

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|-------------------------------|---|---------------|
| MARK H. JOHNSON #A72077, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 10 C 1207 |
| |) | |
| PEOPLES OF THE STATE, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

Mark Johnson ("Johnson") has submitted a self-prepared Complaint¹ in which he seeks to sue Assistant Public Defender William Woelkers ("Woelkers") under 42 U.S.C. §1983 ("Section 1983").² Although Johnson has submitted only an original of the Complaint and has neither paid a filing fee nor asked to be granted in forma pauperis status, this Court will not pause to deal with those deficiencies because the Complaint is fatally flawed in any event.

It has been settled for nearly three decades that public defenders such as Woelkers do not act under color of state law when they act as counsel to a defendant in a criminal proceeding

¹ "Self-prepared" is used in the sense that Johnson has utilized the form provided by the Clerk of this District Court for persons in custody who seek to assert such claims. Johnson has filled in that form with the hand-printed information called for by its several sections.

² Johnson has also included "Peoples of the State" in the caption of the Complaint, but nothing is said in the Complaint's text in that respect (quite apart from the fact that the State of Illinois is nonsuable under Section 1983).

(Polk County v. Dodson, 454 U.S. 312 (1981)). That being the case, no claim can be asserted against Woelkers under Section 1983--and with no other basis for federal subject matter jurisdiction being available to Johnson, both the Complaint and this action are dismissed with prejudice (because of the absence of federal subject matter jurisdiction, no substantive comment is appropriate as to whether Johnson may or may not have some possible remedy against Woelkers in a state court of competent jurisdiction).



Milton I. Shadur
Senior United States District Judge

Date: February 25, 2010