

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

(FILED – OCTOBER 27, 2009)

MICHAEL J. TATRO

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V.

P.C. No. 09-5232

CITIGROUP, INC., ET AL.

DECISION

LANPHEAR, J. This matter came on for consideration before the Court on the Plaintiff Michael J. Tatro’s Motion to Proceed in Forma Pauperis. The motion is filed ex-parte to allow Mr. Tatro to file the action and serve process without payment. The Court is aware that Mr. Tatro has filed other civil actions with the Court, and now attempts to name over 30 defendants in a 145 count complaint.

The High Court’s analysis in D’Amario v. Rhode Island, 686 A.2d 82 (R.I. 1996) is instructive. It describes the judicial discretion afforded in granting *forma pauperis* benefits, requires that the party be unable to afford payment, and directs the Court to analyze whether the filing is merely the result of vexatious behavior. Id. at 87.

Obviously, such a proceeding would be difficult to complete when dealing ex-parte with a prison inmate. In conformity with our adversarial system, it would be more appropriate to allow the prospective defendants to participate in this hearing and, if necessary, to allow them to conduct limited discovery beforehand. The parties should note, however, that the Court reserves its discretion in affording these benefits to Mr. Tatro.

Accordingly, Mr. Tatro's motion is granted, conditionally. He shall be allowed, provisionally, to file his complaint with the Clerk of the Court and to serve process without expense. Mr. Tatro shall have a copy of this Decision served with the Complaint, upon each defendant. After service, the Court will conduct a hearing on Mr. Tatro's application to proceed in *forma pauperis*, at which time the proposed defendants shall be allowed to participate, and verify Mr. Tatro's representations. The Court reserves the right to deny Mr. Tatro's application at that time, and to require Mr. Tatro to reimburse the State for any benefits provided by this Decision.

Mr. Tatro's ability to initiate discovery is stayed, until the hearing described above. All fees and costs shall be reimbursed to the Court out of any judgment in the Plaintiff's favor.

Defendants shall schedule the hearing with the Clerk of the Court within sixty (60) days of service.