STATE OF INDIANA)
) SS:
COUNTY OF SULLIVAN)

IN THE SULLIVAN CIRCUIT COURT
2004 TERM
CAUSE NO. 77C01-0410-CT-00377

JAMES SHARP,)
Plaintiff)
)
VS)
)
WISHARD MEMORIAL HOSPITAL, et. al.)
Defendants)

FILED
IN CIRCUIT COURT
NOV - 3 2004
Clerk, Sullivan Circuit Court

ORDER

Pursuant to I.C. 34-58-1-1, this Court has examined Plaintiff's Complaint and has determined, pursuant to I.C. 34-58-1-2, that the claim is frivolous in that it does not have an arguable basis in the law and does not state a claim upon which relief may be granted based on the following:

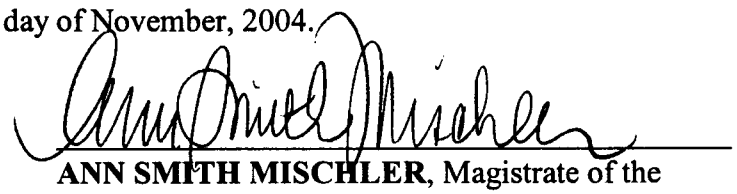
1. The Plaintiff's Complaint does not contain factual allegations sufficient to support a cause of action for defamation of character and discrimination. Plaintiff cites no relevant case law to support that the conversation that occurred between the Plaintiff and the Defendant nurses rise to level of defamation of character. Further, Plaintiff fails to state how the Defendants discriminated against him based on his religious domination. Although the Defendant's comments may have offended the Plaintiff, the facts alleged in the Plaintiff's Complaint do not state a claim for defamation of character and/or discrimination.

2. In order to file a medical malpractice cause of action, the Plaintiff must first comply with the Indiana Medical Malpractice Act which could not have occurred in this case because Plaintiff filed his Complaint within thirty (30) days of incident. Further, Plaintiff's Complaint fails to allege specific facts as to what acts of malpractice were committed by the Defendants.

3. Further, the Court may not have jurisdiction over this cause of action. The incident occurred in Marion County, Indiana; the Defendants appear to be residents of Marion County, Indiana; the Plaintiff has provided the Court with Summons with his address listed as Miami Correctional Facility, P.O. Box 900, Bunker Hill, Indiana 46914; and the Plaintiff's Complaint alleges he is housed at the Wabash Valley Correctional Facility.

Based on the foregoing, Plaintiff's Complaint cannot proceed and the Court declines ruling on Plaintiff's MOTION FOR RELIEF IN A CIVIL ACTION and AFFIDAVIT OF INDIGENCY.

SO RECOMMENDED this 3rd day of November, 2004.



ANN SMITH MISCHLER, Magistrate of the
Sullivan Superior Court

SO ORDERED this 3rd day of November, 2004.

P. J. PIERSON, Judge of the
Sullivan Circuit Court

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