

FILED
04-01-2025
CIRCUIT COURT
DANE COUNTY, WI
2025CV001087

BY THE COURT:

DATE SIGNED: April 1, 2025

Electronically signed by W. Andrew Voigt, Circuit Court Branch II
Circuit Court Judge

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

ATTORNEY GENERAL JOSH
KAUL,

Plaintiff,

v.

Case No. 25-CV-1087

ELON MUSK and AMERICA
PAC,

Defendants.

DISMISSAL ORDER

Based on Plaintiff's motion dismiss and for the reasons outlined below, IT IS
HEREBY ORDERED that this case is dismissed without prejudice and without costs.

FINDINGS

1. Plaintiff filed this action in the afternoon on Friday, March 28, 2025.
2. The Wisconsin Department of Justice stationed one or more attorneys in a Dane County Courtroom prior to such filing in anticipation that a hearing might be conducted.
3. Upon receipt of the Summons and Complaint, the Dane County Clerk of Courts Office randomly assigned it to one of the seventeen (17) judges there pursuant

- to its regular procedures. The case was assigned to Judge Susan Crawford, current candidate for Wisconsin Supreme Court.
4. Judge Crawford and the rest of the Dane County bench determined that they must recuse themselves from this case because of Judge Crawford's direct involvement in the election in question and the fact that all of the other judges had endorsed or supported Judge Crawford's candidacy in some fashion.
 5. The first indication that this Court had of the existence of this case was at approximately 3:52 PM on March 28th. The Court received a call from District Court Administrator, Amber Peterson, indicating that this case had been filed, needed to be assigned out of Dane County and that Plaintiff (or his legal counsel) had told someone in Dane County that more documents were likely to be filed.
 6. Being one of the senior Circuit Court judges in the 5th Judicial District and not having publicly commented on a personal preference between the Supreme Court candidates, it was determined that the case would be assigned to Branch 2 in Columbia County.
 7. This Court completed the day's calendar with a Zoom status conference that ended between 4:05PM and 4:10PM on March 28th.
 8. At the time of opening Dane County Case 25 CV 1087, the case had formally been assigned to this Branch. The entire case consisted of five (5) documents: two electronic filing notices directed to the Defendants (Documents 1 & 2 in the record), the Summons and Complaint (Document 3), Judge Crawford's recusal

(Document 4) and the Notice of Assignment of Judge (Document 5). Nothing else was available for this Court to review.

9. Shortly after the Court began its review of the content of the record in this case, an attorney for Plaintiff called and spoke to the Judicial Assistant in this Branch. His inquiry centered on the possibility of a hearing later that evening. At the direction of the Court, he was asked if any attempt had been made to notify the Defendants of this action and the response was in the negative.
10. The Court reviewed the Summons and Complaint and conducted research into the legal authority presented by Plaintiff, in addition to checking to see if additional documents had been filed.
11. By approximately 4:50PM, this Court had reached its conclusion that Plaintiff's Summons and Complaint, by itself, was woefully deficient considering the nature of the order that was sought.
12. It has long been the law in Wisconsin that there are four (4) elements that are necessary to conclude that a temporary restraining order (or temporary injunction) can be granted: 1) Plaintiff is likely to suffer irreparable harm if it is not granted; 2) Plaintiff has no other adequate remedy at law; 3) the temporary order is necessary to preserve the status quo & 4) Plaintiff has a reasonable probability of success on the merits. *Milwaukee Deputy Sheriffs' Ass'n. v. Milwaukee County*, 2016 WI App 56. All four of those elements must be met before the Court can grant this type of relief.

13. Plaintiff's Summons and Complaint did not allege irreparable harm and ignored entirely the requirement that there be no other adequate remedy at law. Failure of the pleadings was fatal to Plaintiff's requested relief.
14. Shortly after 5:00PM, while preparing how to communicate this decision to Plaintiff, especially in light of the fact that no proposed order had been received from Plaintiff by that time, counsel for Plaintiff called again. He advised that contact had been made with counsel for the Defendants and inquired if a hearing would be scheduled. He was informed that the Court would not be issuing the requested temporary injunction and that no hearing would be scheduled, which decision was based exclusively on the record available to this Court at that time.
15. Thereafter, this Court confirmed with District Court Administrator Peterson that staff in the Dane County Clerk of Courts Office had remained after 4:30PM awaiting the additional filings from Plaintiff, but that none had been received before the last person left that office.
16. The Court's intention at that point was to prepare an order to sign on Monday, March 31st as there was no practical way to file such an order on Friday afterhours.
17. At approximately 10:15AM on Saturday March 29th, this Court received another call from District Court Administrator Peterson during which she reported that the Director of State Court's Office had been alerted by local media that Plaintiff was filing an Emergency Petition for Supervisory Writ with the Court of Appeals in District IV. She provided this Court with a copy of that Petition.

18. That Petition to the Court of Appeals makes reference to Exhibits B, C and D which Plaintiff represents were “filed” with the Circuit Court.
19. However, a simple check of the public access to CCAP would have confirmed that those documents had not been processed by the Dane County Clerk of Courts Office on Friday, and as a result, not been viewed or considered by this Court.
20. This Court subsequently learned that those documents had, in fact, been submitted electronically to the Clerk of Courts Office, but had not been received in the system before the last staff member departed for the day. Those documents, as of March 31st, show as filed on March 28th, but no one in the Clerk’s or in this Court knew of their existence until Saturday morning.
21. It is notable that documents related to the Court of Appeals involvement filed on March 31st are lower document numbers (6, 7 & 8) than the late submitted documents from Plaintiff (9, 10 & 11) that show as filed on March 28th. This appears to indicate the order in which those documents were brought into the record by the Dane County Clerk of Courts Office. Submitting documents after regular business hours and without taking any apparent measures to determine whether that submission was actually received into the record falls far short of establishing the existence of information upon which the Court of Appeals should be asked to contemplate an Emergency Petition for Supervisory Writ.
22. Plaintiff’s conduct does not meet this Court’s expectations for parties appearing before it and it is this Court’s opinion that Wisconsin’s system of justice was

abused by this case. The Attorney General of the State of Wisconsin has at least as much duty to follow and uphold the law as any other litigant or party and shouldn't expect to be treated differently. That obligation was breached. This action, which sought ex parte injunctive relief, was filed shortly before the Dane County Courthouse closed for the day and week. That circumstance, coupled with the late filing of documents purportedly supportive of the relief sought, leads to obvious questions about whether there was intentional procedural deceit intended. Those concerns are exacerbated when blatantly false representations about the underlying record are made to one or more appellate courts.

23. Substantively, this action was even more gravely deficient. The pleadings that were timely received display total ignorance of at least two of the four factual elements requisite to the issuance of a temporary restraining order. Those same pleadings from the Plaintiff failed to recognize the existence of these legal requirements, let alone aver facts that even remotely met them. The legal and factual infirmity of this matter is amplified by Plaintiff's request for dismissal, an undertaking advanced with a level of exigency that seemingly mirrors its ill-advised commencement. Perhaps all of that was because Plaintiff was relying on the late filed documents to cure those deficiencies, but it remains possible that Plaintiff first learns about the fact that those documents were not reviewed by this Court when he reads this Order. The sum of these circumstances resulted in no resolution of the issues raised by Plaintiff about the conduct alleged against the Defendants.

24. Sadly, Plaintiff's conduct has come at substantial cost to the legal system. Both Dane County and Columbia County have likely incurred overtime expenses because Plaintiff chose to commence this action at the close of business on a Friday. Multiple courts have been chased about and forced to invest a substantial portion of a weekend reviewing materials and conducting legal research. Staff supporting these courts have been equally burdened. This Court has received an unprecedented volume of hate email and voice mail making highly derogatory and inappropriate comments. This Court has also been informed about, but not reviewed, an equal amount of offensive social media commentary. These communications are obviously responsive to the media frenzy that this case contributed to and a misinformed populace reacting to this Court's legal determination of the factual and elemental legal deficiencies of the action; a legal determination that all three tiers of the Wisconsin Court System has now reached.
25. Finally, as a matter of clarity of the record, this Court never reached any conclusion about whether or not the Defendants' actions were illegal or even whether or not the Court had the legal authority to restrain them from acting in the fashion alleged by Plaintiff. Relying solely on the information available to the Court on Friday evening, this Court determined that Plaintiff was not entitled to the injunctive relief that he sought because he hadn't met the basic legal requirements for such relief and that the pleadings were so deficient that he wasn't entitled to a hearing. Nothing more, nothing less.

