

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSEPH M. RIZZO,)
)
 Plaintiff,)
)
 v.) No. 10 C 5855
)
 DuPAGE COUNTY, et al.,)
)
 Defendants.)

MEMORANDUM ORDER

This Court's September 17, 2010 memorandum order ("Order") explained why pro se plaintiff Joseph Rizzo ("Rizzo") had not stated a plausible 42 U.S.C. §1983 ("Section 1983") claim against the two then-named defendants--DuPage County ("County") and the City of Wheaton ("Wheaton"). Accordingly the Order denied Rizzo's In Forma Pauperis Application ("Application") and held that his Motion for Appointment of Counsel ("Motion") was moot, and the Order then concluded by stating that both Rizzo's Complaint and this action would be dismissed if he failed to pay the \$350 filing fee on or before October 1.

Now Rizzo has tendered an Amended Complaint, as he has a right to do under Fed. R. Civ. P. 15(a)(1), in which he has added Wheaton Police Officer Ed Hasan ("Hasan") as a targeted defendant along with County and Wheaton. But that does Rizzo no good, because it has been established for nearly three decades that a police officer witness--even if accused of perjury--is absolutely immune from damages liability under Section 1983 (Briscoe v.

LaHue, 460 U.S. 325 (1981)). Indeed, here Rizzo does not even claim that Hasan's grand jury testimony--testimony that Rizzo had been convicted in two prior public indecency cases--was untruthful.

In short, Rizzo fares no better with his Amended Complaint in meeting the "plausibility" requirement articulated in the Twombly-Iqbal canon. Hence the Order remains in effect, and both the Amended Complaint and this action will indeed be dismissed if Rizzo fails to pay the \$350 filing fee on or before October 1.



Milton I. Shadur
Senior United States District Judge

Date: September 22, 2010