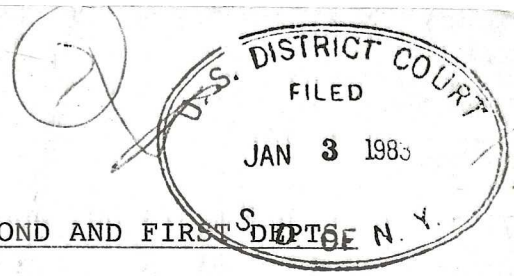


MEMO ENDORSED



ENDORSEMENT

GEORGE SASSOWER v. APP. DIV. SECOND AND FIRST DEPT OF N. Y.
82 Civ. 4970

On July 30, 1982, plaintiff filed this §1983 action, alleging violations of his constitutional rights by the Appellate Division of the Supreme Court of the State of New York, First and Second Judicial Departments, which allegedly occurred during the course of disciplinary proceedings against him. Initially, only the Appellate Division, Second Department, was served with the complaint. When the Second Department failed to answer or otherwise move in a timely manner, Notice of Default was served upon that defendant on September 7, 1982, and filed with the Clerk of the Court on September 8, 1982. On September 29, having still not received any response from the Second Department, plaintiff sought a default judgment. After reviewing plaintiff's complaint and affidavits, this Court determined that entry of a default judgment was inappropriate at that time because of the lack of clarity in the complaint as to both the claims made and relief sought, and because of serious questions going to the Court's subject matter jurisdiction. The Court then contacted defendants' attorney and requested that responsive papers be submitted. Thereafter, defendants moved to dismiss for lack of subject matter jurisdiction and failure to state a claim on which relief can be granted. The defendants argue that the Appellate Divisions are not "persons" within the meaning of 42 U.S.C. §1983 and therefore not proper defendants in a §1983 action, that the Appellate Divisions are also protected from suit by judicial immunity, and that principles of comity prevent federal court review of the Appellate Divisions' actions. The defendants also note that the rambling and incomprehensible manner in which the complaint is written constitutes an independant ground for dismissal.

Because this Court agrees with the defendants' latter contention, we find it unnecessary, indeed impossible, to address the substantive challenges to plaintiff's claims at this time. Rule 8, Fed.R.Civ.P., requires that a claimant set forth "a short and plain statement of the claim showing that the pleader is entitled to relief" and "a demand for judgment for the relief to which he deems himself entitled". The Court finds that plaintiff has failed to satisfy this requirement. The complaint consists of sixty-seven pages of facts and editorializing, which plaintiff characterizes as "only a fraction of the voluminous factual matter underlying this proceeding." Complaint at 3. The Court is of the opinion that many of the facts alleged by plaintiff are irrelevant to any federal claim that the plaintiff may have, and merely serve to confuse the issues. Furthermore, the plaintiff has failed to state precisely what type of constitutional

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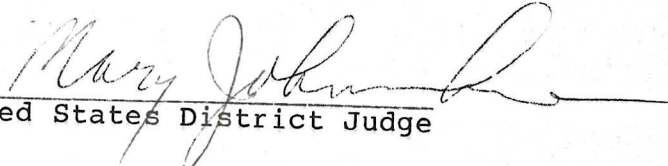
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violations he is claiming, and to make clear which factual allegations support each alleged violation. Finally, the Court cannot discern from the complaint what specific relief plaintiff is seeking. He does not appear to be seeking damages. Nor does he appear to be seeking injunctive relief against any pending state court proceeding, since plaintiff has informed this Court that all disciplinary proceedings against him have been concluded. Plaintiff does seek disclosure of what he terms all "ex parte" information pertaining to him in the possession of the Appellate Divisions, but he sets forth no legal basis for this relief. Plaintiff also asks the Court to declare all constitutionally vague disciplinary rules null and void, but he fails to specify the particular disciplinary rules he is challenging.

In light of the foregoing, plaintiff's claims are dismissed without prejudice, and plaintiff is granted sixty days leave to file an amended complaint which is in accord with Rule 8.

It Is So Ordered.

Dated: New York, New York
December 24, 1982


United States District Judge