

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 13, 2008

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2007AP1927

Cir. Ct. No. 2007CV9

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

ROBERT W. TESSEN,

PLAINTIFF-APPELLANT,

V.

STEPHEN R. FREDOCK, BRIAN NOEL AND PLOVER POLICE DEPARTMENT,

DEFENDANTS-RESPONDENTS.

APPEAL from a judgment and an order of the circuit court for Portage County: RICHARD O. WRIGHT, Judge. *Affirmed.*

Before Higginbotham, P.J., Lundsten and Bridge, JJ.

¶1 PER CURIAM. Robert Tessen, pro se, appeals from an order entering summary judgment against Tessen and a judgment dismissing this action. He argues that the Plover Police Department violated his constitutional and

statutory rights when the police seized his computer during a search of his home. We affirm.

¶2 The facts are undisputed. Police Officer Stephen Fredock obtained a search warrant authorizing the search of Tessen's home. The purpose of the search was to seek evidence of forgery and identity theft. The search warrant authorized the seizure of:

Equipment used for making fraudulent checks, documents identifying ownership including telephone bills, utility bills, personal correspondence, bank statements, keys and other items that tend to show who is in control of the premises....

While searching Tessen's residence, Fredock noticed blank checks of the same type as the forged check on a table next to a computer and saw that the computer's monitor displayed an icon for a check-writing program. He also found printed checks that had been torn up in the waste basket near the computer desk. Officer Fredock seized the computer equipment because he believed it may have been used to create fraudulent checks.

¶3 We reject Tessen's argument that he is entitled to damages for violation of his constitutional and statutory rights on the grounds that the police improperly seized his computer. Fredock seized the computer after seeing evidence that reasonably gave him cause to believe that the computer had been used to manufacture forged checks. Because the seizure fell within the ambit of

the warrant, which allowed the seizure of “[e]quipment used for making fraudulent checks,” Tessen’s civil rights were not violated.¹

By the Court.—Judgment and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2005-06).

¹ After filing his reply brief, Tessen moved for permission to file a supplemental reply brief. We grant the motion. We have considered the supplemental reply brief during our deliberations.

