

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

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SUSAN A. CHOLVIN,

Proposed Intervenor,

v.

MEADOWLARK MANOR  
CONDOMINIUM ASSOCIATION,

Defendant.  
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ORDER

04-C-0530-C

This case is before the court on defendant Meadowlark Manor Condominium Association's motion to dismiss it because of proposed intervenor Susan Cholvin's failure to meet the court's deadlines for moving to intervene and filing an actionable complaint after the original plaintiff, United States of America, reached a settlement on her behalf for injunctive relief. The motion raises the question of how much assistance a pro se litigant is entitled to expect from the court in prosecuting a suit.

On March 15, 2005, I entered an order approving the settlement between the United States and defendant and giving Cholvin until April 15, 2005 in which to intervene as a plaintiff. On March 30, 2005, Cholvin asked for an extension of time because she had not

retained counsel. I granted this request, giving her until May 2, 2005, in which to retain counsel and have counsel file a notice of appearance. On May 4, 2005, Cholvin filed a one-page document in which she stated that she was moving to intervene and added a paragraph setting forth some of her complaints against defendant: that she “did pay”; that defendant’s attorney never issued her a lien waiver; that it was apparent to her that defendant did not want payment in full, but only wanted her out; and that she does not have access to a picnic table or the common area. She did not say why she thought she had a federal suit, why she might be entitled to lien waivers or what she wanted in the way of relief from the court and she did not say whether she had tried to retain an attorney and if so, what steps she had taken in this respect.

Cholvin did not send a copy of her motion to intervene and her proposed complaint to defendant’s counsel, who moved on May 5, 2005 to dismiss the action because Cholvin had not met the May 2 date set by the court. I deferred a ruling on this motion and entered an order directing Cholvin to file a proposed complaint no later than May 24, 2005, with a copy to defendant’s counsel, and advising her exactly what to include in her complaint.

On May 25, 2005, Cholvin filed a document in which she set forth the conditions on which she would sign a release (\$5,000 for each release from every one of 16 “unit owners,” \$5,000 for each release from each of four officers and \$20,000 from State Farm) and saying that she would like all issues “completed” immediately on the Housing Complaint she filed

in September 2003.

On May 25, 2005, defendant filed the renewed motion that is now before the court, noting that Cholvin had failed to comply with the court's order to file a new motion and complaint by May 24, 2005. In the motion, he stated that Cholvin had never sent him a copy of her May 4 motion.

It appears that Susan Cholvin is either unable or unwilling to follow the instructions she has been given on moving to intervene and filing a complaint that explains to the court and to defendant's counsel why she is suing, what legal rights she is trying to vindicate, what she wants in the way of relief and exactly what defendants did to her or failed to do. She has had the help of the United States, which prosecuted this case on her behalf but was unable to persuade her to accept the settlement she was offered by defendant. She has failed to secure new counsel, despite being given six weeks in which to do so.

At this point, the only two possibilities are to dismiss the case for Cholvin's failure to show why she should be allowed to intervene or to appoint counsel to represent her. I do not believe that the second option is appropriate. Cholvin has not shown that she could not afford to hire her own attorney. Even if she could make this showing, she would be competing for appointment with hundreds of pro se litigants who are prosecuting cases in this court. All could benefit from the appointment of counsel. Considering the limited number of lawyers willing to accept court appointments, I am not persuaded that I should

ask one of them to take over this case when Cholvin had the effective representation of an Assistant United States Attorney through the first eight months of this proceeding and was unwilling to take his advice. Cholvin has had a fair chance either to hire an attorney on her own or to prosecute this case herself. She was given a second opportunity to file a proposed complaint with explicit instructions on what it should include but failed to take advantage of the opportunity.

Therefore, I will deny Cholvin's motion to intervene on the ground that she has failed to show any ground for granting the motion and I will grant defendant's motion to dismiss the case on the ground that nothing remains to be decided.

#### ORDER

IT IS ORDERED that Susan Cholvin's motion to intervene in this case is DENIED for her failure to demonstrate why she should be allowed to intervene as of right or with the permission of the court and defendant Meadowlark Manor Condominium Association's motion to dismiss the case is GRANTED. The clerk of court is directed to close the case.

Entered this 2nd day of June, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge