER FOLEY; SYNTHIA
O'GRADY; TAMYY LEVIT-JONES; PAUL
A. DIRKSE and DANIEL KLINT,

Defendants.

ORDER

03-C-700-C

This is at least the second civil action plaintiff has filed in this court in which he alleges that defendants committed various acts of conspiracy or fraud in the events surrounding defendant Synthia O'Grady's attempts to collect child support from him. Although plaintiff numerous wrongs perpetrated by defendants (including violations under the First, Fourth, Fifth, Sixth, Seventh, Eighth, Thirteenth, and Fourteenth Amendments of the United States Constitution, the Wisconsin Constitution and several Wisconsin state statutes), the body of his complaint does not allege facts to support a claim of a violation of his rights under federal law.

Generally, federal courts have the power to hear two types of cases: (1) cases in which a plaintiff alleges a violation of his or her constitutional rights or rights established under federal law and (2) cases in which a citizen of one state alleges a violation of his or her rights established under state law by a citizen of another state and the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1331-32; see also Wild v. Subscription Plus, Inc., 292 F.3d 526 (7th Cir. 2002) (court has independent obligation to insure jurisdiction exists). Plaintiff's allegations of conspiracy and fraud surrounding the collection of his child support payments do not fall into either category. Moreover, as I explained to plaintiff in an order entered in January 2003, dismissing O'Grady v. Marathon County Child Support Agency, 02-C-708-C, plaintiff's claims run up against the general rule that family law matters are outside the jurisdiction of federal courts. See Hisquierdo v. Hisquierdo, 439 U.S. 572, 581 (1979).

Plaintiff argues that this court may have diversity jurisdiction to hear his claims because he is suing defendants whose citizenship is in Minnesota. To prove the existence of diversity jurisdiction, the plaintiff must show both that the \$75,000 amount in controversy has been satisfied and that there is complete diversity of citizenship. Even if I assume without deciding that the amount in controversy requirement is satisfied in this case, plaintiff appears to be a citizen of Wisconsin and is suing three defendants who also appear to be citizens of Wisconsin. (He has listed Wausau addresses for defendants Marathon

County Child Support Agency, Tammy Levit-Jones and Paul Dirkse.) To satisfy the complete diversity requirement, there must not be citizens of the same state on opposite sides of a lawsuit. Turner/Ozane v. Hyman/Power, 111 F.3d 1312, 1318 (7th Cir. 1997).

Accordingly, IT IS ORDERED that plaintiff's lawsuit is DISMISSED for lack of subject matter jurisdiction.

Entered this 11th day of December, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge