

with

Notice of Appeal to a Court of Appeals
From a Judgment or Order of a
District Court

United States District Court for the
Western District of IL
1:04-cv-07072

KC FILED
MAR 14 2005
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

More } Notice of appeal
v }
O'Brien et al

Notice is hereby given that R. Brown (plaintiff)
in the above named case, hereby appeals to the
U.S. Court of Appeals for the Seventh Circuit from
the final judgment issued in this case on
11/08/04 ~~and from~~ (the order dismissing ~~denying~~)
the plaintiffs case and from the order issued
on 2/9/05 in the case denying the plaintiffs
motion to reconsider that judgment on
the immovable grounds presented in that
motion

Robert J. Brown - pro se
2008 S. Blue Island
Chicago IL 60608
(312) 942-9712

U.S. District Court
Northern District of Ill

3/10/05 11:01 AM

1:04 cv 07072

Mon

Obama et al

KC FILED

MAR 14 2005

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Notice of Filing

On 3/14/05, I Robert J. Monahan
under penalty of perjury pursuant to
all applicable federal statutes that I
did file in the U.S. District Court of the
Northern District of Ill, at 217 S Dearborn St
Chicago, IL, 60604 copies of this Notice of Filing
① Notice of appeal, ② Motion to Proceed to Review
Papers ③ Motion for Extension of Time to
which to file Notice of Appeal by submitting
same via hand delivery to the drop box
on the 20th floor of the Mustang Redwood

Blidy.
Robert J. Monahan
200 S Blue Island
Chicago IL 60608
③127742-9712

Subject of Issue
Not applicable. No Defendants yet defined in
case

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 04cv7072

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

More, et al. Plaintiffs/Appellant	Obama for Senate, et al. Defendants/Appellees
--------------------------------------	--

(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	Robert J More	Name	
Firm	Pro Se	Firm	
Address	2008 S. Blue Island Chicago, IL 60608	Address	
Phone	312-455-8385	Phone	

Other Information			
District Judge	Lefkow	Date Filed in District Court	11/8/04
Court Reporter	P Warren 408-5100	Date of Judgment	2/9/05
Nature of Suit Code	440	Date of Notice of Appeal	3/14/05

COUNSEL: Appointed Retained Pro Se

FEE STATUS: Paid Due IFP
IFP Pending U.S. Waived

Has Docketing Statement been filed with the District Court Clerk's Office? Yes No

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted Denied Pending

If Certificate of Appealability was granted or denied, date of order: _____

If defendant is in federal custody, please provide U.S. Marshall number (USM#): _____

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

JS-20

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Joan H. Lefkow	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 7072	DATE	11/8/2004
CASE TITLE	More vs. Obama For Senate, et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____, Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 - FRCP4(m) Local Rule 41.1 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] Robert J. More ("plaintiff") has presented for filing a Complaint along with an application under 28 U.S.C. § 1915(a)(1) for leave to proceed without prepayment of fees. His application for leave to proceed further, however, is denied. The complaint is dismissed. Leave to proceed on appeal *in forma pauperis* is denied. See reverse.
- (11) [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.	NOV 09 2004 04 C 7072 COURT CLERK'S OFFICE		Document Number	
<input type="checkbox"/>	No notices required.		number of notices	NOV 09 2004 date docketed	4
<input type="checkbox"/>	Notices mailed by judge's staff.			GNA docketing deputy initials	
<input type="checkbox"/>	Notified counsel by telephone.				
<input checked="" type="checkbox"/>	Docketing to mail notices.				
<input checked="" type="checkbox"/>	Mail AO 450 form.				
<input type="checkbox"/>	Copy to judge/magistrate judge.				
MD	courtroom deputy's initials	Date/time received in central Clerk's Office			
			date mailed notice		
			mailing deputy initials		

(Reserved for use by the Court)

ORDER

Invoking 42 U.S.C. § 1983 and its jurisdictional companion § 1343, plaintiff in 11 single-spaced typed pages attempts to allege deprivation of civil rights by the Obama For Senate Campaign, the Keyes 2004 Campaign and various individuals associated with the respective campaigns as well as several Chicago police officers. Plaintiff also alleges "Civil RICO" and common law assault and battery. Much of the complaint text is nonsensical, such as "For one thing if Dr. Keyes will promptly remove any and all references to himself as a 'Catholic' out of any fundraising campaigns conducted by mail or the internet unless and until he demonstrates himself to presumptively possess the supernatural virtue of faith, which would require him to publicly repudiate and abjure of any and all heresies . . ." The complaint also contains veiled threats of violence, such as "What RJM understands he is obliged to obtain in exchange for the consideration he has provided in continuing to abstain from using force is . . . there is no such thing as a non... unilaterally relinquishing his moral prerogative (*sic*) to use force . . ." Certain allegations are understood as follows: Police officers and individual supporters of candidate Obama told plaintiff at about "19:00 pm" on October 26, 2004, that if he "set foot on the property of Northeastern IL University" that evening he would be arrested and they refused to tell him why. Officers refused to confirm acceptance of service of various documents and refused to make a police report concerning the October 26 incident. On October 22, plaintiff appeared at WLS Studios to deliver a copy of a DVD "911 in Plane Site" to candidate Keyes; he brought a megaphone to denounce candidate Obama; he demanded that the police "confiscate the batterer's megaphone or order him to turn it off"¹ but he was subjected to loud noise in excess of permitted noise levels. Plaintiff went to Cook County Hospital emergency room complaining of ringing in his ears; the physician was unable to treat him at the time and directed him to come back on November 15. Plaintiff continues to have ringing in his ears. Plaintiff attempted to explain his experiences to individuals associated with candidate Keyes's campaign, but they prevented him from entering the place where a Keyes event was being held and would not meet with him.

In assessing any complaint the court must first decide whether it has jurisdiction over the subject matter of the law suit. *See Cook v. Winfrey* 141 F.3d 322, 325 (7th Cir. 1998) (internal quotation marks and citations omitted) ("The requirement that jurisdiction be established as a threshold matter springs from the nature and limits of the judicial power of the United States and is inflexible and without exception."). "[F]ederal courts are without power to entertain claims otherwise within their jurisdiction if they are so attenuated and unsubstantial as to be absolutely devoid of merit." *Ricketts v. Midwest Nat. Bank*, 874 F.2d 1177, 1180 (7th Cir. 1989) (internal quotation marks and citations omitted). The court must first "assess the substantiality of the constitutional or federal statutory allegations of the complaint to determine whether they are . . . 'wholly insubstantial and frivolous.'" *Id.* at 1181-82, quoting *Bell v. Hood*, 327 U.S. 678, 681-82 (1946). If this condition exists, then the complaint must be dismissed for want of subject matter jurisdiction. *Ricketts*, 874 F.2d at 1182. To be "wholly insubstantial and frivolous," however, the court must find the case "absolutely devoid of merit" or "no longer open to discussion." *Id.* at 1182, quoting *Hagens v. Lavine*, 415 U.S. 528, 536-39 (1974). A frivolous complaint is one in which "the petitioner can make no rational argument in law or facts to support his or her claim for relief." *Williams v. Faulkner*, 837 F.2d 304, 306 (7th Cir. 1988).

It is well established that *pro se* complaints are to be liberally construed. *Haines v. Kerner*, 404 U.S. 519 (1972), but the court need not accept as true factual allegations which "rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Denton v. Hernandez*, 504 U.S. 25, 32 (1992).

In this case, the court concludes that the plaintiff's allegations are "fantastic or delusional." *Denton*, 504 U.S. at 33; *see also Tyler v. Carter*, 151 F.R.D. 537, 540 (S.D.N.Y. 1993), *aff'd mem.*, 41 F.3d 1500 (2d Cir. 1994). The complaint is a confused diatribe. The court discerns no basis for suit under any Civil Rights Act or any other federal statute. Although actions of Chicago police officers would amount to state action for purpose of the Civil Rights Act, the allegations reveal that the actions of the officers were well within their permissible conduct as peace officers. Supporters of either senatorial campaign are not state actors. If plaintiff claims that a person injured his hearing, he may have a common law claim against that individual, but this court would have no jurisdiction over it. The court finds the case frivolous and will dismiss for lack of subject matter jurisdiction. The motion for leave to proceed *in forma pauperis* is denied. Should plaintiff appeal this decision, the court hereby determines that the appeal is frivolous and denies leave to appeal *in forma pauperis*. The case is terminated.

¹Although plaintiff alleges he brought a megaphone, the context suggests someone else had the megaphone. Possibly two people had competing megaphones.

United States District Court
Northern District of Illinois
Eastern Division

DOCKETED

NOV 09 2004

More, et al.

JUDGMENT IN A CIVIL CASE

v.

Case Number: 04 C 7072

Obama For Senate, et al.

- Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that this case is dismissed for lack of subject matter jurisdiction and case is terminated.

Michael W. Dobbins, Clerk of Court

Date: 11/8/2004


Michael Dooley, Deputy Clerk

5

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 2.3
Eastern Division

Robert J More, et al.

Plaintiff,

v.

Case No.: 1:04-cv-07072
Hon. Joan Humphrey
Lefkow

Obama For Senate Campaign "OFSC"
Corporation, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, February 9, 2005:

MINUTE entry before Judge Joan H. Lefkow :Motion for reconsideration [6] is denied. Notices mailed by judge's staff. (mad,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

1. APPEAL, DENLOW, TERMED

**United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 2.3 (Chicago)
CIVIL DOCKET FOR CASE #: 1:04-cv-07072**

More, et al v. Obama for Senate, et al
Assigned to: Hon. Joan Humphrey Lefkow
Demand: \$0
Cause: 28:1331 Federal Question

Date Filed: 11/08/2004
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: U.S. Government
Defendant

Plaintiff

Robert J More

represented by **Robert J More**
2008 S. Blue Island
Chicago, IL 60608
312/455-8385
PRO SE

Plaintiff

Estate of Robert J. More

V.

Defendant

**Obama For Senate Campaign
"OFSC" Corporation**

Defendant

**Unnamed Defendant
Employee/Representative/Supporters
"ERS" of Obama**

Defendant

John Doe

1

Defendant

John Doe

2-4

Defendant

Jane Doe

1-3

Defendant

City of Chicago

Defendant

**Superintendent of Chicago Police
Department "CPD"**

Defendant

Philip Kline

Defendant

**CPD Sgt Villalbos
2327**

Defendant

CPD Sgt Nelson
956

Defendant

Keyes 2004 Campaign "K2C"

Defendant

Daniel Proft
Keyes 2004 ERS

Defendant

Jeremy Rose
Keyes 2004 ERS

Defendant

John Does
Keyes 2004 ERS's 1-4

Defendant

Jane Does
1-4

Defendant

CPD Officer Hanover

Defendant

CPD Officer Gayton
8538

Defendant**CPD Sgt Kayser**

1884

Defendant**John Does**

CPD Sgt from car 8901, 7008

Defendant**CPD Sgt Pontefecore**

552

Date Filed	#	Docket Text
11/02/2004	1	RECEIVED COMPLAINT with no copies. (gma) (Entered: 11/03/2004)
11/02/2004	2	CIVIL cover sheet. (gma) (Entered: 11/03/2004)
11/02/2004	3	APPLICATION by plaintiff to proceed in forma pauperis and financial affidavit. (gma) (Entered: 11/03/2004)
11/03/2004		FORWARDED complete case file to Judge Lefkow. (gma) (Entered: 11/03/2004)
11/08/2004	4	MINUTE ORDER of 11/8/04 by Hon. Joan Humphrey Lefkow: Robert J. More ("plaintiff") has presented for filing a complaint along with an application under 28 U.S.C. 1915(a)(1) for leave to proceed without prepayment of fees. His application for leave to proceed further, however, is denied. The complaint is dismissed. Leave to proceed on appeal in forma pauperis is denied [3-1]. (See reverse of minute order.) Terminating case. Mailed notice (gma) (Entered: 11/09/2004)
11/08/2004	5	ENTERED JUDGMENT. (gma) (Entered: 11/09/2004)

11/23/2004	6	PRELIMINARY COMPONENT by plaintiff of bifurcated verified motion to reconsider order entered on 11/8/04 dismissing case . (gma) (Entered: 11/29/2004)
01/20/2005	7	VERIFIED MOTION by Plaintiff Robert J More of 1/20/04 to provide notice to the court of developments in the prosecution of this case. (gma,) (Entered: 01/24/2005)
01/20/2005	8	NOTICE by Robert J More of MOTION by Plaintiff Robert J More 7 (gma,) (Entered: 01/24/2005)
02/01/2005	9	VERIFIED MOTION by Plaintiff Robert J More of 1/31/05 to provide notice to the Court of developments in the prosecution of this case, and to obtain permission to file all docuemnts filed in the future in the case on the website of the DNRCPN and to remit the sum of \$1 to defray filing costs of the suit; Notice of motion (eav,) (Entered: 02/03/2005)
02/09/2005	10	MINUTE entry before Judge Joan H. Lefkow : Motion for reconsideration 6 is denied. Notices mailed by judge's staff. (mad,) (Entered: 02/09/2005)
03/14/2005	11	NOTICE of appeal by Robert J More regarding orders 5 , 4 , 10 ; Notice of filing. (cdh,) (Entered: 03/15/2005)
03/14/2005	12	MOTION by Plaintiff Robert J More for leave to appeal in forma pauperis (cdh,) (Entered: 03/15/2005)
03/14/2005	13	MOTION by Plaintiff Robert J More for extension of time which to file notice of appeal filed on 3/14/05. (cdh,) (Entered: 03/15/2005)
03/15/2005	14	TRANSMITTED to the 7th Circuit the short record on notice of appeal 11 . Notified counsel (cdh,) (Entered: 03/15/2005)