

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Lamont Jeremiah McCauley,
Plaintiff,

ORDER OF DISMISSAL

-vs-

C.A. NO.: 2017-CP-23-08068

Paul Wickensimer,
Greenville County Family
Court Clerk's Office

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SC Court of Appeals

Defendants.

This matter came before me for hearing on March 12, 2018. The Plaintiff appeared *pro se*. The Defendant was represented by Russell W. Harter, Jr. This matter is before me on the Defendants' Motion to Dismiss pursuant to SCRCF Rule 12(b)(6), and the Plaintiff's Motion for Change of Venue.

This action was filed on December 28, 2017. The Plaintiff alleges that he was a party to a family court proceeding which resulted in the Greenville County Family Court directing the Plaintiff's employer to withhold wages for payment under a foreign support order from the State of Georgia. The Plaintiff's Complaint has a number of attachments which include a notice filed with the Greenville County Family Court on May 5, 2017 requesting enforcement of the support order from the State of Georgia. The Plaintiff contends that the Defendant Clerk of the Greenville County Family Court prematurely issued a directive resulting in the Plaintiff's wages being withheld for a period of time in the total amount of \$1,150.00.

It appears further that the Greenville County Family Court issued an order dated October 24, 2017 which dismissed the family court action in Greenville County and suspended

enforcement of the Georgia child support order. The family court order of October 24, 2017 also provided that any funds which had been collected by the Greenville County Clerk of Court and disbursed to the State of Georgia would be subject to challenge in an action in the State of Georgia. The Plaintiff's Complaint alleges that the wage garnishment was not in keeping with proper procedure and the Plaintiff alleges entitlement to monetary damages from the Clerk of Court.

The Defendant in response to the allegations of the Plaintiff's Complaint filed a Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, and I find that it is appropriate to address this motion before addressing the Plaintiff's Motion for Change of Venue.

The Defendant asserts that, pursuant to the South Carolina Tort Claims Act, the Clerk of Court is immune from liability for the claim which is alleged in the Complaint. The Defendant makes reference to the provisions of S.C. Code Ann. §15-78-60 and numerous exceptions from liability as are set out in that statute. Specifically, subsections (1)(2)(3)(4)(5) and (23) would appear to have overlapping applications to this claim. I specifically find that the issues raised by the Plaintiff appear to be judicial and quasi-judicial actions and/or administrative actions of a judicial or quasi-judicial nature. Clearly, the claim is also one that relates to the institution or prosecution of a judicial and/or an administrative proceeding.

Further, it is clear that the actions of the Clerk of Court as are alleged in the Complaint are all actions within the scope and course of the Clerk's official duties and, accordingly, I find that for these various reasons, the South Carolina Tort Claims Act is a bar to the claim which is outlined in the Plaintiff's Complaint.

The Defendant further argues that this Court lacks jurisdiction of the subject matter of this claim relying upon the Greenville County Family Court Order dated October 24, 2017 and provisions of S.C. Code Ann. §63-3-530 which relate to the Family Court’s exclusive jurisdiction in domestic matters. Those provisions include and provide the Family Court has jurisdiction to hear and determine matters that come within the provisions of the Uniform Interstate Family Support Act, and proceedings within the County to compel the support of a child.

Based on the record before me, I find that the claims alleged in the Plaintiff’s Complaint are barred by the South Carolina Tort Claims Act, and that this Court lacks jurisdiction of the subject matter therefore, the Defendants’ Motion to Dismiss is granted. Further, I find that the Plaintiff’s Motion for Change of Venue is moot.

It is THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant’s Motion to Dismiss pursuant to SCRPC Rule 12(b)(6) is granted and the Plaintiff’s Complaint is dismissed.

It is FURTHER ORDERED, ADJUDGED AND DECREE that the Plaintiff’s Motion for Change of Venue is moot and therefore dismissed.

Perry H. Gravely, Judge
Thirteenth Judicial Circuit

Greenville, South Carolina
Dated: _____



Greenville Common Pleas

Case Caption: Lamont Jeremiah Mccauley vs. Family Court Clerk Greenville
County
Case Number: 2017CP2308068
Type: Order/Dismissal

So Ordered

s/ Honorable Perry H. Gravely, #2755