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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT

SC Court of Appeals

Anthony Robert Taylor,

C/A No.: 2023-CP-40-02377

Plaintiff,

vs.

ORDER DISMISSING PLAINTIFF'S
COMPLAINT AND AWARDED
SANCTION UNDER THE SOUTH
CAROLINA FRIVOLOUS PROCEEDINGS
ACT

The State of SC, Alan Wilson, Judge
Honorable Frank R. Addy, Jr., Attorney
Jacqueline Marie Pavlicek,

Defendant(s).

RICHLAND COUNTY
FILE
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JEANETTE W. HEMLEPP
CLERK, C.S.

The Plaintiff in this matter is a *pro se* litigant seeking damages against the Defendant pursuant to a Summons and Complaint filed with the Clerk of Court on May 8, 2023, alleging various facts and circumstances against the Defendants. Defendant "Attorney Jacqueline Marie Pavlicek" was served and responded with a Motion to Dismiss pursuant to Rule 12(b)6 of the *South Carolina Rules of Civil Procedure* and requesting sanction(s) pursuant to the "South Carolina Frivolous Civil Proceedings Sanctions Act" §§15-36-10 et seq. of the *Code of Laws of South Carolina* (2005). The Plaintiff filed a response to the Motion on June 7, 2023.

This case was scheduled for a hearing before me at the Richland County Courthouse on February 16, 2024. Present at the hearing was the attorney for Defendant Pavlicek, W. Mike Hemlepp, Jr., Esquire of the Richland County Bar. Also present was the plaintiff, Anthony Robert Taylor, who was properly served with Notice of this Hearing by the Clerk of Court through mailing to his address of record.

A motion to dismiss is judged solely by the allegations in the four corners of the Plaintiff's Complaint. Rule 12(b)6 of the *South Carolina Rules of Civil Procedure*.

There is no discernable cause of action stated in the Plaintiff's complaint. Further, there is no relief stated or requested, even when taken in the light most favorable to the Plaintiff, which would be within the subject matter jurisdiction of the Circuit Courts of South Carolina. Based upon the Plaintiff's complaint, on its fact, I hereby find dismissal of this action is warranted. Based upon the arguments of the Plaintiff, providing leave to amend the complaint would not produce more clarity, and could produce less.

The standard for a frivolous proceeding is whether a reasonable attorney, in the same circumstances would believe, under the facts alleged, that the Plaintiff's claim may be warranted under existing law; or a reasonable attorney in the same circumstances would believe the Plaintiff's procurement, initiation, and continuation of the civil 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. §15-36-10(A)(4) of the *Code of Laws of South Carolina (2005)*.

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. *Father v. S.C.D.S.S* 353 S.C. 254, 578 S.E.2d 11 (2003).

The "South Carolina Frivolous Proceedings Act" states, in pertinent part:

15-36-10(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)

After carefully listening to the arguments of counsel and the arguments of the Plaintiff, and after considering the factors outlined in §15-36-10(E) of the statute, I hereby find as a matter of law the Plaintiff's Complaint meets the definition of frivolous pursuant to §15-36-10 *et seq.* of the *Code of Laws of South Carolina*. The Court takes judicial notice of the many lawsuits against public officials which have been unsuccessfully filed by this Plaintiff.

The Defendant in this matter has also moved for Sanctions pursuant to the "Frivolous Proceedings Act". The movant is a public employee as an attorney in the Office of the City Attorney for the City of Columbia. She is a full-time employee of the City of Columbia and neither the Defendant nor the City of Columbia seeks attorney's fees and costs in this case as sanctions for filing this frivolous action. Instead, the Defendant seeks injunctive relief designed to protect against further vexacious litigation.

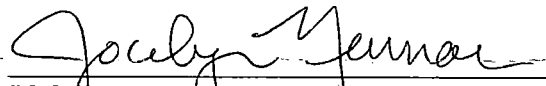
Based upon the foregoing, it is hereby ORDERED,

- a. That the claims contained in the Plaintiff's Complaint against the Defendant Pavlicek are hereby DISMISSED with prejudice;
- b. That the Plaintiff's complaint is hereby declared to be frivolous under the "South Carolina Frivolous Proceedings Act".
- c. That the Plaintiff is hereby enjoined from filing any further *pro se* complaints in the Circuit Courts of this State without prior permission of a judge of that Court who has

read the complaint in the light most favorable to the Plaintiff and determined the relief requested by the Plaintiff is within the jurisdictional authority of the Court if the allegations contained in the Complaint are proven to be true. In the alternative to prior judicial authorization, Plaintiff may attach to his pleadings a signed affidavit from a licensed attorney authorized to practice law in the State of South Carolina that the causes of action and claims made in the pleading are warranted under existing law, and are supported by adequate facts. This affidavit shall identify discernable causes of action contained the pleadings, together with the facts supporting each element of the causes of action.

- d. That this Order shall be forwarded to the South Carolina Supreme Court pursuant to 15-36-10(M) and shall be made a public document in the discretion of the South Carolina Supreme Court.

AND IT IS SO ORDERED!


JOCELYN NEWMAN, CIRCUIT COURT JUDGE
FIFTH JUDICIAL CIRCUIT

Signed this 15th day of May, 2024 at
Columbia, South Carolina or electronically
signed on the date and location as set forth
on the attached.