

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

RANDALL ARTHUR RADUNZ,

Plaintiff,

v.

ORDER

BRUCE VON HADEN, EVERETT
MUHLHAUSEN, WENDY J. STURZ,
TOM A. PETTA, PHILLIP C.
CARRUTHERS, TIMOTHY M. O'SHEA,
RYAN GEMOLL, LORI SWANSON, J.B.
VAN HOLLEN and ERIK PETERS,

07-C-270-S

Defendants.

Upon receipt of plaintiff's partial filing fee in the amount of \$5.74, the Court addresses the merits of plaintiff's complaint. According to 28 U.S.C. § 1915(b)(2), the institution's financial officer is authorized to deduct monthly payments from plaintiff's account until the \$350.00 filing fee is paid in full.

Plaintiff alleges that a search warrant was issued for his residence. He further alleges that after he was interviewed by Pierce County Sheriff Investigator Bruce VonHaden, Ryan Gemoll, went to the residence and brought guns from an outbuilding at the residence after the search had been conducted. The guns were used as evidence in plaintiff's revocation hearing.

Although not completely clear it appears that plaintiff is claiming that his Fourth Amendment rights were violated by Ryan

Gemoll bringing the guns to the Sheriff's Department. The taking of the guns by Gemoll was not a search to which the Fourth Amendment applies.

Plaintiff has not alleged facts that any of the defendants acting under color of state law violated his Fourth Amendment rights. Accordingly, his complaint must be dismissed for failure to state a claim under federal law.

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

ORDER

IT IS ORDERED that plaintiff's complaint and all claims contained therein is DISMISSED without prejudice.

IT IS FURTHER ORDERED that judgment be entered DISMISSING plaintiff's complaint and all claims contained therein without prejudice.

Entered this 19th day of June, 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge