

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

FANNY ADAMA,

Petitioner,

ORDER

v.

02-C-371-C

TAYLOR, ROBERT P. (Good Year Garage),
and MICHELLE JAQUES,

Respondents.

This is a proposed civil action for monetary relief brought pursuant to 42 U.S.C. § 1983. Petitioner Fanny Adama, who is presently confined at the Oshkosh Correctional Institution in Oshkosh, Wisconsin, initially sought leave to proceed in forma pauperis in this action and was assessed an initial partial payment of the filing fee. Subsequently, however, petitioner paid the remainder of the fee. Nevertheless, because he is a prisoner, petitioner's complaint must be screened pursuant to the 1996 Prison Litigation Reform Act and 28 U.S.C. § 1915A.

In addressing any pro se litigant's complaint, the court must construe the complaint liberally. See Haines v. Kerner, 404 U.S. 519, 521 (1972). However, if the litigant is a

prisoner, the 1996 Prison Litigation Reform Act requires the court to deny leave to proceed if the prisoner's complaint is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks money damages from a defendant who is immune from such relief.

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

ALLEGATIONS OF FACT

Petitioner Fanny Adama is an inmate at the Oshkosh Correctional Institution in Oshkosh, Wisconsin. Before he was incarcerated at Oshkosh, petitioner was confined for a time at the Dane County jail in Madison, Wisconsin. Respondent Robert P. Taylor is the manager of a Goodyear garage in Madison, Wisconsin. Respondent Michelle A. Jaques is an acquaintance of petitioner and is a resident of Madison, Wisconsin.

Before he was incarcerated at the Dane County jail, petitioner took his 1984 Dodge Diplomat to the Goodyear garage on East Washington Avenue in Madison, Wisconsin, for repair. After he was moved from the Dane County jail to the Oshkosh Correctional Institution, petitioner asked respondent Jaques to pick up his personal possessions from the Dane County jail, which included his car keys. Petitioner believes respondent Jaques retrieved his car from the garage without his permission. In November, petitioner's lawyer told petitioner that his car had been reported stolen from the garage parking lot and

suggested petitioner contact the garage. Petitioner has written at least two letters to the garage about the incident but no one from the garage has responded to his letters. According to a police report attached to petitioner's complaint, respondent Taylor reported petitioner's car stolen on November 10, 2000.

DISCUSSION

Petitioner alleges that respondent Taylor, the Goodyear garage manager, was negligent and mistreated him as a customer when he released petitioner's car without petitioner's consent. Although he does not say so expressly, petitioner appears also to be alleging that respondent Jacques took his car without his consent. Petitioner seeks monetary damages in the amount of \$5,000 and the return of his car.

Federal courts are courts of limited jurisdiction. They can hear only those cases that Congress empowers them to hear. Generally, federal courts have the power to hear two types of cases: cases in which the petitioner alleges a violation of a his constitutional rights or rights established under federal law, and cases in which the petitioner, a citizen of one state, alleges a violation of his rights established under state law by a citizen of another state.

Petitioner's complaint does not allege violations of his constitutional rights or his rights under federal law. At most, he states a claim of negligence or property loss under state law. However, petitioner's state law claims cannot be heard in this court under diversity

jurisdiction, 28 U.S.C. § 1332, because petitioner and the respondents are not alleged to be citizens of different states and the amount in controversy falls far short of the \$75,000. 01 minimum. Accordingly, petitioner's complaint must be dismissed for lack of jurisdiction.

ORDER

IT IS ORDERED that this case is DISMISSED on the court's own motion for lack of jurisdiction.

Entered this 1st day of August, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge