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ELECTRONICALLY FILED - 2018 Sep 18 5:01 PM - GREENWOOD - COMMON PLEAS - CASE#2018CP2400402

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENWOOD)
)
 Allen Spearman,)
)
 Plaintiff,)
)
 v.)
)
 Probate, Sheriff Dept., Tax Accessor Office,)
 Bank, Travis Moore, and Mitchell Powers,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Case No. 2018-CP-24-00402

ORDER DISMISSING PROBATE
COURT, TRAVIS MOORE AND WENDY
WILLIAMS WITH PREJUDICE

This matter is before the Court on Defendants Probate Court, Travis Moore, and Wendy Williams' Motion to Dismiss or, in the alternative, for a More Definite Statement. Defendants' Motion was filed on August 22, 2018, and the Court held a hearing on September 5, 2018. The Plaintiff appeared *pro se*, and all Defendants were represented by their respective attorneys.

Based upon the arguments presented at the hearing, Defendants' Motion to Dismiss is granted. The Court finds that the Plaintiff's Complaint fails to meet the minimum pleading standards required by the South Carolina Rules of Civil Procedure. The Complaint fails to set forth a "short, plain statement of the facts showing that the pleader is entitled to relief" as required by Rule 8 of the South Carolina Rules of Civil Procedure. Plaintiff fails to allege any causes of action, and fails to allege any basis as to jurisdiction. Thus, dismissal is appropriate under Rule 12 of the South Carolina Rules of Civil Procedure.

Giving the Plaintiff the benefit of the doubt as a *pro se* litigant, the Court inquired as to the nature of Plaintiff's complaints against the Probate Court, Travis Moore, and Wendy Williams. Plaintiff acknowledged that he did not have a complaint against Ms. Williams, and that she was included in the Summons merely because she is employed by the Probate Court.

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GREENWOOD COUNTY
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Furthermore, Plaintiff makes no statements or allegations against Ms. Williams in his Complaint. Thus, the case against Ms. Williams is dismissed with prejudice. Allowing Plaintiff to amend his Complaint would be futile, as he acknowledged that she did not do anything wrong and he has no complaints against her.

Plaintiff's allegations against Defendants Probate Court and Travis Moore arise from a testamentary trust that was established for Plaintiff's benefit upon his father's death. At some point prior to 2014, Plaintiff made allegations that his trustee(s) either misappropriated or mismanaged the trust, and he filed an action in 2014 seeking an accounting. The Probate Judge ultimately found in favor of the trustee(s), and Plaintiff appealed. The Circuit Court upheld the decision, and the appeal was dismissed with prejudice by the Court of Appeals.

Plaintiff alleges that a series of Probate Judges, beginning before Judge Frank R. Addy, Jr. and ending with current Probate Judge Travis Moore, handled his Probate case improperly. The Court questioned Plaintiff extensively as to his complaints regarding Probate Court and Travis Moore. Each time he was questioned, he stated that the 2014 case was mishandled, and that the Probate Court's rulings in that case are the basis for his lawsuit. Plaintiff is therefore attempting to sue Probate Court and Judge Moore for judicial acts. Judicial immunity bars such claims. McEachern v. Black, 329 S.C. 642, 496 S.E.2d 659 (Ct. App. 1997). Allowing Plaintiff to amend his Complaint would be futile.

Accordingly, IT IS ORDERED that the Complaint is dismissed with prejudice as to Defendants Probate Court, Wendy Williams, and Travis Moore.

AND IT IS SO ORDERED.

The Honorable William A. McKinnon
Presiding Judge

_____, South Carolina
_____, 2018



Greenwood Common Pleas

Case Caption: Allen W Spearman VS Probate Court , defendant, et al

Case Number: 2018CP2400402

Type: Order/Dismissal

So Ordered

/s William A. McKinnon, #2761, Circuit Judge

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