

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

BRYAN DENNIS HOEL,

Plaintiff,

v.

MEMORANDUM and ORDER

JUDITH A. COLEMAN,

06-C-240-S

Defendant.

Plaintiff commenced this action on May 1, 2006 against defendant Judith A. Coleman. On May 25, 2006, defendant moved to dismiss plaintiff's complaint for failure to state a claim for relief. Pursuant to this Court's May 25, 2006 scheduling order plaintiff's response to this motion was to have been filed not later than June 14, 2006 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

Defendant moves to dismiss plaintiff's complaint for failure to state a claim for relief under federal law. In his complaint plaintiff does not allege any action by the defendant.

Plaintiff does not allege any facts that would support a claim under federal law. Accordingly, defendant's motion to dismiss plaintiff's complaint will be granted.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that defendant's motion to dismiss is GRANTED.

IT IS FURTHER ORDERED that judgment be entered in favor of defendant against plaintiff DISMISSING his complaint and all claims contained therein with prejudice and costs.

Entered this 19th day of June, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge