



Canada v. Davis et al

2021 | Cited 0 times | D. Minnesota | November 23, 2021

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA Shawn Canada, Plaintiff, v. Alexander Davis, Stephen Monty, Chris Newlin, Twin Town Staff, Roger Carr, Olmsted Corrections Staff, Robyn Wood, Alex Bunger, Paul Flessner, Sarah Sommer, Commissioner Paul Schnell of the Minnesota Department of Corrections, and Doug Nelson, Defendants.

Case No. 21-cv-2186 (JRT/HB)

REPORT & RECOMMENDATION

HILDY BOWBEER, United States Magistrate Judge complaint. 1 Canada recently paid the initial partial filing fee set by this Court, but he did not submit

1 The present matter is the fourth of ten cases Canada has filed in the last three months. Canada v. All Members of Damascus Way, et al., 21-cv- Canada I Canada v. Williamson, et al., 21-cv- Canada v. Olmsted Cnty., et al., 21-cv- Canada v. Davis, et al., 21-cv-2186 Canada v. Stehr, et al., 21-cv- Canada v. Antony, et al., 21-cv- prejudice for failure to state a claim), Canada v. MCF-Faribault, 21-cv-2228 (NEB/TNL) Canada v. Kroening, 21-cv- Canada v. Nelson, et al., 21-cv- Canada v. Schnell, et al., 21-cv-2389 (W two habeas corpus actions in this District. See Canada v. Harleen, No. 17-cv-1471 (JNE/SER) (D. Minn. 2017) (dismissed for failure to prosecute); Canada v. Haugen et al., No. 18-cv-3182 (PAM/KMM) (D. Minn. 2018) (dismissed for failure to prosecute);

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 1 of 9

an amended complaint. His complaint is now subject to review under the terms of 28 U.S.C. § 1915A. Section 1915A provides that any civil action brought by a prisoner against a governmental entity or employee must be screened as soon as practicable. 28 r relief, it must be summarily dismissed. 28 U.S.C. § 1915A(b). For reasons that follow, this

I. Standard of Review

To state an actionable claim for relief, a plaintiff must allege a specific set of facts, which, if proven true, would entitle him to some appropriate relief against the named defendants under some cognizable legal theory. In reviewing whether a complaint states a claim on which relief may be



Canada v. Davis et al

2021 | Cited 0 times | D. Minnesota | November 23, 2021

granted, this Court must accept as true all of the well-pleaded

favor. *Aten v. Scottsdale Ins. Co.*, 511 F.3d 818, 820 (8th Cir. 2008). Although the factual allegations in the complaint *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555

Id. at 570. In assessing the sufficiency of the complaint, the court may disregard legal conclusions that are couched as factual allegations. See *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). *Id.*, just

Canada v. Miles, 17-cv-1043 (JNE/SER) (D. Minn. 2017) (dismissed with prejudice); *Canada v. Snell*, 19-cv-764 (JRT/SER) (D. Minn. 2018) (dismissed without prejudice for failure to exhaust state remedies).

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 2 of 9

Stone v. Harry, 364 F.3d 912, 915 (8th Cir. 2004).

a claim for relief must contain . . . a short and plain statement of the claim showing that the

Gurman

v. Metro Housing & Redevelopment Auth., 842 F. Supp. 2d 1151, 1152 (D. Minn. 2011).

Adams v. Am. Family Mut. Ins. Co., 813 F.3d 1151, 1154 (8th Cir. 2016) (quotation omitted).

II. Complaint three handwritten pages listing defendants. (Complaint [ECF No. 1].) On the first page he states *Id.* at 1.) He also cites the Fifth Amendment of the United States Constitution. (*Id.*) The complaint contains no factual narrative. In an accompanying affidavit, Canada writes that the defendants are accused of violating his Fourth Amendment rights. (Affidavit [ECF No. 2 at 1].) He goes on to allege that, f members put [him] out of chemical treatment and Doug Nelson & Staff at D.F.O. Community of Corrections used force and restrained [him] and also *Id.* at 2.). Based on this interaction, Canada lists numerous legal theories concerning property rights, the obstruction of justice, and racketeering. (*Id.* at 2-3).

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 3 of 9

III. Analysis

Canada has failed to state a sufficient claim under any of the cited legal theories, so this Court will recommend that his complaint be dismissed for failure to state a claim.

Constitution, obstruction of justice claims, and racketeering claims. This Court will briefly address



Canada v. Davis et al

2021 | Cited 0 times | D. Minnesota | November 23, 2021

each type of claim in turn.

A. Constitutional Violations Canada alleges that his Fourth Amendment rights were violated by a seizure of his property, as well as restraint of his person. (Aff. at 2-3.) Although individuals can state a claim for this theory under 42 U.S.C. § 1983, Canada has not included sufficient factual details to substantiate a claim. To establish a violation of the Fourth Amendment in a Section 1983 action, the claimant must demonstrate that a seizure occurred and that the seizure was unreasonable. *McCoy v. Monticello*, 342 F.3d 842, 846 (8th Cir. 2003), citing *Hawkins v. City of Farmington*, 189 F.3d 695, 702 (8th Cir. 1999). A seizure, standing alone, is not sufficient for Section 1983 liability; the seizure must also be unreasonable. *Id.* (citing *Brower v. County of Inyo*, 489 U.S. 593, 599 (1989)). In his barebones complaint, Canada does not allege that the seizure of his person or property was unreasonable. He simply alleges that Doug Nelson and staff of the D.F.O. Community of Corrections used force and restrained him and separated him from his property without any factual elaboration about when, how, or why the alleged actions his property were unlawfully restrained are insufficient to state a valid claim under the Fourth Amendment.

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 4 of 9

insufficiently pled.

As to his bare citation on the first page of the complaint to the Fifth Amendment, Canada has failed to state a claim because a bare legal allegation with no accompanying facts is insufficient. See e.g. *Iqbal*, 556 U.S. at 678 (a court is not required to accept legal conclusions as sufficient to state a claim). order setting a filing fee for his case that he needed to provide specific details about each individual defendant's involvement in his alleged claims if he hoped to succeed. (Order at 3-4, n.2 [ECF No. 7]); see also *White v. Jackson*, 865 F.3d 1064, 1081 (8th Cir. 2017)

sufficient information about any of the named personal actions to state a

Fifth Amendment claim under § 1983. This Court gave Canada an opportunity to remedy this issue by amending his complaint and Canada did not submit an amended complaint. Thus, this Court will recommend that any claim under the Fifth Amendment be dismissed for failure to state a claim.

B. Obstruction of Justice Canada cites two statutes concerning the obstruction of justice 18 U.S.C. §§ 1512, 1513. Both statutes are criminal statutes. Section 1512 prohibits tampering with a witness, victim or informant. 18 U.S.C. § 1512. Section 1513 prohibits retaliating against a witness, victim or an informant. 18 U.S.C. § 1513. On the face, these statutes both provide criminal penalties for the obstruction of justice, but there is no mention of a

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 5 of 9



Canada v. Davis et al

2021 | Cited 0 times | D. Minnesota | November 23, 2021

private Alexander v. Sandoval, 532 U.S. 275, 286 (2001). For laws enacted by

whether it displays an intent to create not just a private right but also a private

Id. In general, courts first look to the plain language of the statutory text to determine congressional intent. See *United States v. Gonzales*, 520 U.S. 1, 6 (1997) Courts have held that there is no private right of action under the obstruction of justice statutes. See *Horde v. Elliot*, No. 17-cv- 800 (WMW/TNL), 2018 WL 987683 *1, *9 (D. Minn. 2018), report & recommendation adopted, 2018 WL 985294 (D. Minn. 2018).

an alleged obstruction of justice fail for two reasons. First, he has failed to identify a valid legal theory premised on Sections 1512 or 1513 because these statutes do not create a private right of action. Second, even if there were a private right of action under either section, Canada has not drawn an explicit link between individual defendants and these claims. Under Rule 8 of the Federal Rules of Civil Procedure a claim must be sufficiently pled to put the opposing party on notice of the nature of the claim. See *Adams*, 813 F.3d at 1154 (a pleading must provide the

rests). Without any factual elaboration describing who committed these actions, Canada

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 6 of 9

has not pled a sufficient claim. Thus, this Court recommends that the claims under 18 U.S.C. §§ 1512 and 1513 be dismissed for failure to state a claim.

C. RICO Claims Canada states that he intends to bring a claim or claims premised on racketeering. Specifically, he cites 18 U.S.C. §§ 1961 and 1962, which are both provisions of what is

18 U.S.C. §§ 1961- -action provision Section 1964(c) was modeled on Section 4 of

the Clayton Act, an antitrust statute. *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 457

comprehends *Reiter v. Sonotone Corp.*, 442 U.S. 330, 338 (1979) (citing (1961))

protect a consu as to include personal injuries. Id. at 339. The sections that Canada cites 1961 and 1962 do not provide for a private cause of action, but even if Canada cited the section for a private cause of action under RICO (§ 1964), his claim would fail. Canada has not pled sufficient factual allegations to demonstrate that he has been harmed in business or U.S.C. §§ 1961 and 1962 be dismissed for failure to state a claim.

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 7 of 9



Canada v. Davis et al

2021 | Cited 0 times | D. Minnesota | November 23, 2021

IV. Pending Motions

Canada has filed a Motion for an Evidentiary Hearing [ECF No. 5], and a Motion for a Civil Action [ECF No. 6]. Neither motion contains factual allegations that bolster the cl pending motions be dismissed as moot considering the recommendation that this case be dismissed for failure to state a claim.

V. Recommendation

Based on the foregoing analysis, and on all the filings herein, this Court HEREBY RECOMMENDS THAT:

1. In Forma Pauperis [ECF No. 3] be GRANTED

in light of his payment of the initial partial filing fee of \$140.26; 2. DISMISSED for failure to state a claim under

28 U.S.C. § 1915A(b); and 3.

Civil Action [ECF No. 6] be DENIED as moot.

Dated: November 23, 2021

/s/ Hildy Bowbeer HILDY BOWBEER United States Magistrate Judge CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 8 of 9

NOTICE Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. ile and serve specific written objections to a

objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).

CASE 0:21-cv-02186-JRT-HB Doc. 9 Filed 11/23/21 Page 9 of 9

