

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

MICHAEL YOUNG,

Petitioner,

v.

THE EAU CLAIRE, WISCONSIN,
POLICE STATION,

Respondent.

OPINION and ORDER

08-cv-255-slc

Because Judge Shabaz is on a medical leave of absence from the court for an indeterminate period, the court is assigning 50% of its caseload automatically to Magistrate Judge Stephen Crocker. It is this court's expectation that the parties in a case assigned to the magistrate judge will give deliberate thought to providing consent for the magistrate judge to preside over all aspects of their case, so as to insure that all cases filed in the Western District of Wisconsin receive the attention they deserve in a timely manner. At this early date, consents to the magistrate judge's jurisdiction have not yet been filed by all the parties to this action. Therefore, for the purpose of issuing this order only, I am assuming jurisdiction over the case.

In this civil action brought under 42 U.S.C. § 1983, petitioner Michael Young, a resident of Eau Claire, Wisconsin, contends that assorted Eau Claire Wisconsin police officers have violated his civil rights in a variety of ways. Petitioner has requested leave to proceed without prepayment of fees and costs or providing security for such fees and costs, pursuant to 28 U.S.C. § 1915.

From his affidavit of indigency, I conclude that petitioner qualifies for indigent status. Nevertheless, before petitioner may proceed in forma pauperis, I must determine whether his action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972). For the reasons discussed below, petitioner's request for leave to proceed in forma pauperis will be denied and the complaint dismissed.

In his complaint, petitioner makes the following allegations of fact.

ALLEGATIONS OF FACT

On June 30, 2007, petitioner was given a traffic ticket by Eau Claire police officer Tom Booth. The ticket stated that petitioner had deviated from his lane. Officer Booth knew that this statement was false and gave petitioner the ticket with the intent "to falsely

accuse, defraud [and] harass” petitioner. Officer Booth sent information to the Department of Motor Vehicles, stating that petitioner had gone down a one way street the wrong way. Booth knew that this was false as well. Finally, “he was not at the scene” of an incident in which a woman named Courtney Keys was driving illegally on state property and masturbating while she was operating a motor vehicle.

Every five or six months, the Eau Claire Police Chief and Fire Commission, the Eau Claire Benevolent Police Association, the Wisconsin State Trooper Association, the Wisconsin Police Association, the Eau Claire Sheriff’s Association and the Eau Claire Fireman’s Association call petitioner and demand that he give them money. They continue to call him even though he has told them many times that they should not call him any more. On January 17, 2007, a telemarketer from the Eau Claire Benevolent Police Association called petitioner and demanded that he give the Association money, buy garbage bags from them and that he vote for Mitt Romney. Petitioner told the caller that he would not give the Association money, buy garbage bags or vote for Mitt Romney.

On Saturday, February 16, 2008, petitioner attended a Barack Obama rally in Eau Claire, Wisconsin. Petitioner had to wait in line for the rally. When petitioner reached the front of the line, two Eau Claire police officers, who refused to identify themselves, demanded that petitioner return to the back of the line. This happened twice. The police officers refused to let petitioner in the building because of his race and because he refused

to vote for Mitt Romney.

Finally, on March 13, 2008, a police officer walked into a post office in Eau Claire while petitioner was being helped by a clerk. The police officer walked up to the clerk and petitioner and demanded that the clerk help him immediately. Petitioner told the police officer that he had to wait in line like everyone else. The police officer refused to do so.

DISCUSSION

Petitioner's complaint is a jumble of miscellaneous grievances and allegations linked by a common thread of accusations of perceived police misconduct in a variety of settings. There are many reasons why I cannot permit petitioner to proceed in forma pauperis with this complaint. However, I need not examine them all, because petitioner's complaint suffers from at least one immediately apparent and fatal flaw. Under § 1983, a *person* acting under color of state law may be liable if he deprives a citizen "of any right under the Constitution or federal law." The respondent in this case is the Eau Claire, Wisconsin Police Station, which is not a "person" capable of accepting service of petitioner's complaint or responding to it. Therefore, petitioner's request to proceed in forma pauperis will be denied and his complaint dismissed for failure to state a claim upon which relief may be granted.

ORDER

IT IS ORDERED that petitioner Michael Young's request to proceed in forma pauperis is DENIED because his complaint does not state a claim upon which relief may be granted. Accordingly, petitioner's complaint is DISMISSED.

Entered this 21st day of May, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge