

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

SEAN ANTHONY RIKER,

Plaintiff,

v.

TAYLOR ANNE RIKER,

Defendant.

ORDER

12-cv-641-bbc

Plaintiff Sean Anthony Riker, an inmate at the Wisconsin Secure Program Facility, is proceeding pro se on a claim that defendant Taylor Anne Riker slandered him by falsely telling the police that he had downloaded child pornography on his computer. Plaintiff has filed three miscellaneous motions with the court.

First, plaintiff filed a motion requesting clarification regarding the statute of limitations that applies to his slander claim. Dkt. #14. In the screening order entered on October 18, 2012, I noted that although plaintiff could proceed with his slander claim against defendant, it was possible that his claim was untimely and barred by the statute of limitations. Under Wisconsin law, plaintiff was required to bring his claim of slander within two years of the date he learned of his injury. Wis. Stat. § 893.57 (2009) (“An action to recover damages for libel, slander, assault, battery, invasion of privacy, false imprisonment or other intentional tort to the person shall be commenced within 2 years after the cause of

action accrues or be barred.”). I noted that defendant’s alleged slander occurred in December 2009, which was more than two years before plaintiff filed this lawsuit on August 31, 2012. However, because it was not clear from plaintiff’s allegations when he became aware of defendant’s statements to the police about his alleged child pornography, I could not determine whether plaintiff’s claim was time-barred.

In his motion for clarification, plaintiff states that he did not learn of defendant’s allegations under September 25, 2010. If this is true, plaintiff’s claim may not be barred by the statute of limitations. However, I cannot make a determination about the statute of limitations at this stage of the case. Defendant must have an opportunity to conduct discovery on the issue and present any motions that she believes are necessary to address the issue. Therefore, I will deny plaintiff’s motion for clarification.

Plaintiff’s other motions relate to discovery. In two separate motions he requests that the court issue an order requiring that his home laptop computer be sent to the Wisconsin Secure Program Facility so that he may review the child pornography that defendant alleged was on them. Dkt. ##8, 14. I will deny these motions. Plaintiff does not explain why it is necessary for him to obtain his personal computer or to review the alleged pornographic materials to prove his slander claim against defendant. Plaintiff already has evidence that he was not charged with possessing child pornography and that the computer was examined by a forensic investigator who concluded that it did not contain child pornography.

In any event, it is not proper for plaintiff to ask the court to obtain information for him that he believes he needs to prove his case. After defendant has been served, the court

will schedule a preliminary conference at which the magistrate judge will provide the parties with instructions for conducting discovery and obtaining documents and other evidence. Plaintiff must follow these instructions to obtain evidence from defendant or third parties. Plaintiff should request court assistance in obtaining evidence only if he has attempted to obtain relevant evidence through proper discovery procedures and has been unsuccessful.

ORDER

IT IS ORDERED that

1. Plaintiff Sean Anthony Riker's motion for clarification, dkt. #13, is DENIED.
2. Plaintiff's motion for a court order, dkt. #8, and motion request access to his computer, dkt. #14, are DENIED.

Entered this 31st day of October, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge