

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

ROBERT HENRY KUNFERMAN,

Plaintiff,

v.

MEMORANDUM and ORDER
05-C-190-S

TRANS GLOBAL TRAVEL, MARK TRAVEL,
CHAMPION AIR, MINNESOTA AIRPORT
COMMISSION, TRANSPORTATION SECURITY
ADMINISTRATION, BANK ONE, HENNEPIN COUNTY,
THE THOMSEN & NYBECK, P.A., LA MACCHIA
ENTERPRISES, DAVID KARSNIA, JOHN CHRISTENSON,
BRIAN RINDELS and TOM ANDERSON,

Defendants.

Plaintiff Robert Kunferman commenced this civil action against defendants Trans Global Travel, Mark Travel, Champion Air, Minnesota Airport Commission, David Karsnia, John Christenson, Brian Rindels, Tom Anderson, Transportation Security Administration and Bank One. He was allowed to amend his complaint to add defendants Hennepin County, The Thomsen & Nybeck, P.A. Minnesota Law Firm, Christopher Renz and Ryan Wood and LaMacchia Enterprises. Defendants Trans Global Travel and Mark Travel have been dismissed.

On September 2, 2005 defendants Metropolitan Airports Commission, David Karsnia, John Christenson, Brian Rindels and Tom Anderson moved to dismiss plaintiff's complaint. That same date defendant Bank One also filed a motion to dismiss. These motions have been fully briefed and are ready for decision.

On September 14, 2005 defendants Thomsen & Nybeck, P.A. Moved to dismiss plaintiff's complaint. This motion has been fully briefed and is ready for decision. On October 3, 2005 defendants Renz and Wood moved to dismiss plaintiff's complaint. This motion has been fully briefed and is ready for decision.

On September 26, 2005 defendant Transportation Security Administration moved to dismiss plaintiff's complaint. This motion has been fully briefed and is ready for decision.

A complaint should be dismissed for failure to state a claim only if it appears beyond a reasonable doubt that the plaintiffs can prove no set of facts in support of the claim which would entitle the plaintiffs to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). In order to survive a challenge under Rule 12(b)(6) a complaint "must contain either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory." Car Carriers, Inc. v. Ford Motor Co., 745 F. 2d 1101, 1106 (7th Cir. 1984).

FACTS

For purposes of deciding the motions to dismiss the facts as alleged in plaintiff's complaint are taken as true.

Plaintiff Robert Kunferman lives in Eau Claire, Wisconsin. Defendant Metropolitan Airports Commission (MAC) owns, operates and maintains the Minneapolis-St. Paul International Airport.

Defendants David Karsnia, Brian Rindels and John Christenson are MAC police officers and Minnesota residents. Defendant Tom Anderson is the general counsel for the MAC.

Defendant Thomsen & Nybeck is a law firm in Minneapolis. Defendants Christopher Renz and Ryan Wood are attorneys in this firm. Defendant Bank One has merged with J.P. Morgan Chase Bank, a national association and credit card affiliate. Defendant Transportation Security Agency (TSA) is a federal agency.

Plaintiff departed from Minneapolis-St. Paul International Airport on May 29, 2004. Plaintiff and his bag were searched by TSA. His bag was searched without his consent.

On the June 5, 2004 on a flight to Minneapolis, Minnesota plaintiff became angry that he was unable to sit next to his wife. Defendants Karsnia, Christenson and Rindels interviewed plaintiff when he left the plane and issued him a Hennepin County ordinance violation for disorderly conduct. Plaintiff makes no allegations in his complaint against Tom Anderson.

Defendant Thomsen & Nybeck represented the MAC and prosecuted the disorderly conduct violation against plaintiff.

Defendant Bank One blocked plaintiff's credit card transaction while he was vacationing in Mexico.

MEMORANDUM

Defendants Metropolitan Airports Commission, David Karsnia, John Christenson, Brian Rindels and Tom Anderson move to dismiss

for lack of personal jurisdiction and for failure to state a claim. Construing the allegations in plaintiff's complaint liberally they do not state a claim for a violation of plaintiff's constitutional rights or any other claim for relief under federal law. The motion to dismiss of defendants Metropolitan Airports Commission, David Karsnia, John Christenson, Brian Rindels and Tom Anderson will be granted.

Defendant Thomsen & Nybeck and its attorneys, defendants Christopher Renz and Ryan Wood move to dismiss plaintiff's complaint for failure to state a claim. The allegations in plaintiff's complaint are insufficient to state a claim for relief under federal law. Further, as prosecutors, these defendants would be entitled to prosecutorial immunity. Imbler v. Pachtman, 424 U.S. 409, 430 (1976). The motion to dismiss of defendants Thomsen & Nybeck, Christopher Renz and Ryan Wood will be granted.

Defendant Bank One moves to dismiss plaintiff's complaint for failure to state a claim. The sole allegation that the defendant Bank stopped or blocked plaintiff's credit card is not sufficient to state a claim upon which relief can be granted. Defendant Bank One's motion to dismiss will be granted.

Defendant TSA moves to dismiss plaintiff's complaint because plaintiff has failed to exhaust his administrative remedies under the Federal Tort Claims Act, 28 U.S.C. § 2675(a). Plaintiff agrees that he has failed to exhaust his administrative remedies as

required by the Act. Plaintiff's tort claim against the TSA will be dismissed without prejudice.

The remaining defendants in this case are Champion Air, Hennepin County and LaMacchia Enterprises. Although it is not clear from the record whether or not these defendants have been served, the Court will address the merits of the claims against them. There are no allegations in the original or amended complaint to support any federal law claims against defendants Champion Air, Hennepin County or LaMacchia Enterprise, Inc. These defendants will be dismissed. Judgment will be entered in the above entitled matter for all defendants against plaintiff dismissing his complaint and all claims contained therein with prejudice except that his Federal Tort Claims Act claim will be dismissed without prejudice.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claims must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that the motion to dismiss of defendants Metropolitan Airports Commission, David Karsnia, John Christenson, Brian Rindels and Tom Anderson is GRANTED.

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IT IS FURTHER ORDERED that the motion to dismiss of defendants Thomsen & Nybeck, Christopher Renz and Ryan Wood is GRANTED.

IT IS FURTHER ORDERED that defendant Bank One's motion to dismiss plaintiff's complaint is GRANTED.

IT IS FURTHER ORDERED that defendant Transportation Security Administration's motion to dismiss is GRANTED without prejudice.

IT IS FURTHER ORDERED that defendants Champion Air, Hennepin County and LaMachhia Enterprises, Inc, are DISMISSED,

IT IS FURTHER ORDERED that judgment be entered in favor of defendants Trans Global Travel, Mark Travel, Champion Air, Minnesota Airport Commission, David Karsnia, John Christenson, Brian Rindels, Tom Anderson, Transportation Security Administration, Bank One, Hennepin County, The Thomsen & Nybeck, P.A. Minnesota Law Firm Christopher Renz, Ryan Wood and LaMacchia Enterprises against plaintiff DISMISSING his complaint and all claims contained therein with prejudice except that his Federal Tort Claims Act claim against defendant Transportation Security Administration is DISMISSED without prejudice.

Entered this 26th day of October, 2005.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge