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STATE OF SOUTH CAROLINA MAY 30 2024
COUNTY OF RICHLAND SC Court of Appeals

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Anthony Robert Taylor,)
)
 Plaintiff,)
)
 vs.)
)
 The State of South Carolina Office of)
 Attorney General Alan Wilson, Honorable)
 Frank R. Addy, Jr. and Attorney Jacqueline)
 Marie Pavlicek,)
)
 Defendants.)
 _____)

CIVIL ACTION NO: 2023-CP-40-02377
ORDER GRANTING DEFENDANT THE
STATE OF SOUTH CAROLINA OFFICE
OF ATTORNEY GENERAL ALAN
WILSON'S MOTION TO DISMISS
AND DISMISSING THE MATTER AS TO
FRANK R. ADDY, JR.

RICHLAND COUNTY
FILED
JANETTE W. McBRIDE
Clerk, C.S., & F.D.
25 MAY 29 AM 10:14

This matter comes before the Court by way of a summons and complaint filed by Plaintiff on May 8, 2023. On May 26, 2023, Defendant The State of South Carolina Office of Attorney General, Alan Wilson moved pursuant to Rules 12(b)(1), 12(b)(6) and 12(c), SCRPC, for an order of the court dismissing this action and sanctioning Plaintiff for his continued frivolous filings against the office and members of the judiciary. On May 26, 2023, Defendant Attorney Jacqueline Marie Pavlicek filed a motion pursuant to Rule 12(b)(6), SCRPC, requesting an order of the court dismissing this action and sanctioning Plaintiff. On June 8, 2023, Plaintiff filed a memorandum in opposition to Defendants' motions. A hearing on Defendants' motions was convened before me on February 16, 2024 at the Richland County Courthouse. Plaintiff was present and proceeded *pro se*. Defendant The State of South Carolina Office of Attorney General, Alan Wilson and the Honorable Frank R. Addy who was not served with process and has not appeared in the case were represented by Montgomery Willard, LLC of Columbia with B. Allen Bullard, Esquire appearing. Defendant Pavlicek was present and was represented by W. Mike Hemlepp, Jr., Esquire. This Court has had an opportunity to review the summons and complaint, the other pleadings in the matter and the motions and memoranda filed and has considered the arguments presented at the hearing by

Plaintiff and Defendants' counsel. Set forth below are the findings of this Court with regard to Defendant The State of South Carolina Office of Attorney General, Alan Wilson's ("Defendant") motion.¹

A general review of Plaintiff's current and past complaints against various governmental entities, including two (2) prior cases against Defendant and the Office of the Attorney General, sound in a recovery for property seized in 1993 and 1996 as well as some form of reparations. This case seems to add a claim that the Court improperly dismissed his prior claims, which could only be resolved through the direct appeal process. Nevertheless, Plaintiff presents a rambling series of alleged indignations which he believes entitle him to some form of relief. Sections of his prayer for relief are instructive.

We seek an immediate compensation for 152 years or, war of 1871, White Supremacy under democracy against the God-image, the God-like, the dark, the light skinned/complexion and the 1/8% that Democracy labels the 'inferior one's. We seek the return of all personal properties unlawfully confiscated under indictment number 92-GS-40-1613 violation, false imprisonment \$5,000,000 (five million) U.S. dollars per day, per occurrence, per officer, official, agent, or representative involved, plus 18% annual interest.

Plaintiff also seeks millions of dollars for alleged injuries emanating from his 1996 arrest (96-GS- 40-10975) and his 2020 arrest. Plaintiff's prayer for relief provides the clearest evidence of his claims. A review of his prior suits and the similar prayers for relief contained in those demonstrates that all Plaintiff is truly doing is attempting to re-litigate matters that have been previously decided with finality.

This Court finds that Plaintiff's complaint and this matter should be dismissed as his claims are not made in a time, place, or manner that allows recovery. His complaint even afforded the

¹ Plaintiff filed this action with a handwritten Civil Action Coversheet accompanied by a typewritten summons and complaint. Based upon this Court's review of the pleadings it finds that the references to "The State of South Carolina Office of Attorney General, Alan Wilson" and "The State of SC, Alan Wilson" are not separate defendants but, rather, are both attempts to bring an action solely against Attorney General Alan Wilson in his official capacity, and this Court so finds.

most liberal review considering his pro se status does not and cannot as a matter of law set forth a cause of action against either Attorney General Wilson or Judge Addy upon which relief can be granted. Therefore, for the reasons outlined below this Court finds that Defendant's motion should be granted, and this matter dismissed with prejudice.

1. Plaintiff's claim is barred by the applicable statutes of limitation.

Plaintiff's claims date to 1993, 1996, and 2000. He filed this complaint on May 8, 2023. Plaintiff does not plead, nor has he filed a claim as allowed by the tort claims act. Therefore, he cannot recover for any claim against the State that occurred before May 9, 2021. Every claim he purports to make in his complaint arose before that date.

2. Plaintiff's claim is barred by the South Carolina Tort Claims Act S.C. Code Ann. §15-78-10, et. seq.

Each of Plaintiff's claims emanate from legal actions or judicial actions taken by the State of South Carolina. *S.C. Code Ann. §15-78-60* specifically provides that:

The governmental entity is not liable for a loss resulting from:

- (1) legislative, judicial, or quasi-judicial action or inaction;
- (2) administrative action or enactment of a legislative, judicial, or quasi-judicial nature;
- (3) execution, enforcement, or implementation of the orders of any court or execution, enforcement or lawful implementation of any process;
- (4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, rule, resolution, or written policies;
- (5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee.

All claims raised by Plaintiff in his complaint fall under one of these express exceptions to government liability and his claims, therefore, cannot stand as a matter of law.

3. **Plaintiff's claims are barred by the doctrines of res judicata and collateral estoppel.**

This is Plaintiff's third lawsuit against Defendant. The history of his multiple claims relating to the same subject matter and similar claims demonstrates that the Court has exhaustively considered a bevy of allegations and causes related to the case at bar, all stemming from the same incidents, long past applicable statutes of limitation and uniformly decided against him.

Plaintiff filed his first claim relating to some of the matters raised in this complaint in *Anthony Taylor v. Dan Johnson, et al.* (2004-CP-40-02819). There he sought to recover property that he alleged was wrongfully confiscated from him by Richland County when he was arrested on or about December 17, 1991. The Court granted summary judgment in favor of the state actors in that case by Order dated May 13, 2005. Plaintiff sought an appeal, but it was dismissed by the South Carolina Court of Appeals by order dated January 25, 2006, due to Plaintiff's failure to pay the filing fee for his notice of appeal.

Plaintiff filed his first case against Defendant on January 25, 2019 (*Anthony Robert Taylor v. State of South Carolina, et al.*, 2019-CP-40-00486). There he sought damages against the Attorney General for "violation of God-given unalienable (sic) Rights and . . . one million two hundred thousand dollars for damage, actual emotional distress, redemption for debt owed, misrepresentation and fraudulent intent to deprive. Plaintiff seeks an additional five million dollars or a total of defendant's assets and 33% of his/her gross income for life." Defendants filed a motion to dismiss, and the Court dismissed the case by order dated June 28, 2019.

After the Court dismissed his 2019 Action, Plaintiff filed a second claim against Defendant on May 26, 2020 (*Anthony R. Taylor v. State of South Carolina, et al.*, 2020-CP-40-2482). In dismissing that case, the Court held:

This court cannot discern any possible or actionable claim lying in tort, statute, or under a constitutional right in this complaint. There is no allegation of any non-public duty against the Defendants. There is no allegation of any special duty owed



to the Plaintiff. Likewise, the Plaintiff's complaint, as it relates to negligence, fails to allege a breach of any duty owed by these defendants to him as well as damages directly and proximately the result of such duty. This court is unable to read the complaint such that even construed most liberally, a valid cause of action for negligence is pled. Plaintiff has no standing to pursue state or federal criminal charges or causes of action based thereon as alleged in his complaint. Likewise, the Plaintiff fails to articulate any allegations that may be read to deprive him or any party he purports to represent any constitutional right or cause any damage to them. Finally, the Plaintiff fails to allege any breach of a constitutional right to create any discernable claim that the court can detect alleging a violation of his constitutional rights.

Trying to find a cause of action for some constitutional deprivation is similarly fruitless. While Plaintiff's complaint is rife with racial epithet, it fails to allege any facts under which this court might grant relief under any arguable or colorable constitutional claim.

Plaintiff fails to allege facts from which the court, applying the most liberal standard, can find a cause of action that might allow the Plaintiff relief. His complaint, in fact, and at law, clearly fails to set forth a cognizable claim under Rule 12(b)(6).

Moreover, the only facts alleged against the Defendants seem to be centered on 1993 and 1996 convictions. Since these are far beyond any applicable statutes of limitation, was the court able to find a cognizable claim, it could not be decided in Plaintiff's favor as a matter of law, and the case must be dismissed under Rule 12(c).

The claims for relief in his 2020 action expanded on those in the 2019 action. Reviewing those claims and comparing them with those in the current action reveal that there are no new claims in the current action except those alleging that his prior actions were wrongfully dismissed. None of those claims are cognizable.

The fundamental purpose of Res judicata is "to ensure that 'no one should be twice sued for the same cause of action.'" *Judy v. Judy*, 393 S.C. 160, 173, 712 S.E.2d 408, 414 (2011) (internal citation omitted). Res judicata bars a second suit where there is (1) identity of parties; (2) identity of subject matter; and (3) adjudication of the issue in the first suit. *Judy*, at 167, 712 S.E.2d at 412. This is Plaintiff's third attempt to sue Defendant for the same cause of action. This Court finds Plaintiff is barred from doing so by res judicata.



4. **Plaintiff's complaint fails to state a cause of action against Defendants upon which relief can be granted (Rule 12(b)(6)).**

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 955, 167 L. Ed. 2d 929. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.*, at 556, 127 S. Ct. 1955, 167 L. Ed. 2d 929. The plausibility standard is not akin to a “probability requirement,” but it asks for more than a sheer possibility that a defendant has acted unlawfully. *Id.*

The tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 1949, 173 L.Ed. 2d 868,884 (2008). A court is not bound to accept as true a legal conclusion couched as a factual allegation. Rule 8, SCRCPP, marks a notable and generous departure from the hyper technical, code-pleading regime of a prior era, but it does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions. “Only a complaint that states a plausible claim for relief survives a motion to dismiss.” *Id.*, at 556, 127 S. Ct. 1955, 167 L. Ed. 2d 929. Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged -- but it has not “show[n]” -- “that the pleader is entitled to relief.” Rule 8(a)(2), SCRCPP.

In keeping with these principles, a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to

the assumption of truth. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.

In applying the general tenets of Rule 12(b)(6), this Court finds Plaintiff's complaint (even allowing for liberal interpretation due to his *pro se* status) fails as follows:

- (a) It fails to allege any claim for relief against Defendants as a matter of law because it fails to allege any facts which demonstrate Plaintiff is or can be entitled to any relief against Defendants.
- (b) It fails to allege any duty, breach of duty, damages, or facts sufficient to set out any legal, equitable, common law, or statutory cause of action as a matter of law.
- (c) To the extent it purports to allege causes of action for legal malpractice against Defendant, such a claim fails as a matter of law as no attorney-client relationship is alleged or ever existed between the Plaintiff and Defendant.
- (d) To the extent it purports to allege causes of action for negligence, it fails to allege a legally cognizable duty, breach of that duty, and damages arising as a direct and proximate result of the breach of said duty.
- (e) To the extent that it purports to allege equal protection or Section 1983 claims, he fails to allege the required elements of such claims.
- (f) Even considering all of the allegations contained in it in a light most favorable to Plaintiff, it is impossible to identify allegations alleging any set of facts which amount to a cognizable claim under any legal theory.

5. Plaintiff's claims are barred by the Doctrine of Laches.

Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. *Mid-State Trust, II v. Wright*, 323 S.C. 303, 474 S.E.2d 421 (1996); *Hallums v. Hallums*, 296 S.C. 195, 371 S.E.2d 525 (1988); *Muir v. C.R. Bard, Inc.*, 336 S.C. 266, 519 S.E.2d 583 (Ct. App. 1999). Laches is an equitable doctrine, which arises upon the failure to assert a known right. *All Saints Parish, Waccamaw v. Protestant Episcopal Church in the Diocese of S.C.*, 358 S.C. 209, 235, 595 S.E.2d



253, 267 (Ct. App. 2004).

Here, to the extent Plaintiff's claims could be considered equitable rather than legal, they are barred by his failure to timely pursue grievances dating back nearly thirty years, especially since his earlier pleadings demonstrate a longstanding awareness of the claims he is attempting to raise here.

6. Defendant is entitled to Judgment on the Pleadings.

A motion for judgment on the pleadings under Rule 12(c) may be made at any time "[a]fter the pleadings are closed - but early enough not to delay [the] trial." Rule 12(c), SCRCF. A motion for judgment on the pleadings is proper where pleadings entitle a party to judgment without proof, by disclosure of all facts, where the pleadings present no issue of fact or present merely an immaterial issue. *Rosenthal v. Unarco Indus., Inc.*, 278 S.C. 420, 422, 297 S.E.2d 638, 640 (1982). Where the pleadings are fatally deficient in substance or fail to state a good cause of action in favor of the plaintiff and against the defendant, judgment on the pleadings is proper. *Id.*

When deciding a Rule 12(c) motion for judgment on the pleadings, courts apply the same standard used to evaluate a motion to dismiss pursuant to Rule 12(b)(6). "A motion under Rule 12(b)(6) or Rule 12(c) admits well pleaded facts in the complaint, but it does not admit the inference drawn by the plaintiff from such facts, nor does it admit conclusions of law. The court must take all well pleaded facts as true." *Carolina Winds Owners' Ass'n, Inc. v. Joe Harden Builder*, 297 S.C. 74, 76, 374 S.E.2d 897, 899 (Ct. App. 1988). Construing every fact pled in a light most favorable to Plaintiff, this Court finds no action properly lies against Defendant.

7. Plaintiff's complaint is frivolous, and Plaintiff is subject to sanctions as a result.

The standard for a frivolous proceeding is whether a reasonable attorney, in the same circumstances would believe, under the facts alleged, that Plaintiff's claim may be warranted under existing law; or a reasonable attorney in the same circumstances would believe Plaintiff's



procurement, initiation, and continuation of a claim or defense is intended merely to harass or injure the other party; or for making frivolous arguments a reasonable attorney would believe were not supported by the facts. *S.C. Code Ann. §15-36-10(A)(4)*. The decision to sanction for a frivolous proceeding is a question of law for the Court, not a question of fact for a jury because it sounds in equity, not in law. *Holmes v. Haynsworth, Sinkler & Boyd, P.A.*, 408 S.C. 620, 641, 760 S.E.2d 399, 410 (2014).

S.C. Code Ann. §15-36-10(E) of the South Carolina Frivolous Proceedings Act states, in pertinent part:

- (E) In determining if an attorney, party, or a pro se litigant has violated the provisions of this section, the court shall take into account:
- (1) the number of parties;
 - (2) the complexity of the claims and defenses;
 - (3) the length of time available to the attorney, party, or pro se litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);
 - (4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation;
 - (5) previous violations of the provisions of this section;
 - (6) the response, if any, of the attorney, party, or pro se litigant to the allegation that he violated the provisions of this section; and
 - (7) other factors the court considers just, equitable, or appropriate under the circumstances. §15-36-10(E).

Based upon its review of the pleadings and other matters filed in this action; the other actions filed by Plaintiff of the same or similar nature, some of which are mentioned above; the arguments of counsel; the arguments of Plaintiff; and, after considering the factors outlined in §15-36-10(E) of the statute, this Court finds that Plaintiff's complaint is frivolous.

Defendant has requested this Court impose sanctions against Plaintiff for filing this frivolous action. Pursuant to S.C. Code Ann. § 15-36-10(G) sanctions may include: (1) an order for a pro se litigant to pay the reasonable costs and attorney's fees of the prevailing party, (2) an order



for the attorney to pay a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith. During the hearing counsel for Defendant and his co-Defendants proposed several alternative non-monetary sanctions against Plaintiff to dissuade further frivolous filings. This Court finds that a proper sanction in this matter is to enjoin Plaintiff from filing any action in any Circuit Court of South Carolina unless it is accompanied by a properly notarized affidavit by an attorney licensed to practice law in the State of South Carolina that he or she in good faith believes that the matter raised in the action is nonfrivolous and proper for a Circuit Court to consider.

IT IS THEREFORE ORDERED:

1. Defendant's motion to dismiss is granted; and,
2. Plaintiff's complaint against Defendant is dismissed with prejudice; and,
3. Plaintiff's complaint is deemed to be frivolous; and,
4. Plaintiff is enjoined from filing any action in any Circuit Court of South Carolina unless it is accompanied by a properly notarized affidavit by an attorney licensed to practice law in the State of South Carolina that he or she in good faith believes that the matter(s) raised in the action is/are nonfrivolous and proper for a Circuit Court to consider.
5. Based upon this Court's analysis of Plaintiff's claims herein, which are incorporated herein by reference and which this Court finds is equally applicable to the claims against Defendant Honorable Frank R. Addy, Jr., although he has not been served in this matter, Plaintiff's complaint against him is dismissed with prejudice as well.

AND IT IS SO ORDERED.

~~[E FILING ORDER SIGNATURE PAGE FOLLOWS]~~



May 16, 2024