

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

BENNIE CHRISP,)	
)	
Plaintiff,)	
)	CAUSE NO. 1:05-CV-239 WL
v.)	
)	
CITY OF FORT WAYNE, <i>et al.</i> ,)	
)	
Defendants.)	

OPINION AND ORDER

Bennie Chrisp, by counsel, submitted a complaint under 42 U.S.C. § 1983. Under 28 U.S.C. § 1915A, the court must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. FED. R. CIV. PRO. 12(b)(6) provides for the dismissal of a complaint, or any portion of a complaint, for failure to state a claim upon which relief can be granted. The court will apply the same standard under § 1915A as when addressing a motion under Rule 12(b)(6). *Weiss v. Colley*, 230 F.3d 1027 (7th Cir. 2000).

In order to state a cause of action under 42 U.S.C. § 1983, the Supreme Court requires only two elements: First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person who has deprived him of the right acted under color of state law. These elements may be put forth in a short and plain statement of the claim showing that the pleader is entitled to relief. FED. R. CIV. P. 8(a)(2). In reviewing the complaint on a motion to dismiss, no more is required from plaintiff's allegations of intent than what would satisfy Rule 8's notice pleading minimum and Rule 9(b)'s requirement that motive and intent be pleaded generally.

Alvarado v. Litscher, 267 F.3d 648, 651 (7th Cir. 2001) (citations, quotation marks and ellipsis omitted).

Mr. Chrisp's complaint states a claim, therefore the court:

(1) **DIRECTS** the clerk to file the complaint; and

(2) **DIRECTS** the clerk to sign and seal the tendered summons and return them to plaintiff's counsel.

SO ORDERED.

ENTERED: July 25, 2005

S/William C. Lee
William C. Lee, Judge
United States District Court