

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Wesley Edward Smith, III, a/k/a
Wesley Smith,

Plaintiff,

vs.

Pepsi Bottling Group,

Defendant.

IN THE COURT OF COMMONS PLEAS

CIVIL ACTION NO.: 2013-CP-10-0417

RECEIVED

APR 27 2015

SC Court of Appeals

ORDER

FILED
2014 FEB 27 PM 4:09
JULIE J. HANCOCK
CLERK OF COURT
BY _____

Plaintiff has filed a motion to proceed *in forma pauperis* in the current action. This motion is denied. In addition, the Court takes this opportunity to address the repetitive, frivolous, and abusive nature of plaintiff's filings in this Circuit. Just today, the undersigned denied plaintiff's request to proceed *in forma pauperis* in another matter, *Wesley Edward Smith, III, vs. Charleston County School District (CCSD)*. In the CCSD case, the Honorable Doyet A. Early, III, sanctioned Mr. Smith for the filing of frivolous pleadings and documents with this Court. (See Judge Early's November 20, 2007 Order, as well as Judge Roger Young's February 20, 2013 Order in Case No.: 03-CP-10-4751).

In addition to sanctioning the plaintiff, Judge Early Ordered that "Plaintiff Wesley Smith is hereby enjoined, restrained, and prohibited from filing any new or further lawsuits, complaints, pleadings, motions, petitions, writs, or other similar documents in this Court that seek damages or other legal or equitable relief arising from the same facts or events referenced in the Complaint filed in this case on November 14, 2003, or in the Amended Complaint filed in this case on June 23, 2004." (Early Order at Page 11). Despite this specific admonition from

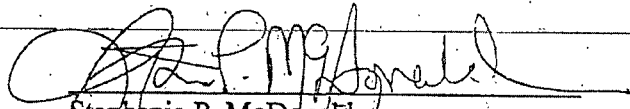
EW

Judge Early and Judge Young's more recent 2013 denial of *in forma pauperis* status to the plaintiff, Mr. Smith has again attempted to file suit against the CCSD.

The current attempted action against Pepsi Bottling Group is not subject to Judge Early's Order; however, this Court looks to Judge Early's prior admonition, as well as to the South Carolina Supreme Court's analysis in *Richardson v. Stewart*, 386 S.C. 282, 688 S.E.2d 124 (2010), for guidance. A similar admonition is now necessary to address the *pro se* plaintiff's current behavior of seeking to file two separate frivolous lawsuits (with accompanying requests for *in forma pauperis* status) in Charleston County during such a short period of time. Even a cursory review of plaintiff's pleading against Pepsi Bottling Group reveals it to be frivolous. Such behavior results in a waste of judicial time and resources and interferes with the administration of justice. Therefore, plaintiff's motion to proceed *in forma pauperis* is denied.

In an effort to curb any further abusive filings, it is hereby Ordered that the Clerks of Court in the Ninth Judicial Circuit not accept any documents from this *pro se* plaintiff that require a filing fee unless accompanied by the filing fee and a properly notarized affidavit from Wesley Smith, III, stating that he in good faith believes that the document submitted is nonfrivolous and is proper for consideration by the Court. This order shall not apply to any matters in which the plaintiff has already been granted leave to proceed *in forma pauperis*. The Court takes this opportunity to warn the plaintiff that any attempt to file documents in the Ninth Judicial Circuit in violation of this order may result in him being held in contempt of this Court.

AND IT IS SO ORDERED.



Stephanie P. McDonald
Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina
February 21, 2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Wesley Edward Smith III)
)
Plaintiff,)
)
vs.)
)
Pepsi Bottling Group, INC, et al)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2013-CP-10-0417

**ORDER DENYING PLAINTIFF'S
MOTION FOR AN ORDER TO
PROCEED *IN FORMA PAUPERIS***

FILED
2014 AUG 18 PM 12:29
JULIE J. ARMSTRONG
CLERK OF COURT

THIS MATTER CAME before the Court on the *Pro Se* Plaintiff's Motion for an Order to Proceed *In Forma Pauperis* in order to have the required filing fee waived because of indigence.

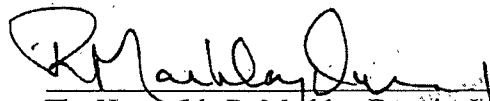
_____ The request is GRANTED. Plaintiff may proceed *in forma pauperis* without payment of _____ the filing fee and/or _____ the service cost (check one or both).

_____ The request is DENIED because the Plaintiff has not shown proof of indigence.

_____ The request is DENIED because the Plaintiff's complaint is against a political subdivision or agency of the State of South Carolina and alleges a cause of action that occurred in a county other than Berkeley County/Charleston County (circle one). The South Carolina Tort Claims Act, S.C. Code § 15-78-100(b) provides that jurisdiction is in the county in which the act or omission occurred. Therefore, the Clerk of Court is directed to return the pleadings to the Plaintiff, and the Plaintiff may re-file in the proper county.

 X The request is DENIED pursuant to the reasons outlined in the attached order.

AND IT IS SO ORDERED.


The Honorable R. Markley Dennis, Jr.
Chief Administrative Judge, Ninth Judicial Circuit

August 14, 2014
Charleston, South Carolina

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF, G.S. & F.C.
By _____
DEPUTY CLERK

YAHOO! MAIL

Print - Close Window

From: "Helsel, Sean (PBG)" <Sean.Helsel@pepsi.com>
To: "smittw55@yahoo.com" <smittw55@yahoo.com>
Subject: Follow-Up
Date: Fri, 4 Mar 2005 14:48:48 -0600

"SUSPENSION"
NOTICE

Wesley—as a follow-up to our meeting on Tuesday, March 1st, I wanted to update you on our investigation and share with you planned next steps. As we discussed on Tuesday, the Jedburg location realized a 3,273 case loss (dumpage, breakage, shrink) in period 2. The purpose of our discussion was for you to explain, as the Warehouse Manager, how we realized this amount of loss in a short amount of time. ^{1st} _{of units,}

~~AND~~ DID NOT ???

During our time on Tuesday, we focused on the 15-pack, 8-ounce package (850-cases warehouse breakage) and we reviewed paperwork to see if it supported any of your explanations for this loss. To ensure I've captured your explanations accurately, I've listed the explanations below for your review. I'd like for you to provide a written response regarding the accuracy of my notes.

- "Miskey" of information into NIS
- 15-pack breakage could have included 18-pack and 6-pack 8-ounce cans in period 2
- 15-pack breakage could have included 18-pack and 6-pack 8-ounce cans that carried over from period 1

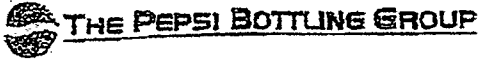
As we discussed, you were confident on the can size and flavor, but not as confident of the package type (15-pack, 18-pack, 6-pack). Although we reviewed the paperwork during our meeting, we are continuing to review the paperwork to support these as well as other possible explanations. Your help to ensure we are focusing on the possible explanations that you provided, will be appreciated. Please provide your written explanation by mid-day Monday, March 7th, so we can conclude this investigation by the middle of next week.

Thank you for your cooperation and please give me a call with any questions.

SEAN HELSEL
803-735-3815

EW





THE
TERMINATION
LETTER

March 28, 2005

Wesley Smith
465 North Nassau Street
Charleston, SC 29403

Dear Wesley:

This letter serves as a follow up to your request for a written statement regarding our decision to separate your employment with Pepsi Bottling Group (PBG).

As I shared with you during our meeting on March 17, 2005, we commenced an investigation after the Jedburg location realized an over 3,000 case loss in period two. This investigation involved interviews with you and others, as well as, a review of sales and inventory records. As you know you were placed on a paid suspension while we reviewed individual statements and the facts involving this significant inventory loss.

2ND it
was;

As the Distribution Supervisor, you are directly responsible for both inventory variances and the accuracy of the business records related to warehouse inventory. Your explanation for the specific inventory shortages changed throughout the course of the interview, and they were not supported by other employees and the facts. We were unable to conclude that your explanations for the shortages were accurate or credible, and it represented a significant performance problem.

Based on the results of this investigation we concluded that you misrepresented inventory and did not meet expectations in responding to inventory variances. As a result of this conclusion, your employment with PBG was terminated effective March 11, 2005.

3RD
IT was;

During our meeting on March 17, 2005, you were provided a transition agreement that would provide you compensation to assist you in your career transition over a defined period of time. If you decide not to send the signed, unaltered agreement to me in the time-frame specified, the paycheck received for the pay period ending March 19, 2005 will act as your earned, unused vacation payout.

Enclosed with this letter is a description of the PBG Disciplinary Appeal Process and the Disciplinary Appeal Form for you to review and use if you would like to appeal the original decision. I hope this letter satisfies your request and I wish you well in your career pursuits. If you have additional questions, please feel free to contact me (803-735-3815).

Sincerely,

Sean L. Heisel
Human Resources Manager

Enclosure



REC'D LTR ON
8 APR 05.
SUPPORTING
INFO COULD NOT
BE LOCATED...
OF GMS