

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

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CLARENCE AUSTIN,

Petitioner,

v.

DANE COUNTY MENTAL  
HEALTH,

Respondent.  
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OPINION and ORDER

07-C-192-C

This is a proposed civil action for monetary relief brought by pro se litigant Clarence Austin, who seeks leave to proceed in forma pauperis. Petitioner has supported his request with an affidavit of indigency. From that affidavit, I conclude that petitioner qualifies for indigent status. Nevertheless, before petitioner may proceed in forma pauperis, I must determine whether his action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972). However, the court

is not free to invent facts not plead by the litigant or imagine legal theories unsupported by the complaint. In its entirety, petitioner's complaint reads as follows:

I have unjustifiably incarcerated in Dane County by kurrup police officer as well as parol and probation ajents with chump up charges on me stateing lies about incidents which was't true with Mental Health being present while these events was being committed/done to myself now this is what happen to me. This is one of the lies that you all brought agaist me it was and I was arrested saying you kidnapped abduction of a relative of mine she was already in there system with cases pending agaist this person now I'm incarcerated for these wrongfully charges now while incarcerated I have ben torture mulalated disrespected in ALL aspects of the human word with rats, roaches, spiders, manure, unsanitary linen. Shit has been thrown at ME while GUARDS are here watching all events now. This is not everything that is going on here and yall know this now seize my records ALL My Records frome Dane County on every occasion and yall will find ALL the bullshit on yall now tell me what I am suppose to do about yall fucken with me when yall suppose to serve and protect me. can yall let ME know what I'm suppose to do about yall constantly poison ME with rats-roaches-spiders, manure shit and unsanitary linen now can yall call me about my parol papers as soon as possable because there unjustafiabale let's come real. I haven't done what yall claime. I have done at no time FRAME. Now this is enough bullshit for any ONE MAN TO GO Through Now CALL ME WHAT EVER yall want I'm going t keep calling ALLAH.

Now give me my  
MONEY  
Bitch

Plaintiff requests monetary relief in the amount of \$1.5 billion.

Beyond its disrespectful tone, there are several problems with petitioner's complaint. First, although petitioner is suing respondent Dane County Mental Health, his allegations appear to refer exclusively to his allegedly wrongful incarceration and the conditions under

which he was allegedly confined. Petitioner states in his financial affidavit that he is not a prisoner and has listed a private residence as his mailing address. It is unclear when, where or by whom petitioner might have been incarcerated under the conditions he alleges.

Federal courts have the power to hear cases in which a plaintiff alleges a violation of his constitutional rights or rights established under federal law. 28 U.S.C. § 1331. Here, although petitioner is suing respondent Dane County Mental Health, his allegations do not suggest the county agency did anything other than “observe” him while he was incarcerated. Petitioner’s allegations do suggest that he may have been treated wrongly in other ways by other persons, but petitioner has not named any other respondents to his lawsuit or provided information from which I can conclude that respondent Dane County Mental Health was connected to the wrongdoing he has alleged.

Rule 8 of the Federal Rules of Civil Procedure requires a litigant to include in his complaint a short, plain statement of the grounds for this court’s jurisdiction and a short, plain statement of the claim the plaintiff is raising. Because petitioner’s statement of his claim is too unclear to permit him to proceed in forma pauperis, I will deny his request and dismiss the case without prejudice. Petitioner is free to refile his suit in the future making clearer his allegations against the persons or agencies allegedly responsible for violating his constitutional rights.

ORDER

IT IS ORDERED that petitioner Clarence Austin's request for leave to proceed in forma pauperis is denied and this case is DISMISSED without prejudice to petitioner's refiling it in the future.

Entered this 12th day of April, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge