

UNITED STATES ex rel. Gerald MAYO v. SATAN AND HIS STAFF

Misc. No. 5357

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA**

54 F.R.D. 282; 1971 U.S. Dist. LEXIS 10548

December 3, 1971

CASE SUMMARY

PROCEDURAL POSTURE: Plaintiff sought leave to proceed in forma pauperis on a complaint filed against defendant chief fallen angel. Plaintiff alleged that defendant had threatened him, caused him misery, impeded his course in life, and generally precipitated his downfall, which injuries, plaintiff alleged, rose to constitutional dimension.

OVERVIEW: Stating its reservations regarding whether the alleged interferences with plaintiff's life stated a claim for which relief could be granted and questioning whether the court could obtain jurisdiction over defendant chief fallen angel, the court denied plaintiff's application for leave to proceed in forma pauperis. The court explained that the complaint failed to allege facts, at least as to defendant's residence within the district, which would support jurisdiction. The court noted an unofficial report of a prior appearance by defendant in a United States court as a party plaintiff, but questioned whether this was enough to establish jurisdiction by estoppel. Additionally, if it allowed the present action, the court stated that it would then face the issue of whether it would be better maintained as a class action. The court found the requirements of Fed. R. Civ. P. 23 appeared to be met, but questioned whether plaintiff was an appropriate representative of the putative class. Finally, the court noted that the complaint lacked instructions for service of process, leaving the court no choice but to refuse plaintiff's prayer for relief.

OUTCOME: The court denied plaintiff's prayer for leave to proceed in forma pauperis and ordered that the complaint be assigned a docket number. The court opined that the complaint failed to state a claim for which relief could be granted and found that it failed to

allege facts that would support a conventional jurisdictional basis for the maintenance of an action against defendant chief fallen angel.

COUNSEL:

[**1]

Gerald Mayo, Pro Se.

JUDGES:

Weber, District Judge.

OPINIONBY:

WEBER

OPINION:

[*282] MEMORANDUM ORDER

WEBER, District Judge.

Plaintiff, alleging jurisdiction under 18 U.S.C. § 241, 28 U.S.C. § 1343, and 42 U.S.C. § 1983 prays for leave to file a complaint for violation of his civil rights [*283] in forma pauperis. He alleges that Satan has on numerous occasions caused plaintiff misery and unwarranted threats, against the will of plaintiff, that Satan has placed deliberate obstacles in his path and has caused plaintiff's downfall.

Plaintiff alleges that by reason of these acts Satan has deprived him of his constitutional rights.

We feel that the application to file and proceed in forma pauperis must be denied. Even if plaintiff's complaint reveals a prima facie recital of the infringement of the civil rights of a citizen of the United

States, the Court has serious doubts that the complaint reveals a cause of action upon which relief can be granted by the court. We question whether plaintiff may obtain personal jurisdiction over the defendant in this judicial district. The complaint contains no allegation of residence in this district. While the official reports disclose [**2] no case where this defendant has appeared as defendant there is an unofficial account of a trial in New Hampshire where this defendant filed an action of mortgage foreclosure as plaintiff. The defendant in that action was represented by the preeminent advocate of that day, and raised the defense that the plaintiff was a foreign prince with no standing to sue in an American Court. This defense was overcome by overwhelming evidence to the contrary. Whether or not this would raise an estoppel in the present case we are unable to determine at this time.

If such action were to be allowed we would also face the question of whether it may be maintained as a class

action. It appears to meet the requirements of Fed.R. of Civ.P. 23 that the class is so numerous that joinder of all members is impracticable, there are questions of law and fact common to the class, and the claims of the representative party is typical of the claims of the class. We cannot now determine if the representative party will fairly protect the interests of the class.

We note that the plaintiff has failed to include with his complaint the required form of instructions for the United States Marshal for directions [**3] as to service of process.

For the foregoing reasons we must exercise our discretion to refuse the prayer of plaintiff to proceed in forma pauperis.

It is ordered that the complaint be given a miscellaneous docket number and leave to proceed in forma pauperis be denied.