

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

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RODNEY C. MOORE,

Plaintiff,

v.

GRETCHEN HAYWARD, STATE OF WISCONSIN,  
DANE COUNTY, CITY OF MADISON and  
DANE COUNTY COURTHOUSE,

Defendants.  
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ORDER

09-cv-363-slc<sup>1</sup>

This is the third of six lawsuits that plaintiff Rodney Moore, a Wisconsin prisoner, had filed in this court in June 2009. In a previous order, dkt. #5, the magistrate judge concluded that plaintiff has no means to make an initial partial payment. 28 U.S.C. § 1915(b)(4).

In this case, plaintiff seems to be asserting two claims: (1) defendant Gretchen

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<sup>1</sup> While this court has a judicial vacancy, it is assigning 50% of its caseload automatically to Magistrate Judge Stephen Crocker. At this early date, consents to the magistrate judge's jurisdiction have not yet been filed by all the parties to this action. Therefore, for the purpose of issuing this order only, I am assuming jurisdiction over the case.

Hayward, a prosecutor, “filed a false crime report” about plaintiff; and (2) defendant paid other prisoners for letters that she could use to show that plaintiff should be committed under Wis. Stat. ch. 980 at the end of his sentence. Neither claim may proceed.

Plaintiff’s first claim suffers from the same problem as many of his claims in other cases that he has filed; it is barred by Heck v. Humphrey, 512 U.S. 477 (1994), and Preiser v. Rodriguez, 411 U.S. 475 (1973), because success on the claim would undermine his conviction. Even if I assumed that plaintiff’s claim did not conflict with Heck and Preiser (and that it was not barred by the doctrine of absolute immunity, Van De Kamp v. Goldstein, 129 S. Ct. 855, 859-861 (2009)), plaintiff’s claim would still fail because he does not identify what was false about the report. Under Fed. R. Civ. P. 8, plaintiff is required to give defendants notice of his claim, which means he must identify what each defendant did that violated his rights. He may not rely on conclusory allegations. Ashcroft v. Iqbal, 129 S. Ct. 1937, 1951 (2009).

The problem with plaintiff’s second claim is that he has not identified any conduct by defendant Hayward that is a constitutional violation. Even if I assume that Hayward *is* paying other prisoners to act as informants for her (and plaintiff does not provide grounds to believe that she is), I am not aware of any right this would violate. Informants are a common tool used in investigating potential criminal activities. Although paying prisoners may be a violation of prison policy or ethical rules, it does not violate the Constitution.

ORDER

IT IS ORDERED that

1. This case is DISMISSED for plaintiff Rodney Moore's failure to state a claim upon which relief may be granted.

2. A strike will be recorded in accordance with 28 U.S.C. § 1915(g).

3. Plaintiff's motion to consolidate this case with case nos. 09-cv-361-slc, 09-cv-365-slc and 09-cv-366-slc, dkt. #6, is DENIED as moot.

4. Plaintiff is obligated to pay the unpaid balance of his filing fees in monthly payments as described in 28 U.S.C. § 1915(b)(2). The clerk of court is directed to send a letter to the warden of plaintiff's institution informing the warden of the obligation under Lucien v. DeTella, 141 F.3d 773 (7th Cir. 1998), to deduct payments from plaintiff's trust fund account until the filing fees have been paid in full.

5. The clerk of court is directed to enter judgment in favor of defendants and close this case.

Entered this 20<sup>th</sup> day of July, 2009.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge