

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

RODNEY C. MOORE,

Petitioner,

ORDER

v.

08-cv-300-slc

DANE COUNTY; CITY OF MADISON, WI.;
GRETCHEN HAYWARD; CITY OF SUN
PRAIRIE POLICE OFFICERS FRANK JAMES
SMITH; SCOTT BARTNICK; RICHIE STILES-
RIDDLE; NOVAK; JOHNSON; DANE COUNTY
SHERIFF'S DEPUTY SPILLMAN; CORY
MORRISARD; DENNIS LINDHOLM; CITY OF
ATLANTA POLICE OFFICER MICHAEL
BUCKLEY; DANE COUNTY MENTAL HEALTH;
DR. KIM NESTLER; DEPT. OF CORRECTIONS
OFFICERS FRANCISCO SALAS AND SUSAN
BENDER,

Respondents.

This 42 U.S.C. § 1983 case was closed by this court on July 23, 2008 because petitioner Rodney C. Moore failed to make an initial partial payment of the filing fee as required under 28 U.S.C. § 1915(b). Now Moore has filed a "Motion for a John Doe Hearing," in which he alleges that respondents¹ have committed various crimes, including perjury, tampering with

¹ Petitioner's motion has been docketed in this case rather than the others he has been involved in at this court because the respondents listed in his motion most closely match those listed in his original complaint in this case.

evidence, and kidnapping. Petitioner apparently refers to Wisconsin Statutes § 968.26, under which a judge may initiate a hearing to ascertain whether a crime has been committed based on a private citizen's complaint. However, this state law does not apply to federal courts. Under federal law, "a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another." *Diamond v. Charles*, 476 U.S. 54, 64-65 (1986) (quoting *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973)). Therefore, I deny petitioner's motion for a John Doe hearing.

ORDER

IT IS ORDERED that petitioner's motion for a John Doe hearing is DENIED.

Entered this 7th day of October, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge