

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

FREDERICK GEORGE KRIEMELMEYER,

Plaintiff,

v.

MEMORANDUM and ORDER
05-C-193-S

ERIC KOPP, STEVEN CROCKER and
INTERNAL REVENUE SERVICE,

Defendants.

Plaintiff commenced this action on April 4, 2003 against defendants Eric Kopp, Steven Crocker and Internal Revenue Service. On May 26, 2005 defendant Steven Crocker's motion to dismiss plaintiff's complaint was granted. On June 10, 2005 defendants Eric Kopp and the Internal Revenue Service moved to dismiss plaintiff's complaint. Pursuant to this Court's May 3, 2005 scheduling order plaintiff's response to defendants' motion to dismiss was to be filed not later than June 30, 2005 and has not been filed to date.

A complaint should be dismissed for failure to state a claim only if it appears beyond a reasonable doubt that the plaintiffs can prove no set of facts in support of the claim which would entitle the plaintiffs to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). In order to survive a challenge under Rule 12(b)(6)

a complaint "must contain either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory." Car Carriers, Inc. v. Ford Motor Co., 745 F. 2d 1101, 1106 (7th Cir. 1984).

MEMORANDUM

Defendants Eric Kopp and the Internal Revenue Service move to dismiss plaintiff's complaint against them because it does not contain "a short and plain statement of the claim showing that the pleader is entitled to relief" pursuant to Rule 8(a), Federal Rules of Civil Procedure. The complaint is unintelligible. Plaintiff does not allege any conduct by the defendants Eric Kopp and the Internal Revenue Service.

Accordingly, defendants' motion to dismiss plaintiff's complaint against them will be granted. Judgment will be entered in favor of defendants Eric Kopp, Steven Crocker and Internal Revenue Service against plaintiff dismissing his complaint and all claims contained therein with prejudice and costs.

ORDER

IT IS ORDERED that the motion to dismiss plaintiff's complaint by defendants Eric Kopp and Internal Revenue Service is GRANTED.

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IT IS FURTHER ORDERED that judgment is entered in favor of defendants Eric Kopp, Steven Crocker and Internal Revenue Service against plaintiff DISMISSING his complaint and all claims contained therein with prejudice and costs.

Entered this 6th day of July, 2005.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge