

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ralph B. Hayes,

Plaintiff,

v.

Douglas County,

Defendant.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
Civil No. 10-5015 ADM/LIB

Ralph B. Hayes, pro se.

On December 30, 2010, Plaintiff Ralph B. Hayes filed the Complaint in this matter, accompanied by an application to proceed *in forma pauperis* (“IFP”) [Docket Nos. 1, 2]. The only defendant named is Douglas County, but in the section of the Complaint entitled “Parties,” Plaintiff also identifies “Commissioner:Baxter,” “Judge Kelley J. Timm,” and “Captain Linder” [Docket No. 1]. There is no indication any defendant has been served.

On January 19, 2011, United States Magistrate Judge Leo I. Brisbois issued a Report and Recommendation, recommending the IFP application be denied and this action be summarily dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) [Docket No. 3]. Plaintiff filed a timely Objection [Docket No. 4].

Judge Brisbois recommends summary dismissal because Plaintiff’s Complaint “does not describe any specific acts or omissions by any of the named Defendants that could be viewed as a violation of Plaintiff’s federal constitutional rights,” and also because all identified defendants appear to be residents of Wisconsin, and therefore not subject to personal jurisdiction in the District of Minnesota [Docket No. 3, at 4].

In his Objection, Plaintiff sets forth a chronological account of events occurring since October 2003 which he believes support his claim. As both the Complaint and the Objection make clear, Plaintiff is troubled by these events; but an actionable civil rights violation requires more. As Judge Brisbois noted, Plaintiff must allege facts showing that each named defendant violated Plaintiff's federal constitutional rights while acting under color of state law. Plaintiff's Complaint, even including the Objection, does not meet this standard. The only mention of an act or omission by a person identified in the Complaint in the Objection is when it states that on December 7, 2009, "Judge Kelly J. Thimm" told Plaintiff to "work out with the newspaper" Plaintiff's concerns about a news article that had been published on January 8, 2004. Even read generously, this allegation does not state a violation of federal constitutional rights.

Therefore, after an independent, *de novo* review of the files, records and proceedings in the above titled matter, the Objection is overruled and the Report and Recommendation is adopted. For the sound reasons set forth in the Report and Recommendation **IT IS ORDERED:**

1. That Plaintiff's application for leave to proceed *in forma pauperis* [Docket No. 2] is **DENIED;**

2. That this action is summarily **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: February 7, 2011.