

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FILED
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DISTRICT COURT
BY _____ DEPUTY
COURT ADMINISTRATOR
FOURTH JUDICIAL DISTRICT

Christopher Anthony Roller,

Plaintiff,
vs.

Allina Health Systems,

Defendant.

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS AND/OR
FOR SUMMARY JUDGMENT**

File No. PI 05-6530

The above-entitled matter came before the undersigned Judge of District Court on August 22, 2005 on Defendant's motion to dismiss.

Plaintiff, 13150 Harriet Ave. S., #237, Burnsville, MN 55337, appeared *pro se*.

Defendant is represented by Paula M. Semrow, Esq., Bassford Remele, 33 South 6th St., Suite 3800, Minneapolis, MN 55402-3707.

Based on the file, records and proceedings herein, the Court makes the following:

FINDINGS OF FACT

1. By his Complaint dated May 5, 2005, Plaintiff brings a claim against Defendant for slander and libel. In the Complaint, Plaintiff states, in part:

I am suing Allina Health Systems for \$1 billion for slander and libel, for calling me mentally ill and psychotic. For damaging my credibility, my stature, and the public's persona of me to perform an important job, including the Presidency of the United States.

2. On June 30, 2005, Defendant served Plaintiff with a motion to dismiss.

3. On August 9, 2005, Plaintiff filed an "Amended Complaint-Conspiracy" and a response to Allina's motion to dismiss. In the Amended Complaint, Plaintiff states:

In the original complaint, I was missing federal violations, so let me summarize a couple of federal statutes that were violated...

- Discrimination against my First Amendments religious freedoms.

- Conspiracies to Interfere With Civil Rights (42 U.S.C. § 1985)
- Conspiracy Against Rights of Citizens (18 U.S.C. § 241)

4. On August 15, 2005, Plaintiff filed an "Amended Complaint 2" adding a "medical mal-practice to the charges for wrongly calling me mentally ill." Plaintiff also states, "I reserved the right for the \$ amount I'm suing for. New amount is \$10,000,000,000,000 (\$10 trillion). 99.9% of this is based on the previous 'Amended Complaint – Conspiracy' against a godly entity." The "Amended Complaint 2" is not permitted under the Rules. Herr & Haydock state:

The rule permits amendment as a matter of course before a responsive pleading is served. If a motion is filed under Rule 12, and no true pleading is served, the original pleader retains the right to amend without consent or court approval. A party may exercise this right of automatic amendment only once, however, and may not serve a second amended pleading before an answer to the first amended pleading is served. *Kafka v. O'Malley*, 221 Minn. 490, 22 N.W.2d 845 (1946) (decided under code). A second amended pleading may be served upon motion and leave of court.

1 David F. Herr & Roger A. Haydock, *Minnesota Practice* § 15.4 (4th ed.2002).

5. Plaintiff claims, among other things, that he is a godly entity, that he is God, that he is the second coming, that he has sued magician David Copperfield because Copperfield has allegedly used Plaintiff's magical powers without his permission, that he is a gifted fertile stud, that the CIA and FBI are watching him, that he is a genius, and that Bill Gates has contacted him about running for president in 2008.

6. As the Court understands the complaints, Plaintiff is suing for treatment and/or communications between him and Allina which took place on May 6, 2003, January 2003, November 2002 and/or April 4, 1999. Plaintiff is claiming that the diagnoses/hospitalizations have defamed him.

7. Spring 1999. According to the Complaint:

I was initially declared mentally ill when I walked into Allina's United Hospital, Easter weekend of 1999. I had never seen a psychiatrist until that day. I told them that I was a gifted fertile stud and that the CIA and FBI were watching me. Within minutes, I was declared bipolar, mentally ill, and psychotic. And this to a genius throughout his whole

life, Navy, college, and in his computer career. That honorable status would indeed crumble over the years because of mental illness.

8. According to the Admitting Note at Exhibit E to the Semrow Affidavit, the hospitalization referred to was for three days and was voluntary. The Notes state: "They gave him prescriptions on discharge, which he only took for a day or two."

9. On June 18, 1999, Roller was brought into Allina's New Ulm Medical Center in New, Ulm, Minnesota on a 72-hour hold "with a report that he had been verbalizing delusional information about having multiple wives and being engaged or married to a rock and roll star. He also had been fired from a job recently because of his delusion that one of the female co-workers wanted to be impregnated by him." *Id.* The 72-hour hold was signed by Vanita Mishra, M.D. *Id.* He was released on June 21, 1999 with prescriptions for lithium carbonate and Risperidal and to do a follow-up with Darell M. Shaffer, M.D. *Id.* According to Dr. Shaffer's notes of June, 21, 1999, Plaintiff had improved with the Risperidal but his diagnosis remained "bipolar disorder, most recently manic with psychotic features." *Id.*

10. November 2, 2002 to January 2003. Plaintiff was transferred to New Ulm Medical Center on a 72-hour hold from the emergency room at Redwood Falls. On November 1, 2002, Plaintiff played a "joke" on his mother to show her that he was God/Jesus/in cooperation with the CIA, the "joke" being writing a message about his mother having a bomb and that she was going to blow up a school. Semrow Aff., Ex. B (Dr. Herman A. Louters' Notes). Plaintiff told the treating physician that "The Truman Show" movie was really about him, Christopher Roller, that his medications were poisons helping him with the powers he needed, that he lived in his own world, and that he wanted to present himself to the CIA as a subjective study. *Id.* The assessment was "psychosis" with the underlying bipolar disorder. *Id.*

11. On January 22, 2003, Paul Gustafson, U.S. Secret Service, called the New Ulm Hospital regarding Plaintiff saying that Plaintiff had threatened the President on 1/12/03 and had sent delusional e-mails to the CIA. *Id.*, Ex. C. Message Center Note. On January 13, 2003, Plaintiff signed "Consent to Review Medical/Psychiatric Files." In that Consent, Plaintiff agreed to let hospital personnel discuss his case "in detail" and that he released his "physician, medical facility, and any of its agents from any liability which might otherwise arise from such disclosure." *Id.*, Ex. D; Ex. C (Dr. Mishra's notes from 1/27/03).

12. May 6, 2003. On May 6, 2003, Plaintiff was seen by Dr. Mishra for medication and to have an application for social security disability benefits completed. Semrow Aff., Ex. A. During the May 6, 2003 visit, Plaintiff discussed his belief that the CIA was conspiring against him based on previous threats he had made to the CIA regarding the President. *Id.* Dr. Mishra, in her notes, goes over Plaintiff's past psychiatric history, including the January episode with the Secret Service. His Axis I diagnosis continued to be "Bipolar I disorder with psychotic symptoms. Rule out past history of alcohol abuse or dependence."

13. According to the Complaint these, diagnoses/notes from Allina (i.e. that Plaintiff is "mentally ill and psychotic") have damaged Plaintiff's credibility, were done with "absolutely no blood-work or brain scans," caused his life to "crumble," have caused "serious side effects with public perception," caused him to lose his job and be divorced, and damaged his "past and future credibility, my stature, and the public's persona of me to perform an important job, including the Presidency of the United States."

14. According to the "Amended Complaint – Conspiracy" Plaintiff states:

I do believe there is a conspiracy against me, Chris Roller, the second coming, a godly entity, to call me mentally ill, psychotic, bipolar, etc. to keep me from coming forward to claim the fruits of my godly powers. This very harmful name-calling hurts my feelings (essentially calling me a loser) and cause people to be afraid of me (because I'm mentally ill). It also discriminates against my First Amendments religious freedoms I express at

www.mytrumanshow.com (shown in Quello/Fairview complaint – 19-C7-05-6586). This violates some statutes, namely, Conspiracies to Interfere With Civil Rights (42 U.S.C. § 1985), and Conspiracy Against Rights of Citizens (18 U.S.C. § 241).

15. In his Response to Defense's Motion to Dismiss dated August 8, 2005, Plaintiff states, "I'm not actually mentally-ill, as you can tell via my University of Florida GPA (3.78), impeccable Navy career, and nearly every facet of what I do in life. Only type 9 people (like psychiatrists) call me a loser." Further, in his Response, Plaintiff states, "So far, I'm doing pretty good as pro se, with the help of my 2 associates, (me) myself and I, utilizing my computer and internet search skills to plead my case effectively...And now that I've proven that godly powers are in use on planet earth, this is helping to bring forward all the evidence needed to show the mental illness discrimination and conspiracy perpetrated on Chris Roller."

16. Plaintiff filed six other lawsuits in 2005 against: Fairview Health Services; magician David Copperfield; Bossa Entertainment Group/magician David Blaine; Sioux Valley Hospital in Canby, Minnesota; GE Medical Systems Information Technologies, Inc.; Allina (in D.Minn.). Semrow Aff., Ex. G. Those lawsuits have similar allegations to the present suit.

CONCLUSIONS OF LAW

1. On a motion to dismiss for failure to state a claim on which relief can be granted the court must determine whether the complaint sets forth a legally sufficient claim for relief. *Elzie v. Commissioner of Public Safety*, 298 N.W.2d 29, 32 (Minn. 1980). A claim prevails against a motion to dismiss if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded. *Geldert v. American Nat. Bank*, 506 N.W.2d 22, 25 (Minn.App. 1993). The court is to presume that all of the alleged facts are true for purposes of deciding the motion. *Abbariao v. Hamline University School of Law*, 258 N.W. 2d 108, 111 (Minn. 1997).

2. Even if the plaintiff has set forth a legally sufficient claim for relief, dismissal on a Rule 12 motion “is still appropriate if the moving party can demonstrate that it is not possible to grant relief on any evidence that might be produced consistent with the complaint.” *Wiegand v. Walser Automotive Groups, Inc.*, 683 N.W.2d 807, 812 (Minn.2004).

3. Minnesota Rules of Civil Procedure 12.02 provides:

If, on a motion asserting the defense that the pleading fails to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

4. Here, the Court has considered matters outside the pleadings as to the original Complaint and is treating Allina’s motion as one for summary judgment. The amended complaint, “Amended Complaint – Conspiracy” will be analyzed under Rule 12.02.

5. To succeed in a claim of defamation, a plaintiff must prove that the defendant made a false and defamatory statement about the plaintiff in an unprivileged communication to a third party and that the statement harmed the plaintiff’s reputation in the community. *Marchant Inv. & Management Co., Inc. v. St. Anthony West Neighborhood*, 694 N.W.2d 92, 95 (Minn.App. 2005), citing *Weinberger v. Maplewood Review*, 668 N.W.2d 667, 673 (Minn.2003).

6. The only mention of Allina or its employees discussing Plaintiff’s medical condition with someone other than the Plaintiff himself is in reference to Dr. Mishra’s discussion with Paul Gustafson of the Secret Service. However, Plaintiff consented to that discussion and thereby consented to the publication of his condition to the Secret Service. Consent to publication provides the party divulging the information with an absolute privilege which protects them from defamation claims. *Otto v. Charles T. Miller Hospital*, 262 Minn. 408, 414, 115 N.W.2d 36, 40 (1962).

7. Allina is also protected by a qualified privilege. "The public has an interest in encouraging psychologists to record complete and accurate information concerning their patients." *Bol v. Cole*, 561 N.W.2d 143, 149 (Minn. 1997). To the extent Plaintiff alleges that the actual medical records describing his treatment are defamatory, the communications in the medical records are entitled to a qualified privilege. *Strauss v. Thorne*, 490 N.W.2d 908, 912 (Minn.App. 1992). "For a qualified privilege to arise, the statement must be made upon a proper occasion, from a proper motive, and must be based upon reasonable or probable cause. When so made in good faith, the law does not imply malice from the communication itself, as in the ordinary case of libel. Actual malice must be proved, before there can be a recovery, and in the absence of such proof the plaintiff cannot recover. *Stuempges*, 297 N.W.2d at 256-57 (quoting *Hebner v. Great Northern Ry. Co.*, 78 Minn. 289, 292, 80 N.W. 1128, 1129 (1899))." *Id.*

8. A care provider dictating his/her analysis of a patient's medical condition is clearly designed for a proper occasion and motive. *Id.* The Court finds that Allina is protected by a qualified privilege as a matter of law.

9. Plaintiff's claims are barred by the statute of limitations, Minn.Stat. § 541.07:

Except where the Uniform Commercial Code, this section, section 148A.06, 541.05, 541.073, or 541.076 otherwise prescribes, the following actions shall be commenced within two years:

(1) for libel, slander, assault, battery, false imprisonment, or other tort, resulting in personal injury.

10. Allina was not served with the Summons and Complaint until May 26, 2005, more than two years after the last claimed defamatory event of May 6, 2003.

11. Plaintiff argues that the four-year statute of limitations applies for his medical malpractice claim. See Minn.Stat. § 541.076. However, Plaintiff's medical malpractice claim is

part of Plaintiff's "Amended Complaint 2" and the Court has found that Plaintiff was not permitted to file that complaint pursuant to the Rules and caselaw. *See*, Finding of Fact No. 4.

12. Plaintiff also argues that Minn.Stat. § 541.15 should apply to extend the limitations period because he was declared disabled due to mental illness on February 18, 2002 (Pltf Response, 8/8/05):

➡541.15. Periods of disability not counted

(a) Except as provided in paragraph (b), any of the following grounds of disability, existing at the time when a cause of action accrued or arising anytime during the period of limitation, shall suspend the running of the period of limitation until the same is removed; provided that such period, except in the case of infancy, shall not be extended for more than five years, nor in any case for more than one year after the disability ceases:

(2) the plaintiff's insanity;

13. As to the Allina records in April 1999, 5 years have passed and the statute of limitations has run. As to the records in 2003 (and 1999), the whole reason behind this lawsuit is that Plaintiff claims he is not mentally ill and that Allina has defamed him by calling him mentally ill. Plaintiff cannot claim "no mental illness," then attempt to use his oft-denied "insanity" to increase the limitation period. Further, if Plaintiff wants to claim "insanity" for himself under § 541.15 then he is agreeing with the Allina records and admitting to their truthfulness. "Truth is a complete defense, and true statements, however disparaging, are not actionable." *Tsudek v. Target Stores, Inc.*, 41 N.w.2d 466, 469 (Minn.App. 1987).¹

14. The Court also agrees with Defendant that Plaintiff's claims are barred by the immunity provisions of the Minnesota Civil Commitment Act to the extent that Plaintiff's defamation claim somehow stems from having been hospitalized in 1999. *See*, Deft. Memo pp. 11-12.

¹ Similar reasoning is found in Allina's argument that since Plaintiff sought and received disability benefits based on a mental illness diagnosis, he should not be heard now to say that such diagnosis is false. Allina Memo pp. 10-11.

15. In his Amended Complaint – Conspiracy, Plaintiff alleges discrimination against his First Amendment rights of religious freedom. While the claim is not clear, it appears that Plaintiff is claiming that being labeled mentally ill because he thinks he is God/Jesus/the Second Coming violates his religious freedom by keeping him “down” and making him into a “false prophet.” The religion clause in the First Amendment states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

16. Here, no law has been made which prohibits Plaintiff’s free exercise of his religious beliefs. Plaintiff has not stated a claim upon which relief can be granted.

17. Plaintiff claims conspiracies to interfere with his civil rights pursuant to 42 U.S.C. § 1985. As the Court understands this claim, the alleged conspiracies are between the psychiatrists and “the mob.” Plaintiff states, “I believe psychiatrists are using their religious beliefs in their profession and in the legal system – a conspiracy with the mob to keep down the 2nd coming...” See Amended Complaint – Conspiracy, p. 2. 42 U.S.C. § 1985 provides:

(1) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any

verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges.

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

18. Clearly, none of the provisions of this law apply to Plaintiff's claim: Plaintiff is not an officer being prevented from performing his duties; he is not a witness or party being intimidated from going to court as is apparent by his very presence before this Court; nor is there any evidence in the record that he has been deprived of any equal protection of the laws. Therefore, Plaintiff has failed to state a claim upon which relief can be granted.

19. Finally, in his Amended Complaint – Conspiracy, Plaintiff makes a claim pursuant to 18 U.S.C. § 241, Conspiracy against rights:

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured-

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

20. According to the Amended Complaint – Conspiracy, “I believe psychiatrists knew about DC’s [David Copperfield’s] godly powers, and knew I’d come to collect the fruits of my wonderful powers – a religious and psychiatric conspiracy by type 9 perpetrated and funded by/with the mob to keep Chris Roller down.” According to Plaintiff, a “type 9” is, among other things, “a person who enjoys the pain and suffering and hardships of other people” and they love “to be rich and [do] not like to suffer, and when they see a veteran on the side of road homeless with sign, instead of giving them \$10, they say, ‘Wow, I’m glad I’m not him.’”

21. There is no evidence in the record that two or more people (which would have to include Allina) have gone after Plaintiff in disguise on the highway or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured. Nor is there any evidence in the record that Allina has conspired with “the mob” to injure, oppress, threaten, or intimidate Plaintiff. Plaintiff has failed to identify who “the mob” is or that Allina has ever had any contact with such an entity or that, even if Allina had such contact, that such contact caused injury to Plaintiff. Again, Plaintiff has failed to state a claim for which relief can be granted.

22. In summary, Plaintiff has failed to present any genuine issues of material fact as to his Complaint and has failed to state claims for which relief can be granted on his Amended Complaint – Conspiracy. Further, Plaintiff’s Amended Complaint 2 was improperly submitted and will not be considered.

ORDER

Defendant Allina Health Systems is entitled to judgment of dismissal with prejudice of all Plaintiff Christopher Anthony Roller's claims against it, together with its costs and disbursements.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Date:

October 11, 2005

Marilyn Justman Kaman

**Marilyn Justman Kaman
Judge of District Court**