

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

STEVEN L. REED,)	
)	
Plaintiff)	
v.)	
)	Case No. 05-3133-CV-S-SWH
CHOICE HOTELS INTERNATIONAL,)	
INC. d/b/a CLARION HOTEL, et.al,)	
Defendants)	

**APPEAL OF COURT ORDERED DENIAL OF EMERGENCY
MOTIONFORAPPROVAL OF PHONE TAPING OF DEPOSITIONS,
CONTINUANCE OFCASE FOR PROPER DISCOVERY, REQUEST FOR IN
FORMA PAUPERIS, AND A COURT APPOINTED ATTORNEY, (Doc. #101);**

**APPEAL OF COURTS DENIAL OF MOTION TO COURT NOTICES TO TAKE
DEPOSITIONS AS FOLLOWS (Doc. #103);**

**APPEAL OF COURTS APPROVAL OF MOTION TO QUASH BY DEFENDANT
AND OBJECTION TO DEPOSITION NOTICES FILED BY PLAINTIFF;
(Doc. 104)**

**APPEAL OF COURTS DENIAL OF MOTION REQUEST FOR COURT TO
REQUEST, REQUIRE. AND/OR ORDER PARTIES TO GIVE DEPOSITIONS
(Doc. 105)**

Comes Now Plaintiff Reed, who now attempts to Appeal a whole list of Motions Denied by the Court in one Order. Plaintiff Reed hereby Appeals the 7 page Order which was Ordered on 4/2/2008 at 5:07 pm. Which includes denial of four Motions by Plaintiff and includes legal rulings from at least 16 cases. Many of the objections herein, particularly to the facts found by the Magistrate Judge concern omissions of facts, rather than simple errors of facts. Other purported facts recounted by the Magistrate Judge are interwoven with her legal conclusions. While Mr. Reed has tried to address these

specifically, he also refers this Court to the factual statements accompanying his arguments of law, contained in his consolidated corrected amended petition and his original motion asking for court ordered production of evidence of law enforcement authorities and Motions included in the total count of 110 filed in this case to date.

Plaintiff Reed would like to point out that he finds no actual motions where the Magistrate Judge has actually agreed to and/or approved a Motion in Plaintiff Reed's favor. After watching Bob Dylan's live version of Hurricane from the 70's

<http://video.google.com/videoplay?docid=1336246292316993800&q=bob+dylan+hurricane&total=206&start=0&num=10&so=0&type=search&plindex=1>

Plaintiff Reed hereby will seek to try and find some spread of Justice.

I. EMERGENCY MOTION (Doc. #101)

This overview again tries to capture the central facts to the request to complete Depositions by speaker phone. *Concerning the question can Depositions be taken? and recorder over a speaker phone?* Plaintiff Reed's was told by Magistrate Judge Clerk *JoRita Gicinto said she thinks so?* Plaintiff Reed hereby includes a copy below that was sent to Defendant the City of Springfield's Attorney.

A. Telephone Depositions

The following is from the Motion in its original form:

Plaintiff Reed Hereby ask the Court to Approve Speaker Phone recording of Depositions and then typed by Plaintiff Reed and submitted to the Court.

A. This whole line of reasoning is who will pay for an acceptable court stenographic recording? Will the court accept a speaker phone recording and then typed transcript with the recording turned over to the court? Or will it have to be done with a likely \$100 an hour official stenographic person?

The following letter was sent by e-mail to City Attorney Tom Rykowski:

Dear Mr. Rykowski:

Tom, Thanks for getting back to me.

Thursday from around 10:30 to 12:00 or 12:30 at the latest or Friday at the same time would work for me concerning the deposition. Could we use the conference room at your office? JoRita Secretary for Judge Hays suggested that maybe the attorney for the person being deposed might be willing to supply the recording method.

Have you seen these local rules? Can it be taped and typed by Plaintiff or off of phone--- JoRita Gicinto said she thinks so?

Discovery and Deposition

(4) By Remote Means.

The parties may stipulate — or the court may on motion order — that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions.

Please let me know.

Sincerely, Steven Reed

Again Plaintiff Reed understands the above to mean the Deposition can be Anywhere---where ever it occurs. Also, Plaintiff Reed asked the local Clerk's office in Springfield how to get a Court Appointed Officer Authorized to Administer Oaths and s he said they do not have any in the Springfield Office. Also the Courts Clerks have failed to send Plaintiff copies of his motions which Plaintiff understands is required by Federal Law to receive.

In her ORDER Magistrate Judge points to *Settlemyre v. Watson* 877 F.2nd 13, 14 (8th Cir. 1989) as saying “Even parties proceeding *pro se* are expected to be familiar with and follow the Federal Rules of Civil Procedure.”.....end

Plaintiff Reed points out that there is a difference in the general nature from this

case and the Settlemire V. Watson. First overview is that the trial court dismissed a portion of the complaint and gave appellant an opportunity to amend the complaint to state facts supporting his remaining claims. When no response was received the trail court dismissed the complaint without prejudice. Settlemire was neglectful in not filing a proper addended complaint.

According to: <http://www.thefreedictionary.com/neglectful>

neglectful - not showing due care or attention;

Plaintiff Reed feels that he was not neglectful in the efforts he made to take the Depositions. Plaintiff Reed believes that there are two very different issues involved in this area:

One is technical: Following the Federal Rules of Civil Procedure

Two is the Legal facts of a Civil Case: The case at hand deals with Civil Rights Violations

According to: <http://www.answers.com/topic/lawsuit> the meaning of lawsuit is:

Thesaurus: lawsuit

noun

A legal proceeding to demand justice or enforce a right: [action](#), [case](#), [cause](#), [instance](#), [suit](#). See [law](#).

According to: [http://en.wikipedia.org/wiki/Civil_law_\(common-law\)](http://en.wikipedia.org/wiki/Civil_law_(common-law))

The objectives of civil law are different from other types of law. In civil law there is the attempt to right a wrong, honor an agreement, or settle a dispute. If there is a victim, they get compensation, and the person who is the cause of the wrong pays, this being a civilized form of, or legal alternative to, revenge.....end

Plaintiff Reed has spent extensive time studying the Rules of Procedure, but they are written in a way that the average Citizen or lay person would have difficulty

understanding all the requirements. Clearly Plaintiff Reed understands the concept of tools of a trade or profession and that a person who has spent several years and a lot of money to secure a law degree and then find a job with a firm or to start a firm is a major life commitment. Reed also understands that you do not like to see people come in and do the same type of work with no training or commitment. Plaintiff Reed on the other hand feels it necessary to point out that some people without the monetary funding or whose case may step on the wrong toes so may never be able to get a lawyer to take it. So a system needs to be in place to make sure that Justice prevails when a dispute arises or seeking to have a Just and Civil Society will just be a pipe dream.

One way of resolving this would be a letter to all Us Congressional Representatives and members of the United States Senate asking them to form a National Commission such as the one being started in the Missouri Supreme Court:

<http://www.courts.mo.gov/page.asp?id=5240>

[Representing Yourself Home New](#)

This site is under development!

Pro Se Commission Announcement

The Pro Se Implementation Commission has proposed that an awareness program and forms assisting pro se litigants be approved by the Supreme Court of Missouri. The Commission will ask the Court to adopt rules requiring every pro se litigant in certain types of cases such as dissolution of marriage to complete the litigant awareness program on this Web site (or an alternate program approved by the Commission) and ordering that all Missouri courts accept the forms provided on the Web site. This "Representing Yourself" section of the Web site was created by the Pro Se Commission. The Court and the Commission would like your comments about this concept, including this Web site and the proposed forms. Please email your comments to the Pro Se Mailbox or mail them to the following address:

Pro Se Commission
c/o Office of State Courts Administrator
2112 Industrial Drive
Post Office Box 104480

Jefferson City, MO 65110

Mission Statement of the Joint Pro Se Implementation Commission

To develop solutions to the challenges that pro se litigation presents for the courts, low income litigants, and for the legal profession, in order to provide meaningful access to justice for all Missouri citizens.

Solutions focus on:

1. Educating pro se litigants about the risks and responsibilities associated with self-representation and the importance and value of using legal counsel;
2. Providing resources to the courts to more effectively work with citizens who proceed pro se;
3. Expanding options for low income citizens to obtain affordable legal representation; and
4. Utilizing internet technology to provide a clearinghouse for statewide services and programs, lawyer referral, state-approved standardized forms, and other tools.....end

Clearly Plaintiff Reed made a major effort to follow the Guidelines of Taking Depositions. One case that seems to summarize a question of following exact rules, a conspiracy of parties, Civil Rights Complaint, and in forma paupis. Thought he case concerns issues that are more serious concerning a shooting in jail Plaintiff reed would point out that not of a life or death situation still part of the ground is caught up in the present case because of the restriction of Freedom of Speech.

In Benjamin Harrison Willians, Jr. Plaintiff-Appellant vv. Charlie Rhoden, Charles Thompkins, J.S. Padgett, Defendants-Appellees No. 79-2884 (US Ct. App. 1980) On a standard civil rights complaint form issued by the United States District Court for the Middle District of Florida, Williams alleged facts indicating that while detained in the Hamilton County, Florida, jail he was wrongfully shot and seriously wounded by the chief deputy jailer, and that subsequently 15 other persons the county sheriff and a deputy sheriff, a state judge, two state prosecuting attorneys, Williams court-appointed attorney, two agents of the Federal Bureau of Investigation, and several members of the Florida Probation and Parole commission acted to cover up the incident, to illegally imprison him

for escape as part of the cover-up and to prevent him from seeking redress in court, thus depriving Williams of his federal rights.

Six months after Williams paid the required filing and service fees, the district court dismissed the complaint against 13 of the 16 defendants all but the sheriff, deputy sheriff, and chief deputy jailer without service of process. This was error. In processing a prisoner's pro se civil rights complaint in forma pauperis a district court is entitled, pursuant to Section 1915 to dismiss the complaint prior to service of process if the court determines the complaint to be frivolous or malicious.Here, however, because the district court refused to allow Williams to proceed in forma pauperis, Section 1915 did not apply. The action was governed by Federal Rules of Federal Procedure... Those rules specifically required that upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to the marshal or to a person specially appointed to serve it". Williams having paid the fees required by the district court and his complaint been filed, service on all defendants in accordance with Fed. R. Civ. 4 should have proceeded forthwith.

(Plaintiff Reed points out that when the current case was filed he ask for and offered to pay the US Marshalls---made several request in person at the office of US Marshall---to serve proper service on all Defendants at the Springfield Federal Court Building. They said that process had been ended because the Marshalls were no longer offering that service because they were busy with other duties. I.E. that meant that for almost one year Plaintiff Reed ran around trying to make service on Defendants and trying to make such service stick. Plaintiff Reed was already stressed out by endless motions saying proper service was not delivered. Plaintiff Reed hereby requests a ruling on whether Marshalls

are presently required to serve summons at this time or not and why was that service not offered to Plaintiff Reed at the time this lawsuit was filed? end Plaintiff Reed comments)

Williams v. RhodenFor the benefit of the district court on remand, we note that even had service of process been unnecessary under the rules, the district court's dismissal of Williams' complaint against the 13 defendants would have been improper. As this Court and the Supreme Court have stated, a prisoner's pro se complaint "however inartfully pleaded" must be held to "less stringent standards than formal pleadings drafted by lawyers" and can only be dismissed for failure to state a claim if it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.

Giving Williams' complaint the liberal reading the law requires, it cannot be said to be beyond doubt that Williams can prove no facts in support of his claim against the judge and prosecutors which would entitle him to relief. Contrary to the districts court's evident belief, this immunity question cannot be determined without some factual development.

The contention that a conspiracy existed which deprived the petitioner of rights guaranteed by federal law makes each member of the conspiracy potentially liable for the effects of that deprivation. Liability arises from membership in the conspiracy and from traditional notions that a conspirator is vicariously liable for the acts of his co-conspirators. Liability does not arise solely because of the individual's own conduct. Some personal conduct may serve as evidence of membership in the conspiracy, but the individual's actions do not always serve as the exclusive basis for liability. It is therefore not sufficient justification to say that that a claim against a particular defendant must be

dismissed because the defendant would be immune from liability for his own conduct. Additional inquiry is required to determine whether the immunity extends also to participation in a conspiracy. For example, private individuals may not be held liable under section 1983 for their conduct. They may nevertheless be held liable if they conspired with a person who acted under color of state law.

574 F. 2d at 1263(citations omitted).⁴ In other words, although Williams' court appointed attorney and the F.B.I. agents may not themselves have acted under color of state law, they may have been members of a conspiracy and thus be vicariously liable for the acts of others who did act under color of state law.⁵ Thus, the complaint against them should not have been dismissed. Here again some factual developments and findings are required.....

The record discloses that the procedures followed by the district court in this case fell short of this mark. The district court denied Williams' repeated applications for leave to proceed in forma pauperis and required him to prepay filing and service fees of \$49.20, despite the fact that Williams' in forma pauperis affidavit showed that he had only \$75.95.⁸ The district court denied Williams' request for appointment of counsel, unquestionably a decision to be left to the sound discretion of the district court, not because the court felt that appointment of counsel in this case was for some reason unnecessary but rather because the court concluded that "no counsel are available for the handling of this case".⁹ Although the district court certified that this appeal was not taken in good faith, see Fed.R.App.P. 24(a), we granted Williams' pro se application for leave to appeal in forma pauperis and his pro se motion for appointment of council to represent him before our panel.

Our deposition of this appeal is not intended to intimate a view on the merits of any charges as to any defendant. We hold only that the action was not appropriate for dismissal on the grounds asserted and in the manner followed.

The decision of the district court to dismiss this action with prejudice as barred by the Florida state of limitations is reversed. The case is remanded for further proceedings consistent with this opinion, beginning with the direction of service of process in accordance with Fed.R.Civ.P.4 on the 13 defendants against whom the complaint was originally dismissed.

REVERSED and REMANDED

42 U.S.C. § 1983 provides in full:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the person injured in an action at law, suit in equity, or other proper proceeding for redress.

Plaintiff Reed suggest that being expected to hold down r do the work involved in this case is overwhelming and Reed is doing the work of two or three lawyers. This case brings Plaintiff Reeds claim of meeting of the minds of the Defendants who have been dropped by the Magistrate Judge in this case Reed v. Choice. Also the question of whether if Reed would have previously or may be appointed an attorney have the right to argue that the dropped Defendants be AGAIN JOINED TO THE CASE, much as the same type of situation above:

may have been members of a conspiracy and thus be vicariously liable for the acts of others who did act under color of state law.5 Thus, the complaint against them should not have been dismissed. Here again some factual developments and findings are

required.....Williams v. Rhoden

B. Extension of the Discovery Deadline

The Court and the City of Springfield both have stated that there has been plenty of time almost Two and a half years to do discovery. Plaintiff Reed again points out that the Scheduling Order was not requested from the Court until 2.5 years into the case and that was after Plaintiff Reed requested a Court Ordered Production of Evidence. The Judge and Court not Plaintiff Reed have caused the cause to linger. Plaintiff Reed also understood that he could not start discovery until Approved and Permitted by the Court.

C. Granting of In Forma Pauperis Status

In her ORDER Magistrate Judge says:

“one advantage of granting forma pauperis status to an indigent claimant as this would allow the claimant to request the assistance of court personnel in serving process on whiteness” Also notes: However, in forma pauperis status does not permit a waiver of the witness fees required to be tendered by a party seeking to subpoena a non-party witness. Tedder v. Odel, 890 F. 2d 210, 211-212(9th Cir. 1989)”end

Clearly, Plaintiff Reed understands that the Court will not roll out the red carpet if in forma pauperis status is granted, but he feels that at least the court and the record will show that Plaintiff Reed has been drained emotionally and financially seeking Justice. Reed has spent close to the cost of the original filing fee in the last two months.

The Court quotes 13 Legal Cases and Legal Rulings and a whole page explaining the process of determining if a case is frivolous or malicious proceeds a decision whether to grant in forma pauperis status. Using the analogy again this time of a country and western song “it’s a little bit late to the right thing now”. If the Court would now rule the case as frivolous or malicious would seem to be fruitless since three years of the Courts time and taxpayer monies have already been engaged. Much like the economic theory if

a business entity has already spent a lot of money on a project it already has Sunk Cost in the effort and spending a little more to finish the effort would be better than walking away. Plaintiff Reed mainly request in forma pauperis status in order to secure civil rights legal counsel.

In her ORDER Magistrate Judge says:

“At this stage of the proceedings, even giving the plaintiff the benefit of a liberal interpretation of the Complaint, the Court is still not certain of the exact claims being brought against the City of Springfield or the factual and legal basis for the claims. Until the basis of plaintiff’s claims against the City are fully explained, plaintiff’s request to proceed in forma pauperis will be denied.”

At this point in time Plaintiff would like to clarify the issue with a quote from the submitted Mike Schilling Deposition, Mr. Schilling served 3 terms in the Missouri State Legislature (did not run for a fourth term to spend time with his teenage son), and attended the event that night:

Schilling: Not that I recall---I might have expressed my displeasure and about the kind of heavy handed activity when I learned that there was no violence on the part of you guys. That you were doing political activity and I never heard any evidence that anyone was being assaulted and or otherwise harmed in a manner that would require this kind of response. But I don’t know exactly this all came about---but it just looked to me like it was extraordinary kind of measures being taken and felt sort of indignant that a scene like that was being made.

Reed: In general do you feel the arrest of Steven Reed and Jeff Kenkel for simply handing out “Draft Claire” Claire Inspires People maybe was going just a little bit far?

Schilling: Well I didn’t witness that myself---but just from my understanding of this is the usual thing that goes on in a political gathering where people campaign for one candidate or another---I did not see what the motivation was for you guys being treated in this manner. And I did not hear anything that would substantiate or give evidence for the reason for the nature of that kind of police action. So I felt there was injustice going on.

.....

Reed: The City argues Clarion Hotels is private property yet the paper has---in the past the paper has always---the News-Leader --- like this is the first year they did not do this

---but in the past the News-Leader had a policy if there was a chili cook-off, or track race event or public event they put up a box that said if you want to go call for more information --- the hours of the event --- and the paper had always billed it as a public event. And in the 85 years they are advertising it this year in 85 years it has always been considered a public event --- I mean we had Harry Truman attend, the Kennedy's have attended, in general do you see Jackson Days especially when they use to put the box and they invited the general public on Friday night --- do you see Jackson Days as being a Public Event?

Schilling: In my opinion it is.

.....
Reed:.....that there is quite a bit of difference between those --- between simply being ticketed and lead off the property and being in handcuffs for 3 to 4 hours and being pulled up in squad cars waiting to go to jail? Would you consider that an arrest like was in the next mornings Sunday News-Paper?

Schilling: Well I don't know technically what it was --- but you were detained without a charge right? It sounds like to me.

Reed: Yeah

Schilling: Plus you were handed a piece of paper saying you were arrested for some reason or verbally told. It looked like an unlawful detention. That's the way I would describe it.

.....
Reed: Do you believe that participating in governmental functioning and influencing such with freedom of speech mainly being involved and of course deciding who candidates are and deciding where your taxpayer money is going to go and helping decide what is important to people in a community whether it be in a local community, state, or federal. Do you believe Did the founding fathers include the concept of participation (which would be freedom of speech), in the Constitution which the Constitution is really a contract with the people and it is still the contract that we live under? Would you agree with something along that line...a statement like that?

Schilling: Yes.

.....
Reed: There is a police report which I would have to actually show you an interoffice memo from a Gordon Loveland, Police Chief, back when Gordon Loveland was Police Chief here in Springfield, it has to do with picketing, but it also points out – do not arrest the picketer for merely handing out leaflets. That activity without more cannot be classified as harassing or offending customers. The memorandum from Gordon Chief, the Chief of police...If the situation is not clear and an arrest is made when the picketer is

exercising his rights of free speech then we are exposing the city and the officer to lawsuits charging in violations of basic constitutional freedoms.

Schilling: Right. Um hum. In other words, who is being hurt here? Was the public welfare or safety in danger in any way? That's sort of a test you can think on this kind of stuff. It's discretionary, I suppose, of a so called private entrepreneur this being the hotel enterprise, if they or somebody associated with an event there did not like somebody and what they were doing. This is what it says to me, they have the discretion to file a charge of trespassing. Essentially what it sounds to me like was being done was a sort of arbitrary and capricious invocation of trespassing because somebody didn't like the political activity that was going on but yet was not endangering the public safety or welfare. That's what it boils down to.

Reed: Yeah, it comes along with the same line of thinking, say two weeks from now when Jackson Days if you showed up at Jackson Days, people running it say well there is Mike Schilling and we're glad he was a 4-term state representative but he's not been contributing much money lately to the party and he has not been doing much for us and

Schilling: He's in here campaigning for somebody that's off the rail. Let's get his ass out of here. You know. That's basically what was going on that night when you and Kenkel got into trouble. I don't care what court hears this. It sounds like it's the truth and they have a lot of trouble with the truth around here sometimes. My editorial comment for the day.

.....

Clearly Plaintiff Reed has pointed out time and time again that the case concerns the rights to participate in the FREEDOM OF SPEECH which most consider to be the most coveted and important right of the Citizens and the City of Springfield improperly COMMITTED ACTIONS THAT VIOLATED THE CIVIL RIGHTS OF PLAINTIFF REED and therefore Reed is asking for damages so as to deter the City of Springfield from ever engaging in such violations of basic civil rights of Reed and/or any citizen in the future without having due process before being charged with a crime.

The court states it is still not certain of the exact claims against the city of Springfield or the factual and legal basis for the claims. In Lindstedt vs Jasper County, Missouri et al, No. 97-5064-CV-SW-1 (Dis Ct W. Mo) Failure to State a Claim states in considering whether to dismiss a case for its failure to state a claim upon which relief can

be granted, the Court assumes the truth of all facts alleged in the complaint and draws all reasonable inferences in favor of the complainant. *Davis v. Hall*, 992 F.2d 151,152 (8th Cir. 1993). The claim is dismissed when the moving party shows “beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.”As a practical matter, a dismissal under Rule 12 (b) (6) is likely to be granted only in the unusual case in which a plaintiff includes allegations that show on the face of the complaint that there is some insuperable bar to relief. Plaintiff Reed feels he has stated clearly in the over 100 motions that have been filed in this case factual and legal facts concerning violations of constitutional freedom of speech.

In her ORDER Magistrate Judge:

Although pro se complaints are to be construed liberally, “they still must allege sufficient facts to support the claims advanced.” *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004)

Plaintiff Reed has read the case and points to: We do not believe the district court should have construed the complaint to mean that Stone was alleging a permanent seizure of his computer. The complaint says the computer was taken “to be searched.” This implies that the seizure was limited. It would have been simple for Stone, even as a pro se litigant, to allege that the seizure was permanent, if that is what he meant. When we say that a pro se complaint should be given liberal construction, we mean that if the essence of an allegation is discernible, even though it is not pleaded with legal nicety, then the district court should construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework. That is quite different, however, from requiring the district court to assume facts that are not alleged, just because an additional factual allegation would have formed a stronger complaint. We

conclude that the district court did not err in failing to assume that Stone alleged something more than a temporary seizure of his computer for a search. Accordingly, we will not consider this new allegation regarding seizure of the computer.

Plaintiff Reed understands and agrees that a claim for relief needs to be clear and precise and that it is not the court's responsibility to plead a case. Reed believes there are actually many exact claims of including: Freedom of Speech campaigning for a lady for Governor and who is now a USA Senator, and being Unlawfully Detained and Arrested, Possible Meeting of Minds Under Color of Law, and Having Marks and Bruises on Hands for days and Mental Stress for 5 years. Reed feels he needs to "pull all the ducks together in a row" to show the exact complaints, if necessary. Reed has over five boxes of papers concerning this case alone and if necessary, he may have to go to the Federal Courthouse and use their computer system to go through the motions in chronological order.

In her ORDER Magistrate Judge says:

Whether an individual is entitled to in forma pauperis status entails more than simply analyzing the parties' financial status. Before granting such status, the Court examines the complaint for the purpose of determining if it is frivolous or malicious....

Plaintiff Reed respectfully believes the time for dismissal on those grounds has already passed. In John K. HAKE, Appellant,v. Harold W. CLARKE, Director, Nebraska Department of Correctional Services; Karen Shortridge, Associate, Director Adult Institutions, Nebraska Department of Correctional Services; Terry Ewing, Security Coordinator, Nebraska Department of Correctional Services; Larry Tewes, Associate Director, Adult Classification and Programs, Nebraska Department of Correctional Services, Appellees 91 F.3d 1129 35 Fed.R.Serv.3d 1 (US Ct of App, 8th Cir.,1996) #3 Under the mistaken impression that Hake was proceeding IFP, the

magistrate judge reviewed the complaint under 28 U.S.C. § 1915(d) and the district court's Local Rule 83.10,[1](#) and concluded Hake failed to state a claim upon which relief could be granted, but gave Hake leave to amend his complaint to cure the deficiencies. The magistrate judge also concluded Hake's Eighth Amendment claim was frivolous.

#9 In *Carney v. Houston*, 33 F.3d at 895, we disapproved the district court's practice of dismissing a complaint under Rule 12(b)(6) prior to service of process, and pointed out that the district court's Local Rule and procedures did not conform to the procedures for reviewing IFP complaints set forth in *Gentile v. Missouri Department of Corrections*, 986 F.2d 214, 217 (8th Cir.1993). Understanding that nonfrivolous claims could not be dismissed prior to service of process under Rule 12(b)(6), the magistrate judge here ordered the complaint to be served, and simultaneously recommended dismissal under Rule 12(b)(6) before defendants filed any responsive pleadings.

Footnote #2 Although Hake does not appeal the dismissal as frivolous of his Eighth Amendment claim, we note that the district court erred in conducting such a frivolousness review, because Hake had paid the filing fee. See *In re Funkhouser*, 873 F.2d 1076, 1077 (8th Cir.1989) (per curiam) (dismissal of section 1915(d) complaint as frivolous after payment of filing fee not contemplated by Federal Rules of Procedure). The section 1915(d) dismissal, however, is not a dismissal on the merits and would not prejudice the filing of a paid complaint making the same allegations. See *Denton v. Hernandez*, 504 U.S. 25, 34, 112 S.Ct. 1728, 1734, 118 L.Ed.2d 340 (1992)

Plaintiff Reed points out that he suffered pain, anguish, and extensive mental anguish because of the arrest at Jackson Days. In contrast you could look at a case *Wilson v. Yaklich et al., USA* 96-3023/96-4323 148 F.3d 596 (App. 6th Cir. 1998) The

court held that plaintiff's claim under U.S. Const. amend. VIII was properly dismissed as frivolous because plaintiff failed to show an injury justifying relief. Opinion...gist of Wilson's contention is that on two occasions he received threats from the "Aryan Brotherhood" prison gang and that prison officials failed to take action to protect him. There is no allegation that he actually suffered any harm because of the defendants conduct or that he is currently threatened with such harm. After a careful review of the record, we conclude that the factual allegations presented in this matter prevent the plaintiff from making an Eight Amendment claim with even an arguable basis in law.

Congress first enacted an IFP statute in 1892 "to ensure that indigent litigants have meaningful access to the federal court." *Neitzke v. Williams*, [490 U.S. 319, 324](#) (1989) (citing *Adkins v. E.I. DuPont deNemours & Co.*, [335 U.S. 331, 342-43](#) (1948)). Recognizing, however, the potential abuses that could result when filing fees and court costs are paid by the public, Congress also enacted 28 U.S.C. § 1915(e)(2)(B)(i), providing that "[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that the action or appeal is frivolous or malicious." *See also Brooks v. Seiter*, 779 F.2d 1177, 1179 (6th Cir. 1985). Subsequent court decisions have established "that not all unsuccessful claims are frivolous." *Neitzke*, [490 U.S. at 329](#). Rather, the provisions of the IFP statute should be used to dismiss an action only when the claim is "based on an indisputably meritless legal theory," or where a complaint's "factual contentions are clearly baseless." *Id.* at 327. Stated differently, we have held that "an *in forma pauperis*, *pro se* complaint may only be dismissed as frivolous . . . when the petitioner cannot make any claim with a rational or arguable basis in law or in fact." *Lawler v. Marshall*, 898

F.2d 1196,1199 (6th Cir. 1990) (citing *Williams v. Faulkner* , 837 F.2d 304, 307 (7th Cir. 1988), *aff'd by Neitzke*).

The plaintiff asserts that his Eighth Amendment right not to be subjected to cruel and unusual punishment has been implicated by the defendants' failure to act in this case. Without question, prison officials have an affirmative duty to protect inmates from violence perpetrated by other prisoners. As the Supreme Court noted in *Farmer v. Brennan* , [511 U.S. 825, 833](#) (1994), "[h]aving incarcerated persons with demonstrated proclivities for antisocial criminal, and often violent, conduct, having stripped them of virtually every means of self-protection and foreclosed their access to outside aid, the government and its officials are not free to let the state of nature take its course." (Internal quotation marks and citations omitted.)

Nevertheless, not all injuries suffered by an inmate at the hands of another prisoner result in constitutional liability for prison officials under the Eighth Amendment. Instead, the deprivation alleged "must result in the denial of `the minimal civilized measure of life's necessities,'" *id.* at 834 (quoting *Rhodes v. Chapman* , [452 U.S. 337, 347](#) (1981)), and, in prison condition cases such as the one presently before the court, the prison officials must exhibit deliberate indifference to the health or safety of the inmate. *Id.* Implicit in this standard is the recognition that the plaintiff must allege that he has suffered or is threatened with suffering actual harm as a result of the defendants' acts or omissions before he can make any claim with an arguable basis in Eighth Amendment jurisprudence. Wilson has completely failed to do so in this case.

The plaintiff primarily requests monetary relief from the defendants in the form of compensatory and punitive damages. Requests for damages, however, seek to

compensate plaintiffs for past injuries. *See Carey v. Piphus* , [435 U.S. 247, 254-57](#) (1978). In this case, Wilson advances no allegation that the Aryan Brotherhood actually injured him physically. Nor does he even hint that he has suffered any emotional or psychological injury from the alleged threats..... ("In order to further the purpose of § 1983, the rules governing compensation for injuries caused by the deprivation of constitutional rights should be tailored to the interests protected by the particular right in question -- just as the common-law rules of damages themselves were defined by the interests protected in the various branches of tort law.").....

Plaintiff Reed first points to the fact that Reed has a whole list of injuries some of which are included in this motion. Primarily freedom of speech violation, injury to hands, mental anguish and many other claims that Reed Clearly point out in his pleadings. In *Wilson v. Yaklich* the above referenced case Wilson really never pointed to any real claim of harm or any reason for the court to award damages. In *Reed v Choice*, Reed clearly points to a whole list of damages and the court in the *Wilson* case points out why his legal argument carries water:

Wilson v. Yaklich et al.

*1. Congress first enacted an IFP statute in 1892 "to ensure that indigent litigants have meaningful access to the federal court. "[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that the action or appeal is frivolous or malicious." See also *Brooks v. Seiter* , 779 F.2d 1177, 1179 (6th Cir. 1985). Subsequent court decisions have established "that not all unsuccessful claims are frivolous." *Neitzke* , [490 U.S. at 329](#). Rather, the provisions of the IFP statute should be used to dismiss an action only when the claim is*

"based on an indisputably meritless legal theory," or where a complaint's "factual contentions are clearly baseless"

If Plaintiff Reed is granted in forma pauperis status the time has already passed to consider a dismissal on a frivolous case.

Wilson v. Yaklich et al.

2. cruel and unusual punishment

Plaintiff Reed believes he clearly has a case for cruel and unusual punishment when he was simply campaigning at a "public political gathering" in which others were campaigning for candidates and did not receive any kind of police treatment or actions against themselves including their bodies.

Wilson v. Yaklich et al.

3. In this case, Wilson advances no allegation that the Aryan Brotherhood actually injured him physically. Nor does he even hint that he has suffered any emotional or psychological injury from the alleged threats...end of Wilson v. Yaklich et al.

Contrary to what Wilson did Plaintiff Reed has throughout the nearly one hundred motions "painted a picture" of the wrongs that were committed and the reasoning that one reason the case has went on is because Plaintiff Reed wants to make sure this never happens again to anyone in the future:

FOR A SECOND TIME.... At this point in time Plaintiff would like to clarify the issue with a quote from the submitted Mike Schilling Deposition, Mr. Schilling served 3 terms in the Missouri State Legislature (did not run for a fourth term to spend time with his teenage son), and attended the event that night:

Reed: Is restricting...we were depending on how people look at it...we were actually petitioning for a new governor. We were petitioning for a new governor. And how does that differ from the situation that we face in China today where we have a group of monks that are protesting...I mean if we start down the slippery slope...that's the main

reason this case has never been resolved and some people may believe or not believe that it is reasonable to think that 5 or 10 years from now if there is some college student, a middle aged person, likely would not happen to an elderly person, but if they are standing down at Jackson Days and say we like so and so we are going to go down there and hand out some flyers---we want them to run for office.

Schilling: Un huh.

Reed: Again its back to the principle do you think that this case if... and again that some people say lawsuits just cost people money... but for people not to do an activity again would you agree there has to be a criminal penalty or there has to be a financial penalty and I guess the question would be that and secondly do you believe we need to resolve this case to make sure...it is reasonable to say we must resolve this case to make sure it does not happen again to someone in the future, because if the police are called five to ten years to an incident like that, they're going to call in and their supervisor is going to say wait a minute we do have a situation there that we need to be sort of careful because of something that happened ten years ago, long before you ever got on the force. Do you agree with the line of thinking, or do you agree with the general concept or not a concept, a statement I guess, that we need to make sure this kind of thing does not happen again in the future?

Schilling: Right. I agree.

Reed: I don't know if you would agree with the comment or not agree with it. If Adolph Hitler's brother were to show up alive and I don't know how old he would be, but if he showed up at some public event and wanted to campaign people would not be happy and he might probably likely get killed. The whole issue, which that is probably the most extreme example you would have, is the way you approach that is you make sure that you campaign against people that are considered whatever on the fringe, that you try and stop people from running for office is just a slippery slope, but once you start down it

Schilling: That's right.

Reed: then the people in power can the limit the people the amount of people that are involved in the process. Where does it end? And who makes the decision where it ends?

Schilling: There are a lot of nervous and insecure people in this world today. A little dissent scares the shit out of them.

Plaintiff Reed also points to

http://en.wikipedia.org/wiki/Eighth_Amendment_to_the_United_States_Constitution

In *Furman v. Georgia* (1972), [Justice Brennan](#) wrote, "There are, then, four principles by which we may determine whether a particular punishment is 'cruel and unusual'."

- The "essential predicate" is "that a punishment must not by its severity be degrading to human dignity," especially [torture](#).
- "A severe punishment that is obviously inflicted in wholly arbitrary fashion."
- "A severe punishment that is clearly and totally rejected throughout society."
- "A severe punishment that is patently unnecessary."

Continuing, he wrote that he expected that no state would pass a law obviously violating any one of these principles, so court decisions regarding the Eighth Amendment would involve a "cumulative" analysis of the implication of each of the four principles.

D. Appointment of Counsel

Plaintiff Reed clearly states that extraordinary circumstances exist because no attorney in their right mind will go up against the City for fear of being ran out of town or the country. Secondly, Reed has -0- funds to pay an attorney.

Plaintiff Reed will mail the following letter asking the Department of Justice-FBI

April 17, 2008

Federal Bureau of Investigation Kansas City Office,

Executive Management: Special Agent in Charge: Monte C. Strait

Monte C. Strait
1300 Summit
Kansas City, Missouri 64105

Dear Mr. Strait:

I am attempting to determine if any police officers conduct violated Federal Civil Rights statutes and to that end I ask the Justice Department to seek an inquiry into the events in April of 2003 which concerned handing out leaflets that said "Draft Claire" for Governor "she inspires people". More information can be found at Federal Case No. **05-3133-CV-S-SWH.**

Sincerely,

Steven L. Reed
1441 South Estate Avenue
Springfield, MO 65804

Sincerely,

Steven Reed

April 17, 2008

FBI Executive Director – [Robert S. Mueller, III](#)

Robert S. Mueller, III
935 Pennsylvania Ave
NW Washington, DC 20535

Dear Mr. Mueller:

I am attempting to determine if any police officers conduct violated Federal Civil Rights statutes and to that end I ask the Justice Department to seek an inquiry into the events in April of 2003 which concerned handing out leaflets that said “Draft Claire” for Governor “she inspires people”. More information can be found at Federal Case No. **05-3133-CV-S-SWH**.

Sincerely,

Steven L. Reed
1441 South Estate Avenue
Springfield, MO 65804

Cc: President George W. Bush

Second letter:

April 17, 2008

U.S. Department of Justice
Civil Rights Division
Voting Rights Section
950 Pennsylvania Ave.
NW Washington DC

Dear Officials:

I hereby request an investigation of whether my rights to vote last April in Springfield Missouri were violated since I was not able to run as a write in candidate. Springfield is the only City in the State that does not allow write in candidates for mayor. **Also whether the City used fraudulent practices in this matter.**

Also seek an inquiry into the events in April of 2003 which concerned handing out leaflets that said "Draft Claire" for Governor "she inspires people". More information can be found at Federal Case No. **05-3133-CV-S-SWH.**

You are asked to look at:

1. Age Discrimination
2. Improper Arrest and Civil Rights Violations
3. Denial of Plaintiff Reed to run for Office and Vote for Himself since the City apparently did not want this case to see the light of day or be made public.

Sincerely,

Steven L. Reed
1441 South Estate Avenue
Springfield, MO 65804

Cc: President George W. Bush

In her ORDER Magistrate Judge Sarah W. Hays points to Mosby v. Mabry, 697 F. 2d 213,214 (8th Cir.1982) In civil rights matters the court *may* pursuant to 28 U.S.C. & 1915(e) 'request' an attorney to represent a party if, within the court's discretion, the circumstances are such that would properly justify such a 'request'.

Plaintiff Reed looks at to Mosby v. Mabry and also sees some very important parts of the case that concerns issues directly associated with justice in this case Reed v. Choice Hotels and the City of Springfield. Mosby sued the government pursuant to 42 U.S.C.S. § 1983 and alleged that he received a disciplinary sentence for failure to work, his personal mail was opened, and that he was denied adequate dental care....

Overview....The court held that the inmate's assertion of denial of counsel had no legal foundation because of the trial court's finding that the inmate was familiar with

judicial procedure and the substance of the case at issue.

Opinion....[*214] Roger D. Mosby, a pro se inmate, appeals from the district court's dismissal, with prejudice, of four of his lawsuits brought pursuant to 42 U.S.C.S. @ 1983. Mosby, while incarcerated in the Arkansas Department of Correction, filed approximately 40 lawsuits alleging numerous violations of his civil rights under section 1983 by various prison personnel.....Furthermore, Mosby's claim that he was denied his right to be represented by counsel and thereby deprived of his rights guaranteed by the sixth amendment has no legal foundation. In civil rights matters the courts *may*, pursuant to 28 U.S.C. § 1915, "request" an attorney to represent a party if, within the court's discretion, the circumstances are such that would properly justify such a request. *Peterson v. Nadler*, 452 F.2nd 754, 757 (8th Cir. 1971). In view of the district court's finding that Mosby demonstrated familiarity with judicial procedure and the substance[215] of the cases at issue here, we find no basis for holding that the court abused its discretion in not appointing council to represent Mosby in these matters.

...it cannot be said that the district court erred in denying Mosby relief. In order to prevail upon a section 1983 claim, it is essential to establish a clear violation of a constitutional right or other federally protected right. *Freeman v. Lockhart*, 503 F.2d 1016, 1017 (8th Cir. 1974), citing *Cole v. Smith*, 344 F.2nd 721 (8th Cir. 1965). Mosby failed to establish such a violation since the general rule is that compelling prison inmates to work does not contravene the thirteenth amendment. *Ray v. Mabry*, 556 F.2d 881, 882 (8th Cir. 1977).....

Plaintiff Reed: agrees that it is up to the decision making process of the court to

decide if legal council will be assigned to a Pro Se Plaintiff in civil rights cases.

Clearly, there is a major difference in this case whereas Plaintiff Reed has only filed two federal cases; the present one at hand and in 2000 a case about being arrested by the City of Springfield for doing Voluntary Voter Registration the day and at the time Vice Presidential Candidate Joseph Lieberman came to the SMSU college campus to speak and Plaintiff Reed really learned little about the Legal Process in that case since it never made it to the Discovery stage. So Reed's 1.5 cases compared to Mosby's 40 or more cases means that the court would likely conclude that Reed was no expert or really not that knowledgeable about Federal Court cases concerning Civil Rights Cases.

There is a lot of difference between Mosby's Case that alleged that he received a disciplinary sentence for failure to work, his personal mail was opened, and that he was denied adequate dental Care and Reed's Case concerning Freedom of Speech campaigning for a lady for Governor and who is now a USA Senator, and being Unlawfully Detained and Arrested, Possible Meeting of Minds Under Color of Law, and Having Marks and Bruises on Hands for days and Mental Stress for 5 years.

Plaintiff Reed also points to U.S. v. \$8,700.00 U.S. Currency which says 2. Section 1915: Section 1915(e) empowers the district court to appoint counsel in civil actions brought in forma pauperis. The Eighth Circuit Court of Appeals has held that, when determining whether to appoint counsel for an indigent civil rights plaintiff, the court should assess the need for counsel, including consideration of such factors as (1) the factual complexity of the case, (2) the ability of the plaintiff to investigate the facts, (3) the existence of conflicting testimony, (4) the plaintiff's ability to present the claims, and (5) the complexity of the legal issues. In re Lane, 801 F.2d 1040, 1043-44 (8th Cir.

1986); Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986). The court must also consider the plaintiff's ability to obtain counsel on his or her own. Rayes v. Johnson, 969 F.2d 700, 703 (8th Cir. 1992)

Plaintiff Reed would have to say the factual complexity, the ability of the plaintiff to investigate the facts, the plaintiff's ability to present the claims, and the complexity of the legal issues in this current case are all in accordance and would negate the need of Reed to have legal counsel.

Plaintiff Reed would work with a Court appointed attorney to make sure that proper time and effort are spent as wisely as possible. In Arlene OTIS, Plaintiff-Appellant, v. CITY OF CHICAGO, Defendant-Appellee 29 F.3d 1159 65 Fair Empl.Prac.Cas. (BNA) 705, 65 Fair Empl.Prac.Cas. (BNA) 992, 65 Empl. Prac. Dec. P 43,268, 63 USLW 2067, 29 Fed.R.Serv.3d 606 No. 92-1342 (7th Cir.1994).

Opinion III The district judge observed that Otis had not cooperated with her first lawyer and concluded that a litigant who wastes the time of one practitioner cannot expect the court to put another lawyer's time at her disposal. Section 2000e-5(f) does not require judges to provide unlimited legal aid to indigent civil rights litigants. Members of the bar have other clients with claims that also require attention. Before diverting this limited time to a plaintiff under Title VII, the district judge should ensure that it will be well used.... Recent opinions stress that litigants' principal resource is the willingness of the bar to supply aid, not the power of the court to conscript it. Farmer v. Haas, 990 F.2d 319 (7th Cir.1993); Jackson v. County of McLean, 953 F.2d 1070 (7th Cir.1992). After Otis's first lawyer withdrew, the district judge told her to seek counsel who would represent her voluntarily. People claiming to have been injured by defective products

must persuade lawyers to take their cases, and as a rule people claiming to have been injured by violations of Title VII also should abide the judgment of the bar about whose case is strongest. If a person has trouble getting a lawyer because the bar is hostile to civil rights claims, or because the anticipated attorneys' fees are insufficient, then there is a stronger reason to appoint counsel. But a large bar is engaged in Title VII practice. This bar brings many cases, some with excellent chances and some marginal. This court has not been flooded with colorable cases, prosecuted pro se, that leave us wondering why no member of the bar would assist. Experience leads us to rely on the care of the legal profession and sound discretion of the district courts to decide when cases should proceed with appointed counsel....end of Arlene OTIS, Plaintiff-Appellant, v. CITY OF CHICAGO, Defendant-Appellee.

Plaintiff Reed would again point out that even though this present case raises eyebrows and several law firms seem interested and concerned about what the “Freedom of Speech” issue brings up the fact remains many may be a little concerned whether questioning the powers may hurt their law firm and their business operation. So the possible appointment of a court appointed counsel is requested by Plaintiff Reed is suggested in Arlene OTIS, Plaintiff-Appellant, v. CITY OF CHICAGO, Defendant-Appellee as a possible remedy to the present situation faced by Reed.

E. MOTION TO COURT (doc. #103) and MOTION TO QUASH (doc. #104)

Plaintiff Reed readily admits he needed help with the Depositions and should have had help when the Court seen he was having trouble moving the case forward. Jackson Days was a public event attended by over 300 members of the public and Plaintiff Reed was arrested and unlawfully detained by the police who are employed by

the City of Springfield, Missouri 65801. It would seem fair to have appointed a Court Attorney or an Attorney from the Bar at the onset or beginning of the case. If the Court appoints a Civil Rights Lawyer Plaintiff Reed wants to have Leave to Re-File Deposition notices” and request.

In Estel Leon Mozee v. Steven Kuplen, Ber – Kup, Inc., Defendants 87-2359-S (US Dis. Ct. KS. 1989) Defendants seek amendment of the pretrial order in this case in order to reopen discovery. Once again, the court found in its February 1 1989 Memorandum and Order that discovery had not proceeded in this case on schedule because of the neglect of the defendants’ former council. Defendants thus request that discovery be reopened so that it can be properly completed. Plaintiff opposes the motion on the grounds that his appeal in the Tenth Circuit Court of Appeals is now pending. He ask for a stay pending resolution of that appeal. This court has already determined that a stay of these proceedings pending the appeal would not be justified. Therefore, defendants’ motion to amend the pretrial order will be granted. Discovery shall be reopened in this case and should be completed by July 31, 1989.

Plaintiff contends in his **motion to quash that discovery** has been closed in the case and the amended notice to take deposition was therefore untimely....The court finds that plaintiff’s motion to quash was untimely under Local Rule 210©, because it was not filed and served upon counsel within (11) days after service of the deposition notice and at least forty-eight (48) hours prior to the noticed time of the deposition. Further, plaintiff failed to comply with Local Rule 210(j) because he failed to make a reasonable effort to confer with opposing council concerning the matter in dispute BEFORE HE FILED A MOTION TO QUASH. IT IS FURTHER ORDERED that Plaintiff’s motion for

attorney's fees and cost is granted. Defendants former Council, Micheal J. Peterson, shall pay to plaintiff his attorney's fees and cost incurred in opposing defendants motion to set aside default judgment.

IT IS FURTHER ORDERED that defendants' motion to amend the pretrial order is granted. Discovery is reopened in this case and should be completed by July 31, 1989.....IT IS FURTHER ORDERED that plaintiff's motion to quash defendants' amended notice to take deposition *duces tecum* is denied....IT IS FURTHER ORDERED that plaintiff's request for sanctions pursuant to Rule 37 of the Federal Rules of Civil Procedure is granted and plaintiff shall pay defendants' fees and court costs incurred in preparing for and attending the deposition scheduled for April 10, 1989, and in filing the response to plaintiff's motion to quash amended notice to take deposition *duces tecum*. Those fees and cost total Four Hundred Sixty-Nine Dollars and Sixty Cents (\$469.60). The Clerk of the Court is directed to forward a copy of this Memorandum and Order to the defendants' former counsel, Micheal J. Peterson....end

Plaintiff Reed admits he has done a poor job as did the attorney for the defendant Steve Kuplen. As far as the QUASH MOTION by the City of Springfield the City Attorney made no call or contact with Plaintiff Reed before making the Motion to Quash which according to Estel Leon Mozee v. Steven Kuplen, Ber – Kup, Inc., Defendants seems to indicate the City violated Local Rules. Plaintiff Reed has been in control but clearly over his head and if he was the attorney in this case the court would have likely fired or had him fines as in the Mozee v. Kuplin case. Again appointing a Civil Rights Lawyer to Defend the Public Rights to Freed of Speech seems to be appropriate because this is not a Private issue, but rather one of Public Concern and Interest in making sure

Constitutional Protections are adhered to as required by State and Federal Laws I.E. The Federal Constitution or Contract with ALL AMERICANS. Clearly Plaintiff Reed did not follow all Discovery rules properly but Justice would seem to cry out for the chance to properly complete Discovery, otherwise the questions of fairness in this civil case may haunt the City of Springfield indefinitely.

F. Plaintiff Reed points to Possible Motives of City of Springfield to Suppress Reed as a Candidate and his and 150,000 Residents to Vote in a Local Election

Plaintiff Reed points to:

<http://www.answers.com/topic/vested?cat=biz-fin>

vested rights in relation to constitutional guarantees, it is a broad shield of protection consisting of "a vested interest which it is right and equitable that the government should recognize and protect, and of which the individual could not be deprived arbitrarily without injustice." 65 N.W. 2d 785, 791.

Plaintiff Reed believes a link between a protected voting and election right was denied by the City of Springfield in an effort to diminish this civil case. Reed have ran for City Council but did not win and then filed with the county clerk as a write in which the City Attorney quickly sent a letter saying they would not allow it. The City of Springfield noted that the Reed v. Choice Hotel case which the City is a Defendant had not came up in his run for a City Council position, but that it might come up if Reed was allowed to run as a Write in for Governor. Plaintiff Reed points to this possible intertwining of Local, State, and Federal election rules. The City of Springfield says the petition signatures of 200 people are need according to the City Constitution. The City Constitution is silent on write – ins just as every other City and Government in Missouri all of which allow write in candidates in local elections. The REAL QUESTION here is whether Plaintiff Reed was the first to test the write in candidacy and did the City of

Springfield cover it up and deny Reed to run in an effort to cover up this present Federal Court Case.

Reed point to US Supreme Court Case DUNN v. BLUMSTEIN, 405 U.S. 330 (US Sup. Ct.1972) DUNN, GOVERNOR OF TENNESSEE, ET AL. v. BLUMSTEIN

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE No. 70-13. Appellee challenged the constitutionality of the durational residence requirements, and a three-judge District Court held them unconstitutional on the grounds that they impermissibly interfered with the right to vote and created a "suspect" classification penalizing some Tennessee residents because of recent interstate movement. Tennessee asserts that the requirements are needed to insure the purity of the ballot box and to have knowledgeable voters. Held: The durational residence requirements are violative of the Equal Protection Clause of the Fourteenth Amendment, as they are not necessary to further a compelling state interest. Pp. 335-360

(a) Since the requirements deny some citizens the right to vote, "the Court must determine whether the exclusions are necessary to promote a compelling state interest." *Kramer v. Union Free School District*, 395 U.S. 621, 627 (emphasis added). Pp. 336-337.

(b) Absent a compelling state interest, Tennessee may not burden the right to travel by penalizing those bona fide residents who have recently traveled from one jurisdiction to another. Pp. 338-342.

(c) A period of 30 days appears to be ample to complete whatever administrative tasks are needed to prevent fraud and insure the purity of the ballot box. Pp. 345-349.

MARSHALL, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, STEWART, and WHITE, JJ., joined. BLACKMUN, J., filed an opinion concurring in the result, post, p. 360. BURGER, C. J., filed a dissenting opinion, post, p. 363. POWELL and REHNQUIST, JJ., took no part in the consideration or decision of the case.

Robert H. Roberts, Assistant Attorney General of Tennessee, argued the cause for appellants. With him on the brief were David M. Pack, Attorney General, and Thomas E. Fox, Deputy Attorney General.

James F. Blumstein, pro se, argued the cause for appellee. With him on the brief were Charles Morgan, Jr., and Norman Siegel.

Henry P. Sailer and William A. Dobrovir filed a brief for Common Cause as amicus curiae urging affirmance.

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Various Tennessee public officials (hereinafter Tennessee) appeal from a decision by a three-judge federal court holding that Tennessee's durational residence requirements for voting violate the Equal Protection Clause of the United States Constitution. The issue arises in a class action for declaratory and injunctive relief brought by appellee James Blumstein.....

After exhausting state administrative remedies, Blumstein brought this action challenging these residence requirements [405 U.S. 330, 332] on federal constitutional grounds. [1](#) A three-judge court, convened pursuant to 28 U.S.C. 2281, 2284, concluded that Tennessee's durational residence [405 U.S. 330, 333] requirements were unconstitutional (1) because they impermissibly interfered with the right to vote and (2) because they created a "suspect" classification penalizing some Tennessee residents because of recent interstate movement. [2](#) 337 F. Supp. 323 (MD Tenn. 1970). We noted probable jurisdiction, [401 U.S. 934](#) (1971). For the reasons that follow, we affirm the decision below. [3](#) [405 U.S. 330, 334]

Footnotes

[[Footnote 1](#)] Involved here are provisions of the Tennessee Constitution, as well as portions of the Tennessee Code. Article IV, 1, of the Tennessee Constitution, provides in pertinent part:

"Right to vote - Election precincts - Every person of the age of twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein such person may offer to vote for three months, next preceding the day of election, shall be entitled to vote for electors for President and Vice-President of the United States, members of the General Assembly and other civil officers for the county or district in which such person resides; and there shall be no other qualification attached to the right of suffrage.

The Reed Write in case:

**MISSOURI COURT OF APPEALS
SOUTHERN DISTRICT**

Steven L. Reed, Petitioner)
vs)
) **Case No. SD28747**
Brenda M. Cirtin, City Clerk,)
City of Springfield, Respondent)
)

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F. Motions and orders after judgment

1. No motions where filed by Petitioner after Judgment.

G. Notice of appeal

Notice of Appeal was filed on October 1, 2007 in the Circuit Court of Greene County, Missouri requesting the case be sent to the Court of Appeals Southern District The Notice of Appeal and a Motion for additional time were filed and are included as approved by the Appeals Court.....Pages 111-112

Additional exhibit Three receipts including the filing of \$100. cost of printing documents and mailing fees.....Page 113

FREEDOM is used throughout the Bible

From: <http://www.faithfacts.org/christ-and-the-culture/the-bible-and-government>

Sovereign authority of God, not sovereignty of the state, or sovereignty of man Mayflower Compact, Declaration, Constitution, currency, oaths, mention of God in all 50 state constitutions, Pledge of Allegiance [Ex. 18:16](#), [20:3](#), [Dt. 10:20](#), [2 Chron. 7:14](#), [Ps. 83:18](#), [91:2](#), [Isa. 9:6-7](#), [Dan. 4:32](#), [Jn. 19:11](#), [Acts 5:29](#), [Rom. 13:1](#), [Col. 1:15-20](#), [1 Tim. 6:15](#)

G. Claims and damages caused by Defendant the City of Springfield in particular and the other original Defendants aided and assisted in the injuries and violations of law.

AFFIDAVIT

I, Steven Lloyd Reed, do hereby submit under oath, the facts stated in AFFIDAVIT OF INJURIES, (Damages for injuries caused by Defendant City of Springfield, MO and other named Defendants), are true and correct to the best of my knowledge and belief. This affidavit is being included in the motion and as an exhibit. Plaintiff Reed hereby notifies the Court that this concerns Case No. 05-3133-CV-S-SWH. This is a Partial List of Injuries and Damages while others have been included in Motions and Evidence submitted to the Federal Court during this Case.

Plaintiff Reed is asking to possibly be assigned legal counsel or be allowed additional time to retain legal counsel.

Signed on _____ DATE BY _____

State of _____)

)

County of _____)

_____, of lawful age, being first duly sworn, states I have read the Motion filed on this day, the foregoing statement, and am familiar with the contents thereof and the statements therein contained are true and correct, to the best of my knowledge and belief.

(Signature) _____

Subscribed and sworn to before me this ____ day of _____, 20__

(Notary Public) _____

My commission expires _____ Commission No. _____

INJURIES

Malice was committed by the City of Springfield and other parties without just cause or reason, to commit a wrongful act that will result in harm to another. Color of Law---A person acts under color of law when he or she exercises power possessed by virtue of law and “made possible only because the wrongdoer is clothed with the authority of state law.” Defendant Choice Hotel, Defendant Muhammed, Defendant City of Springfield, Defendant Springfield, Mo. Police Department, Defendant Gale Ann Campbell, Defendant Steve Stepp, and Defendant Bob Holden all appear to have had an involvement of a “meeting of the minds” that Plaintiff Steven Reed and Jeff Kenkel were going to quit handing out campaign flyers to Draft Claire MCaskill for Governor.

Oppression---Plaintiff Reed was arrested because of Classism the institutional, cultural, and individual set of practices and beliefs that assign differential value to people according to their socioeconomic class; and an economic system which creates excessive inequality and causes basic human needs to go unmet. Clearly if Reed was wealthy or

perceived to be wealthy the Springfield Police and the other actors would not have taken the actions they did. Plaintiff Reed was also subject to "Bullying---the wilful, conscious desire to hurt another and put him/her under stress"

Fraud

City used police report to commit fraud. Plaintiff Reed was told the City of Springfield was going to come after him for legal charges by Attorney for Steve Stepp.

Treason is Violation of allegiance toward one's country or sovereign, especially the betrayal of one's country by waging war against it or by consciously and purposely acting to aid its enemies. The City of Springfield may have aided enemies of the USA by giving them reasons to point out the USA takes actions against their own citizens for freedom of speech.

Loss of labor which you received to unjustly enrich yourselves---Clearly Plaintiff Reed has spent much time over the last five years trying to defend the case and has spent time he could have been on the clock getting paid for. The case also likely effected his possible hiring on for some jobs. It is unclear if his arrest record appears when employers do background checks.

Violation of due process

Plaintiff Reed was not given proper due process by the police in deciding whether to unlawfully detain or arrest him.

Breach of contract (Original U.S. Constitution 1787)

Clearly Plaintiff Reed was violated in the area of Freedom of Speech, illegal detainment, denied right to petition government, and virtually all the rights free citizens are supposed to have via the contract the USA government has with the People known as the US Constitution.

FROM http://en.wikipedia.org/wiki/United_States_Bill_of_Rights

The **Bill of Rights** are the first ten amendments to the [United States Constitution](#). They were introduced as a series of [amendments](#) in 1789 in the [First United States Congress](#) by [James Madison](#).

United States Bill of Rights

First Amendment: addresses the rights of [freedom of religion](#) (prohibiting Congressional [establishment of a religion](#) over another religion through Law and protecting the right to [free exercise of religion](#)), [freedom of speech](#), [freedom of the press](#), [freedom of assembly](#), and [freedom of petition](#).

FROM http://en.wikipedia.org/wiki/Freedom_of_speech

Freedom of speech is the concept of being able to speak freely without [censorship](#). The right to freedom of speech is guaranteed under international law through numerous human rights instruments, notably under Article 19 of the [Universal Declaration of Human Rights](#) and Article 10 of the [European Convention on Human Rights](#), although implementation remains lacking in many countries. The synonymous term **freedom of expression** is sometimes preferred, since the right is not confined to verbal speech but is understood to protect any act of seeking, receiving and imparting information or ideas, regardless of the medium used.

In practice, the right to freedom of speech is not absolute in any country, although the degree of freedom varies greatly. Industrialized countries also have varying approaches to balance freedom with order. For instance, the [United States First Amendment](#) theoretically grants absolute freedom, placing the burden upon the state to demonstrate when (if) a limitation of this freedom is necessary. In almost all [liberal democracies](#), it is generally recognized that restrictions should be the exception and free expression the rule; nevertheless, compliance with this principle is often lacking.

FROM http://en.wikipedia.org/wiki/Freedom_to_petition

Right to petition United States

Main article: [Right to petition in the United States](#)

In the [United States](#), the right to petition is guaranteed by the [First Amendment](#) to the [Constitution](#), and it specifically prohibits Congress from abridging "the right of the people ... to petition the Government for redress of [grievances](#)." Its roots within the [colonies](#) can be traced back to the [Declaration of Independence](#),^[4]. Historically, the right can be traced back further, to English documents such as the [Magna Carta](#), which, by its acceptance by the monarchy, implicitly affirmed the right, and the later [Bill of Rights 1689](#), which explicitly declared the "right of the subjects to petition the king"^[5].

While the prohibition of abridgement of the right to petition originally referred only to the federal legislature (the [Congress](#)) and [courts](#), the [incorporation doctrine](#) later expanded the protection of the right to its current scope, over all state and federal courts and legislatures and the executive branches of the state^[4] and federal governments.

Violation of vested rights

Plaintiff Reed points to violation of vested rights in relation to constitutional guarantees, it is a broad shield of protection consisting of "a vested interest which it is right and equitable that the government should recognize and protect, and of which the individual could not be deprived arbitrarily without injustice." 65 N.W. 2d 785, 791. Freedom of Speech, Possible Election Tampering by the City of Springfield, and Violations of Equal Protection Laws and other violations of Plaintiff Reed's rights.

Injury to my emotional and psychological well being due to subjecting me to the wrongful and arbitrary misuse of your authority and reckless indifference to my continuous protestations

Plaintiff Reed believes he clearly has a case for cruel and unusual punishment when he was simply campaigning at a “public political gathering” in which others were campaigning for candidates and did not receive any kind of police treatment or actions against there selves including their bodies. Plaintiff Reed first points to the fact that Reed has a whole list of injuries some of which are included in this motion. Primarily freedom of speech violation, injury to hands, mental anguish and many other claims that Reed Clearly point out in his pleadings his reputation was damaged with his family members, friends, and the public. Excessive mental anguish and stress trying to hold down or prove case against “a group of opposing lawyers’.

Plaintiff Reed prays the Court will consider Appeals on:

APPEAL OF COURT ORDERED DENIAL OF EMERGENCY MOTIONFORAPPROVAL OF PHONE TAPING OF DEPOSITIONS, CONTINUANCE OFCASE FOR PROPER DISCOVERY, REQUEST FOR IN FORMA PAUPERIS, AND A COURT APPOINTED ATTORNEY, (Doc. #101);

APPEAL OF COURTS DENIAL OF MOTION TO COURT NOTICES TO TAKE DEPOSITIONS AS FOLLOWS (Doc. #103);

APPEAL OF COURTS APPROVAL OF MOTION TO QUASH BY DEFENDANT AND OBJECTION TO DEPOSITION NOTICES FILED BY PLAINTIFF;
(Doc. 104)

APPEAL OF COURTS DENIAL OF MOTION REQUEST FOR COURT TO REQUEST, REQUIRE. AND/OR ORDER PARTIES TO GIVE DEPOSITIONS
(Doc. 105)

From Missouri Bar: Justice First

The first enumerated purpose listed in the preamble of the U.S. Constitution is "to establish justice." Providing justice is the mandate of a free society, one of the primary purposes for which a free people organize into the collective organization of a government.

Respectfully submitted,

Steven L. Reed

Certificate of Service---I certify that on _____ a true copy of the above was mailed, postage pre paid or electronically to the last known mailing address of each party to this lawsuit.

Respectfully submitted,
Steven L. Reed _____

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