

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

JEFFREY M. SCHREIBER,

Plaintiff,

v.

Columbia County Sheriff STEVE ROWE,

Defendant.

ORDER

03-C-178-C

In an order dated May 8, 2003, I allowed plaintiff Jeffrey Schreiber to proceed in forma pauperis on a claim that defendant Steve Rowe violated his rights under the Interstate Agreement on Detainers by failing to inform him of a detainer lodged against him in Indiana and of his right to make to a request for a final disposition of the Indiana complaint. As plaintiff's custodian, it was Rowe's duty to give plaintiff sufficient notice of the detainer. However, I dismissed the remaining defendants because I concluded that it was not their duty under the agreement to inform plaintiff of his rights.

Plaintiff has submitted a letter to the court, which I construe as a motion for reconsideration. He argues that I erred in dismissing the judges, district attorneys, probation officers and many other defendants that he named in his complaint. For support, he points

to Wis. Stat. § 975.06(11), which provides: “All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other parties in enforcing the agreement and effectuating its purpose.” Plaintiff contends that the remaining defendants violated § 975.06(11) because he approached them for assistance but they denied him relief.

Plaintiff’s motion for reconsideration will be denied. First, I note that several of the parties that plaintiff wishes to sue are immune from suit. Judges and prosecutors cannot be sued for conduct performed within the scope of their duties. Pierson v. Ray, 386 U.S. 547, 553-54 (1967); Anderson v. Simon, 217 F.3d 472, 475 (7th Cir. 2000). Similarly, public defenders do not act “under color of state law” for the purpose of 42 U.S.C. § 1983 when performing a lawyer’s traditional functions. Polk County v. Dodson, 454 U.S. 312, 325 (1981).

Further, the statute plaintiff cites is a *state* law. It is *not* part of the Interstate Agreement on Detainers that was sanctioned by Congress. See 18 U.S.C. app.2. Thus, § 1983 could not provide a remedy for its violation because § 1983 imposes liability for violations of federal law only. Cuyler v. Adams, 449 U.S. 433 (1981). Even assuming that it would be appropriate to exercise supplemental jurisdiction over this claim, I would not agree with plaintiff that I erred in dismissing from this suit all defendants except Rowe.

There is no indication in Wis. Stat. § 975.06 that it creates a private right of action against anyone to which plaintiff complained but did not receive assistance. Rather, the provision simply requires public officials to follow the law; it does not create a right that an individual can enforce any time he believes that a particular official should have done more to aid him. Plaintiff has failed to allege any specific duties that the Interstate Agreement on Detainers imposed on the other proposed defendants that they failed to perform. Absent a specific duty owed to plaintiff under the agreement, plaintiff has no rights against the dismissed defendants that may be enforced in this court.

In addition to asking the court to reconsider its May 8 decision, plaintiff notes that the court misconstrued his complaint as alleging that he had never been confined in Indiana. Although he continues to allege that he was not *convicted* in Indiana because his charges were dismissed, he clarifies in his letter that he was confined in Indiana from July 23, 2001, to August 4, 2001, and April 2002, to November 2002. Plaintiff's clarification is noted, but it does not alter the conclusions in the May 8 order. The only reason for addressing the status of the charges against plaintiff in Indiana was to determine the applicability of Heck v. Humphrey, 512 U.S. 477 (1994), which holds that no one can recover damages under 42 U.S.C. § 1983 for an unconstitutional conviction caused by actions whose unlawfulness would render a conviction or sentence invalid unless he can prove that the conviction or sentence has been reversed, expunged or declared invalid. Thus, the relevant question is not

whether plaintiff was held in Indiana but whether allowing him to proceed on his claim would call into question the validity of his conviction. Because plaintiff was never convicted in Indiana, the answer is no.

ORDER

IT IS ORDERED that plaintiff Jeffrey Schreiber's motion for reconsideration is DENIED.

Entered this 2nd day of June, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge