

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

RICHARD P. SKLAR,

Plaintiff,

v.

CITY OF VERONA and
DAVID S. UPHOFF,

Defendants.

ORDER

03-C-288-C

This is a civil action in which plaintiff complains that defendants deprived him of his constitutional rights by mis-reporting on Wisconsin State Crime Information Bureau records that he had a conviction of theft rather than a conviction for misdemeanor disorderly conduct. Plaintiff contends that he did not discover this “false report” until the fall of 2000, and that on his request, Judge Steven Ebert reopened his case and on September 6, 2001, dismissed the charges and expunged the arrest and conviction. Plaintiff contends that he has sent a claim to the City of Verona for “damage to [his] reputation,” but that he has received no response, which is why he is filing this federal lawsuit.

Because plaintiff paid the full filing fee, it is not proper to review the legal merits of his complaint before it is served on the defendants and defendants have had an opportunity

to respond. Therefore, I express no opinion at this time whether plaintiff's claim of constitutional wrongdoing is legally frivolous. However, I am required to point out that plaintiff's complaint is defective in its form. There is no request for relief. See Fed. R. Civ. P. 8 (A pleading . . . shall contain . . . (3) a demand for judgment for the relief the pleader seeks.") Therefore, plaintiff may have two weeks, or until June 20, 2003, in which to supplement his complaint with a request for relief.

After the complaint is supplemented, plaintiff must serve his corrected complaint on the defendants. Under Fed. R. Civ. P. 4(m), a plaintiff has 120 days after filing a complaint in which to serve a defendant. However, that is an outside limit. This court requires that plaintiffs act diligently in moving their case to resolution. If plaintiff acts promptly, he should be able to serve his complaint on the defendants well before the deadline for doing so established in Rule 4.

To guide plaintiff in the procedure for serving a complaint on a municipality, I am enclosing copies of Fed. R. Civ. P. 4 and Wis. Stat. § 801.11(4). (Plaintiff should note particularly Rules 4 (c), (j)(2) and (l).) Also, I am enclosing a memorandum describing the procedure for serving a complaint on individuals, together with the necessary notice of lawsuit and waiver of service of summons forms.

Plaintiff should note that proof of service of his complaint on the defendants must be filed with the court after service has been accomplished. The back of the summons form provides space in which the person serving the defendant can attest to the time, place and

manner in which service of process was made.

Before undertaking the task of serving the summons and complaint, plaintiff may want to consider again whether his claim is one that a federal court can entertain.

ORDER

IT IS ORDERED that plaintiff may have until June 20, 2003, in which to supplement his complaint with a demand for relief as required by Fed. R. Civ. P. 8. If, by June 20, 2003, plaintiff fails to cure this pleading defect, the complaint will be dismissed.

Further, IT IS ORDERED that plaintiff is to file proof that he served his complaint on the defendants as soon as service has been accomplished. If, by July 18, 2003, plaintiff fails to submit proof of service as required by Fed. R. Civ. P. 4(1) or explain his inability to do so, then the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff's lack of prosecution.

Entered this 9th day of June, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge