

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

CARSON DARNELL COMBS,
Petitioner,

v.

MEMORANDUM and ORDER
06-C-704-S

ERIC L. MATSON, CHARLES
AMUNDSON, RUTH WILSON and
WADE MARVIN,

Respondents.

Petitioner requests leave to proceed in forma pauperis. Attached to his affidavit of indigency is a proposed complaint.

Petitioner alleges that the respondents maliciously prosecuted him on state criminal charges. Malicious prosecution is not a constitutional tort unless the state does not provide a remedy for malicious prosecution. Newsome v. McCabe, 256 F.3d 747, 750 (7th Cir. 2001). Wisconsin recognizes the tort of malicious prosecution. See Strid v. Converse, 111 Wis. 2d 418, 331 N.W. 2d 350 (1983). Accordingly, plaintiff has not stated a federal law claim for malicious prosecution. Petitioner's request to proceed in forma pauperis will be dismissed and denied without prejudice.

Petitioner 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 claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

Combs v. Matson, et al., 06-C-704-S

ORDER

IT IS ORDERED that petitioner's request to proceed in forma pauperis is DENIED and DISMISSED without prejudice.

Entered this 6th day of December, 2006.

BY THE COURT:

s/

JOHN C. SHABAZ
District Judge