

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KELLY RAMOS : CIVIL ACTION  
 :  
 v. :  
 :  
 MIDDLETOWN TOWNSHIP POLICE :  
 DEPARTMENT; BUCKS COUNTY :  
 SHERIFF DEPARTMENT; GLENN :  
 McPHERSON, DAVID SHALLCROSS and :  
 KRAVCO COMPANY : NO. 98-2802

MEMORANDUM AND ORDER

Fullam, Sr. J. July , 1998

Plaintiff is suing various individuals and organizations for violating his constitutional rights. A motion to dismiss has been filed on behalf of at least one, and perhaps two, of the defendants, "Bucks County Sheriff Department" and "David Shallcross." According to the heading on page one of the motion, it is filed on behalf of the Bucks County Sheriff Department. The proposed order accompanying the motion describes the motion as having been filed on behalf of both the Sheriff Department and the individual defendant, David Shallcross. But the arguments advanced in support of the motion seem to apply only to the Sheriff's Department, not the individual. Plaintiff's response to the motion merely repeats the factual allegations of the complaint, and treats the motion as if it had been filed by all of the defendants. The key issue raised by the motion to dismiss is plaintiff's failure to allege any basis for imposing liability upon a municipality or governmental entity,

namely, that the alleged violations occurred in pursuance of an established policy or custom adopted by the municipality, is not addressed by plaintiff.

If this were the only problem, the solution would be to dismiss the complaint as to the municipal defendants, with leave to amend. But that is not the only problem. Even a cursory review of plaintiff's complaint discloses that it violates so many procedural requirements that the only alternative is to require plaintiff's counsel to draft a new complaint.

Among the notable defects are the following: the caption names as defendants the Middletown Township Police Department and the Bucks County Sheriff Department - neither of which is a suable entity. In the body of the complaint, there are indications that plaintiff is trying to sue the Township of Middletown and the County of Bucks.

The complaint does not set forth the residence or address of any of the defendants.

Although the complaint includes a laundry list of factual allegations, there is no attempt to specify which defendant did what. Moreover, the word "defendant" is used when it seems clear that more than one defendant was involved; and, conversely, the word "defendants" is used when it seems clear that only a single defendant was involved in the particular occurrence referred to. Plaintiff's counsel should, of course, have conducted a reasonable investigation before filing the complaint. Many of the allegations seem highly implausible (a

conspiracy between Kravco Company and a deputy sheriff?).

The complaint is not separated into counts. It is impossible to determine what violations of plaintiff's constitutional or legal rights are being charged, against what defendants. In addition, although plaintiff alleges that he is an American citizen of Spanish ancestry, and although he apparently wishes to assert claims of discrimination, there is no allegation in the complaint which would support any such claim.

The foregoing list is not complete, by any means. An Order follows.

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ORDER

AND NOW, this            day of July, 1998, IT IS ORDERED:

That plaintiff's complaint is DISMISSED in its entirety, with leave to the plaintiff to file an amended complaint which complies with the Federal Rules of Civil Procedure, within 30 days.

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John P. Fullam, Sr. J.

