

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

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MICHAEL O'GRADY,

Plaintiff,

v.

SYNTHIA Y. O'GRADY and  
DANIEL A. KLINT,

Defendants.  
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ORDER

10-cv-222-bbc

In this lawsuit proceeding under the court's diversity jurisdiction, plaintiff Michael O'Grady brought claims of tortious interference with the custody of a child and intentional infliction of emotional distress against defendants Synthia O'Grady and Daniel Klint. In a February 15, 2011 order, I granted defendants' motion to dismiss on a portion of plaintiff's claims and granted defendants' motion for summary judgment on the remainder of his claims.

Now before the court is plaintiff's notice of appeal along with his request to proceed in forma pauperis on appeal. Because plaintiff was granted leave to proceed in forma pauperis in this court, he "may proceed on appeal in forma pauperis unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." Fed. R. App. P. 24(a). I cannot certify that the appeal is not taken in good faith and I can see no other reason to deny plaintiff's request to proceed in

forma pauperis.

Finally, plaintiff has filed a motion asking the court to direct the U.S. Attorney to convene a grand jury regarding the facts in this case. However, federal courts do not have the authority to order law enforcement officials to conduct investigations into potential criminal misconduct. "Whether to prosecute and what charge to file or bring before a grand jury are decisions that generally rest in the prosecutor's discretion." United States v. Batchelder, 442 U.S. 114, 124 (1979).

#### ORDER

IT IS ORDERED that

1. Plaintiff Michael O'Grady's motion for leave to proceed in forma pauperis on appeal, dkt. #70, is GRANTED.
2. Plaintiff's motion to convene a grand jury, dkt. #74, is DENIED.
3. The clerk of court is requested to insure that the court's financial records reflect plaintiff's obligation to pay the \$455 fee for his appeal in monthly installments pursuant to 28 U.S.C. § 1915(b)(2).

Entered this 31st day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge