

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

RICKY SOPER,

Plaintiff,

v.

MEMORANDUM

16-cv-164-bbc

PORTAGE COUNTY SHERIFF'S
DEPT., JEFF COEY, WAYNE
KROPIDLOWSKI, BRIAN
MANDEVILLE, MIKE SCHULTZ,
PORTAGE COUNTY SHERIFF'S
SPECIAL RESPONSE TEAM, DALE
O'KRAY, BEN BEAUDOIN, DAN
WACHOWIAK, TRAVIS MORGAN,
TRAVIS LEWANDOWSKI, JASON
MEIDL, RYAN HOFFMAN, JARED MAYER,
MATTHEW MCDONALD, KEVIN FLICK,
KIMBERLY DESROSIER, and ANTHONY
GISCHIA,

Defendants.

In an order entered on September 14, 2016, I granted the motion of State of Wisconsin, Thomas Flugaur, Craig Jascor and Cass Cousins to dismiss plaintiff Ricky Soper's claims against them. The claims against Flugaur, Jascor and Cousins were dismissed because plaintiff had not identified any way in which these three men had violated his rights. All he had said in his complaint was that the three of them (a judge, a prosecutor and a probation officer) had humiliated him by laughing at a statement he made during a court

proceeding and this was not enough to state a claim against any one of them. In the order, I noted that being laughed at during a court proceeding did not violate any legal right that defendant had, unprofessional as it might have been. The State of Wisconsin was dismissed as a defendant because it is not an entity that can be sued except in very limited circumstances. Plaintiff did not explain why he was suing the state so there was no basis on which to conclude that this was one of the few instances in which it could be sued.

In response to the September 14 order, plaintiff wrote me, complaining about the dismissal of the four defendants, accusing me of having no understanding of the difficulties he has had during his lifetime, wanting to know the name of “my boss” and asking for the proper form to use to file an appeal from the ruling. Technically, I have no obligation to respond to his letter since he did not send a copy to counsel for defendants, as the law requires. However, it may be helpful for all the parties if I explain to plaintiff something about how the courts work.

A person in plaintiff’s position who objects to a court ruling can always obtain a review of the ruling from the court of appeals. In general, however, the rules do not permit a plaintiff to appeal from a federal court ruling until his case has come to an end. There are a very few exceptions, but none that would apply in this case. Of course, plaintiff is free to dismiss his complaint against the remaining defendants and either pay the filing fee for an appeal or obtain permission for leave to proceed without paying the filing fee, so that his case could proceed to the court of appeals. What he cannot do is appeal just a part of his case and leave the rest of it open.

At the early stages of a lawsuit, a plaintiff whose claims have been denied may draft and file an amended complaint that explains exactly why and how the defendants he is suing acted unconstitutionally. (Because plaintiff is suing *state* officials and employees in *federal* court, it is not enough for him to allege that a defendant acted illegally or improperly. He must state facts showing that the defendant acted in violation of the United States Constitution or some other federal law.)

As to plaintiff's claims that no consideration was given to the difficulties he has had in his lifetime, judges cannot take such matters into account unless the plaintiff can show that they relate to the claims that he is raising. A plaintiff's injuries, medical condition, financial circumstances and hardships of life can be considered only to the extent that they are part of his claim or relate directly to it.

As to plaintiff's request for the name of my "boss," my responsibility is to the Court of Appeals for the Seventh Circuit, which has the authority to review any opinion I issue once it is appealed. As I have explained, plaintiff cannot ask the court of appeals for such a review before the case is closed as to all the persons plaintiff has sued, unless he would dismiss the rest of his suit. If, after reviewing this order, plaintiff believes that he wants to abandon the remainder of his case and take an appeal from the September 14 ruling, he may write to the clerk of court, 210 N. Henry St., Madison, WI 53703, and ask for a form to use

for his appeal.

Entered this 31st day of October, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge