

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

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ANDRÉ CALMESE,

Petitioner,

v.

NURSE SARAH LEWIS,  
STEVENS POINT - AGING/DISABILITY,  
KAMENTA NURSING HOME,

Respondents.  
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ORDER

06-C-666-C

This is a proposed civil action for monetary and injunctive relief. Petitioner André Calmese, who is acting pro se, seeks leave to proceed without prepayment of fees and costs or providing security for such fees and costs, pursuant to 28 U.S.C. § 1915. From the affidavit of indigency accompanying petitioner's proposed complaint, I conclude that petitioner is unable to prepay the fees and costs of instituting this lawsuit. It appears that petitioner is not a prisoner, so he is not subject to the requirements of the Prison Litigation Reform Act.

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

or malicious, fails to state a claim upon which relief may be granted or seeks monetary relief against a defendant who is immune from such relief, the case must be dismissed promptly pursuant to 28 U.S.C. §1915(e)(2).

Petitioner's proposed complaint must be dismissed because this court is without power to give him any relief for the wrong he alleges. Petitioner alleges in his complaint that respondent Sarah Lewis "seduced [him] into a relationship" while she was his counselor at the Stevens Point Aging and Disability Center and that her employer knew about the relationship but did nothing to stop it. Respondent Kamenta Nursing Home is respondent Lewis's current employer. Petitioner alleges that it also failed to take any action when he informed them about his relationship with Lewis.

Courts are limited in the types of disputes they may resolve. Generally, federal courts may not hear a case unless the facts alleged in a complaint suggest a possible violation of federal law or a possible violation of state law when the plaintiff and defendants are citizens of different states. 28 U.S.C. §§1331 and 1332. Neither of these situations is present in this case.

First, it appears that all the parties are citizens of Wisconsin. Second, there is no federal law that would allow petitioner to sue another person simply because they had a romantic relationship, even if one party "seduced" the other. Petitioner repeats throughout his complaint that Lewis's conduct was unethical. That may be so, but that is not enough

to allow him to maintain a lawsuit in federal court. If petitioner believes that respondent Lewis violated a professional oath, then his recourse is with whatever body regulates Lewis's profession.

ORDER

IT IS ORDERED that petitioner André Calmese's proposed complaint is DISMISSED for lack of subject matter jurisdiction.

Entered this 30th day of November, 2006.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge