

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

JO,EL <sup>1</sup> ANGEL TREVINO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 1:09 CV 248
	)	
DREW TITTLE, JOSH ZIGLER,	)	
RICHARD EASTES, JOHN KAUFFAN,	)	
MICHAEL ANDRY, GRAY BRADLEY,	)	
MARION POLICE DEPARTMENT,	)	
GRANT COUNTY, and STATE OF	)	
INDIANA,	)	
	)	
Defendants.	)	

**OPINION AND ORDER**

On September 1, 2009, Plaintiff Jo,el Angel Trevino (“Trevino”) filed his pro se complaint against Grant County, Drew Tittle, Josh Zigler, Richard Eastes, John Kauffan, Michael Andry, Gray Bradley, Marion Police Department, and the State of Indiana along with a request to proceed *in forma pauperis*. On September 22, 2009, then-presiding district judge Robert L. Miller Jr. issued a written order granting Trevino leave to proceed *in forma pauperis* and dismissing Grant County, the Marion Police Department, and the State of Indiana. The order also stayed the remainder of the case pending the conclusion of his criminal state law proceedings. Trevino was further directed to file a status report with the court regarding the status of his state court proceedings.

Subsequently, on December 17, 2009, Trevino filed what appears to be a new form Complaint under 42 U.S.C. §1983 along with another request to proceed *in forma pauperis*.

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<sup>1</sup>In his filings, the plaintiff spells his name “Jo,el” and not the more common “Joel.”

Because the face of the Complaint lists the case number from his original complaint, the Clerk docketed the new form of complaint under the present case number, not as a new complaint. On December 21, 2009, this case was reassigned to the undersigned.

Trevino's present filing lists two individuals, Daryl Himelck of the Grant County Sheriff's Department and Todd A. Glickfield, who appears to be an attorney from Marion, Indiana. Trevino then alleges the following against Himelck: "unreasonable search and seizure violation of my 14 Amend right" and "unreasonable search and seizure" against Glickfield. There are no additional facts offered providing any information as to when these alleged violations occurred or providing any details as to the circumstances surrounding the alleged violations.

Having reviewed the newly filed form, the court cannot determine whether Trevino's intent is to amend his original complaint to add two additional individual defendants or whether he intended to file a completely new and separate lawsuit naming these two defendants. While the court suspects that Trevino intended to amend his complaint, the new form filed by Trevino does not contain an adequate statement of his claim and the only link to the current case is the case number Trevino listed on the front of the newly filed form.

Federal Rule of Civil Procedure 8 requires (with certain exceptions noted in Rule 9) a short, plain statement showing the plaintiff is entitled to relief. The complaint's factual allegations, while not required to be elaborate, must be enough to give the defendant fair notice of what the claim is and the grounds upon which it rests. *Killingsworth v. HSBC Bank Nev., N.A.*, 507 F.3d 614, 618 (7th Cir.2007). Moreover, to the extent Trevino is seeking to amend his complaint, he would not need to file a new request to proceed *in forma pauperis* since he has already been granted in forma pauperis status in the present case.

Accordingly, the court presently STRIKES Docket #17 and denies as MOOT the request to proceed *in forma pauperis*. If Trevino intends to amend his original complaint, he should file a request for leave to amend the complaint within thirty (30) days and provide a complete statement of the parties he wishes to add and provide facts showing that he is entitled to relief. As noted above, a short, plain statement of the facts is all that the federal rules require but Trevino's current filing falls far short of providing any indication of the facts giving rise to his complaint.

However, to the extent that Trevino intends to initiate a separate lawsuit against the two individuals in his present filing, he needs to submit a new form of complaint with a blank case number and stating with some particularity, the facts giving rise to the constitutional violation he is alleging. In addition, he will need to submit the filing fee or a request to proceed *in forma pauperis* in the new case.

#### **CONCLUSION**

Based on the foregoing, Docket #17 is STRICKEN. Trevino's request to proceed *in forma pauperis* is DENIED as MOOT. Trevino has thirty days to request leave to amend his complaint in this cause as well as file an amended complaint.

SO ORDERED.

This 20<sup>th</sup> day of January, 2010.

s/ William C. Lee  
United States District Court