

copy

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE CIRCUIT COURT
CASE NO. 2017-CP-40-07649

Bishop Ruben DeWayne

Plaintiff,

vs.

OPD SOCRATES GROUP, LLC,
THE STATE OF SOUTH CAROLINA;
SC DEPARTMENT OF REVENUE, and
CITY OF COLUMBIA POLICE DEPARTMENT,

Defendants.

NOTICE OF APPEAL
(Trial by Jury was Demanded)

RICHLAND COUNTY
FILED
2018 DEC -3 AM 9:13
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: THE OFFICIAL RECORD, and
THE DEFENDANTS AS NAMED ABOVE:

NOTICE OF APPEAL

LET ALL MEN KNOW BY THESE PRESENT that the Order of Dismissal in the above captioned matter is hereby appealed in whole and not in part.

SUMMARY OF FACT

The Plaintiff filed his "CONSTITUTIONAL JUDICIAL NOTICE" as promised in the original complaint (Leaving the State of South Carolina Code of Law) by placing into the Wells of the Court Record. certified and verified copies of both, the 1895 South Carolina Constitution and the Oath of Office for JOCELYN NEWMAN.

The pleading itself gave constructive notice that the provisions as set forth therein would be applied leaving codes and statutes under color of the law. Warnings were also disclosed for any and all acts of treason. As such these constitutional Documents were systematically placed as a

safeguard to ensure fairness while petitioning the government for redress of grievances in the *good o' boy system* of political favor.

1. The judicial seat and office of JOCELYN NEWMAN was DIS-HONORED on Record when she sat at bench.
2. WHEREAS, on May 16, 2018 at bench, the Circuit Court Judge was politely asked by Plaintiff, "Will you please take this constitutional judicial notice of the 1895 South Carolina Constitution and your Oath of Office?" (while she held these documents in her hands) certified by the South Carolina Achieves, and the oath by the South Carolina Secretary of State. The Court was at a loss for words and questioned Plaintiff, "What is this for?" [keeping in mind both were verified by a South Carolina Notary Public.] See the pleading filed entitled "Constitutional Judicial Notice".
3. As a Dis-Honor, JOCELYN NEWMAN remained silent when she had an obligation to speak. Whereas this silence must be deemed both a fraud and a dishonor which brought SHAME upon the Richland County Judiciary.
4. Such silent, refusal and dishonor failing to take judicial notice of this State's Constitution, the Oath required under the U.S. Constitution, *a bona fide writ and public policy* that "We the People" founded and issued evidencing the sovereignty given to South Carolina was slapped in the face of every Founding Father. Deeming said Court; i.e.; "JOCELYN NEWMAN" unworthy to hear, let alone to place any confidence in as being neutral, un-bias or fair.
5. Based upon information and belief, this Court should have handled this *pro se* Plaintiff with extreme caution, knowing full well that He should not have been held to the same standard as a bar member attorney.

6. Statements made in the order of dismissal are completely false showing the Court relied upon the mere statement of Counsel as fact when the same is a complete falsehood. As an example, South Carolina Law Enforcement (SLED) is in fact investigating this matter, for after the near shot-out on Main Street at River Drive, The Senior Officer, Bridgette Lott did a photo line-up where Jerry McCroy was identified by Plaintiff and a warrant has issued on the NCIC Database. So much for the Court's statement that SLED would not re-investigate after the Columbia Police Department's investigation.
7. The wickedness of those who sit at bench are not prepared to undergo a man after God's own heart who will Stand in the face of black robes who are referred to as "your honor" being a title of nobility right?
8. NEVERTHELESS, in this matter regarding the order of dismiss, Plaintiff has had NO NOTICE!
9. The Plaintiff received a letter from the STATE'S Counsel wanting to know why I was continuing to send correspondence to him and the court when the matter was dismissed and has ended. This prompted Plaintiff to file a pleading entitled "Notice and Demand for a More Definite Statement" that was duly filed. And while there at the Clerk's Office, Plaintiff was able to get a copy of the order with an acknowledgment that such was given to Plaintiff on that day. See both the letter from Counsel and the Receipt from the Clerk's Office as to receipt of the order of dismissal dated 11/29/2018.

APPEAL INSTRUCTIONS

10. As stated afore, the Order of Dismissal in the above captioned matter is hereby appealed in whole and not in part.
11. Nothing shall be excluded for the destination for the Record on Appeal.

12. There are transcripts available for the record. (Note: if said records have been altered in any way whatsoever, an action will be commenced against said court reporter and the court for collusion and fraud.)
13. The order was received by Plaintiff on 11/29/2018.
14. The Plaintiff will not pay for this appeal seeing that Plaintiff paid the full cost to bring this action; to petition the government for redress of grievances provided under the Bill of Rights in line with the South Carolina Tort Claims Act.
15. The dishonored seat and office of JOCELYN NEWMAN (hereinafter) “the Court” failed and refused to take judicial notice of the Constitution and her Oath reduced her from being a court to a mere administrator who held a hidden agenda laden with wickedness.
“For when the Wicked are in rule, the people will suffer. But then God charges a man after his own heart to Stand!”
16. The appeal shall be taken to the South Carolina Supreme Court and not the South Carolina Court of Appeals.

Note: The Constitution of the United States mandates and requires that an oath be taken within 30 days of appointment for the seat and office. For any reasonable minded person would not entertain nor enjoin in such foolishness where a court refused to acknowledge (take judicial notice) of the public policy it swore to preserve, defend and protect the Constitutions so help her God.

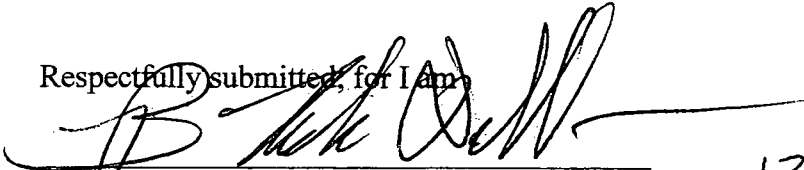
For this cause, Plaintiff would not participate in an administrative proceeding when from the onset of this matter, notice was duly given in the record that the Constitutions would be applied. And where placing these certified and verified public documents converted this administrative court into a constitutional court in line with and in accordance with the South Carolina Tort Claim Act.

As a public servant; officer of the court; JOCELYN NEWMAN was required under these constitutions to execute an oath within 30 days of the commencement of said office and seat she hold. But unwilling to take judicial notice disqualified her sitting at bench before the Bishop. Amen.

17. THEREFORE, any and all orders and/or judgments issued by said Court is void because she dishonored both her seat and office. *In toto.*

WHEREFORE, govern yourselves accordingly.

Respectfully submitted, for I am



12-3-2018

Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

PROOF OF SERVICE

I, Bishop Ruben DeWayne do hereby certify that I have properly served a true and correct copy of the foregoing Notice of Appeal upon all Defendants by First Class Mail pre-paid with the United States Postal Service this ^{3rd} day of December, 2018 at the addresses listed below.

CITY OF COLUMBIA POLICE DEPARTMENT
c/o OFFICE OF THE CITY ATTORNEY
P.O. BOX 667
Columbia, SC 29202
(803) 737-4242

STATE OF SOUTH CAROLINA
c/o RILEY POPE & LANEY
P.O. BOX 11412
Columbia, SC 29211
(803) 799-9993
And SC DEPT OF REVENUE

OPD SOCRATES GROUP LLC
Closed Shop (P.O. BOX) and ran away
No longer Deliverable

2018 DEC -3 AM 9:13
JEANETTE W. MCBRIDE
C.P. & G.S.
RICHLAND COUNTY
FILED

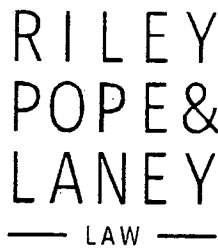
For I am



Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

South Carolina

Riley Pope & Laney, LLC
2838 Devine Street
Post Office Box 11412 (29211)
Columbia, SC 29205
Phone: 803.799.9993
Fax: 803.239.1414



North Carolina

Riley Pope & Laney, PLLC
4822 Albemarle Road
Suite 248
Charlotte, NC 28205
Phone: 980.201.3888
Fax: 704.625.9430

November 27, 2018

Bishop Ruben DeWayne, *pro se*
5105 North Main Street
Columbia, South Carolina 29203-4518

Re: Bishop Ruben DeWayne v. OPD Socrates Group, LLC, The State of South Carolina, SC
Department of Revenue, and City of Columbia Police Department
C/A No.: 2017-CP-40-07649
Our File No.: 5021.01617

Dear Mr. DeWayne:

I received your "Summary of the Facts" dated November 19, 2018 in the above-referenced matter. I am at a loss as to why you keep sending correspondence to me and the court. Please be advised that this matter has been dismissed by the court and is ended. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Balthazor".

Peter M. Balthazor

PMB/krb

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2017CP4007649

Official File Stamp: 06-15-2018 11:20:45 AM

Court: CIRCUIT COURT

Common Pleas

Richland

Case Caption:

Bishop Ruben Dewayne vs OPD Socrates Group LLC, defendant, et al

Document(s) Submitted:

Order Granting Defendants' Motion to Dismiss

Filed by or on behalf of:

Jocelyn Newman

Note from the Court:

Judge, please approve and sign this document.

2018 NOV 29 PM 2:19
JENNETTE W. McBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Dana M. Thye for City Of Columbia Police Department

Peter M Balthazor for State Of South Carolina, SC Department Of Revenue

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Bishop Ruben Dewayne for Bishop Ruben Dewayne

OPD Socrates Group LLC

Bishop Ruben Dewayne for Bishop Ruben Dewayne

I, Anne Herley have provided the Bishop

Ruben Dewayne a copy of the order granting defendants Motion to dismiss, dated June 15, 2018

Anne R Herley

11/29/18

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Bishop Ruben DeWayne,

Plaintiff,

v.

OPD Socrates Group, LLC; State of South
Carolina; S.C. Department of Revenue; and
City of Columbia Police Department,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2017-CP-40-07649

**ORDER GRANTING
DEFENDANTS' MOTIONS TO DISMISS**

This matter came before the Court on Motions to Dismiss filed by Defendants State of South Carolina ("the State"), S.C. Department of Revenue ("SCDOR") and City of Columbia Police Department ("CPD") pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. A hearing was held at the Richland County Judicial Center on May 16, 2018. Plaintiff appeared *pro se*; the State and SCDOR were represented by Pete Balthazor, Esquire; and CPD was represented by Dana Thye, Esquire. Defendant OPD Socrates Group, LLC, did not appear.

For the reasons set forth below, Defendants' Motions to Dismiss are GRANTED, and all causes of action against the State, SCDOR and CPD are dismissed with prejudice.

PROCEDURAL BACKGROUND

Plaintiff, Bishop Ruben DeWayne, filed the Summons and Complaint in this action on December 19, 2017. On the same date, he also filed proof of service, stating that process had been served on all defendants.¹ In that document, Plaintiff states that he served the State by sending, via certified mail, copies of the pleadings to the Governor and to the Attorney General. On January

¹ The proof of service is the final page of a document titled both "Affidavit" and "Jurat."

2, 2018, Plaintiff filed documents entitled "Return Proof of Service," which include copies of Domestic Return Receipts showing certified mailings to the Governor and to the Attorney General. He filed copies of the same documents a second time, on February 2, 2018.

On January 17, 2018, the State and SCDOR filed separate motions to dismiss pursuant to Rules 3, 4 and 12 of the South Carolina Rules of Civil Procedure. The motions contend, among other things, that the parties had not been properly served and the Complaint failed to state facts sufficient to constitute any cause of action. The following day, Plaintiff filed an "Acknowledgment" and two "Objections" to dismissal, disputing any claims of improper service.

CPD filed a motion to dismiss the Complaint on January 19, 2018.² In its motion, CPD seeks dismissal of this action pursuant to Rule 12(b)(6) and the immunities provided by the South Carolina Tort Claims Act.

On February 2, 2018, Plaintiff filed an Amended Complaint. The final page of the Amended Complaint (which is entitled "Proof of Service") states that it was served only on CPD. No proof of service of the Amended Complaint on the State or SCDOR has been filed.

CPD filed a second motion to dismiss on February 26, 2018. Similarly, the State and SCDOR moved to dismiss the Amended Complaint on March 5, 2018, again seeking dismissal pursuant to Rules 3, 4 and 12 of the South Carolina Rules of Civil Procedure. Plaintiff filed objections to these motions on March 22, 2018.

On May 16, 2018, the Court conducted a hearing on all pending motions. At the commencement of the hearing, Plaintiff appeared *pro se* but refused to be placed under oath. Plaintiff then asked that the Court take judicial notice of the Constitution of the State of South

² This motion actually refers to "the City of Columbia" rather than CPD. Plaintiff clearly states in his pleadings that he intended to sue CPD and not the City of Columbia. See Compl. ¶6. However, counsel asserts that because CPD is not a separate legal entity, it is not properly named as a defendant. For purposes of this Order, CPD and the City of Columbia are treated as one and the same.

Carolina and the oath of office sworn by members of the judiciary.³ When the Court advised Plaintiff that although both issues are matter of public record, neither is the appropriate subject of “judicial notice,” Plaintiff refused to participate in the hearing and ultimately, during the oral arguments of defense counsel, departed from the courtroom.

CONCLUSIONS OF LAW

I. Commencement of Action and Service of Complaint

“A civil action is commenced when the summons and complaint are filed with the clerk of court ... [and] served within the statute of limitations in any manner prescribed by law...”. Rule 3(a), SCRCF. When the State is a party to an action, the South Carolina Rules of Civil Procedure provide that service shall be made “by *delivering* a copy of the summons and complaint to the Attorney General . . . and sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia.” Rule 4(d)(4)(A), SCRCF (emphasis added).

Similarly, when a state agency, such as SCDOR, is sued, service shall be made “by *delivering* a copy of the summons and complaint to such officer or agency *and* sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia.” Rule 4(d)(5), SCRCF (emphasis added). Rule 4(d)(8) addresses service by certified mail, providing that such service is proper only “upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule” Rule 4(d)(8), SCRCF. Those paragraphs apply to individuals and to corporations and partnerships, respectively, not to the State or to state agencies.

Documents filed by Plaintiff in this action buttress the contentions of the State and SCDOR that the only service upon either party occurred by certified mail, addressed to the Governor and

³ Plaintiff also filed a document entitled “Constitutional Judicial Notice” on May 15, 2018, seeking to make “this said court Constitutional in every way, but not limited to avoiding an administrative summary dismissal under color of law by use of codes and secrets under admiralty.”

to the Attorney General. The pleadings have not been delivered to the Attorney General (on behalf of the State) or to SCDOR (or any officer of SCDOR) in compliance with the Rules. Plaintiff has not properly served the State or SCDOR, and this action has not been properly commenced; therefore, dismissal of this action as to those parties is proper pursuant to Rules 12(b)(2) and 12(b)(5) of the South Carolina Rules of Civil Procedure.

II. Amended Complaint

Plaintiff also filed an Amended Complaint in this action. However, there is no evidence that the Amended Complaint was served on the State, SCDOR or their counsel; and the Amended Complaint contains no additional allegations against either of these defendants. Therefore, dismissal of the Amended Complaint is also proper pursuant to Rules 12(b)(2) and 12(b)(5) of the South Carolina Rules of Civil Procedure. *See also* Rule 5(a), SCRPC (providing that all pleadings subsequent to the original summons and complaint shall be served upon each of the parties of record).

III. Failure to State Facts Sufficient to Constitute a Cause of Action

Dismissal of Plaintiff's claims against the State, SCDOR, and CPD – both in the original Complaint and the Amended Complaint – is also proper pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

According to Plaintiff, on an undisclosed date, he entered into a vehicle sales contract with Defendant OPD Socrates Group, LLC (“OPD”). He alleges that after he paid a down payment, OPD failed to deliver the vehicle as promised. Plaintiff contacted CPD, and a police officer met with Plaintiff and made a report of his allegations. He then “made contact” with the South Carolina Law Enforcement Division (“SLED”). Plaintiff contends that SLED declined to investigate the allegations since the matter was already being investigated by CPD.

Plaintiff complains that CPD did not conduct a proper investigation of his allegations. Specifically, he contends that CPD failed to investigate his claims against OPD, that it failed to contact witnesses, failed to search a SLED database, failed to review relevant videotaped footage, failed to follow up on tips offered by Plaintiff, and failed to make an arrest. He alleges that the actions and inactions of CPD amount to negligence and dereliction of its “duty to serve and protect.”

Finally, Plaintiff alleges that he was unable to serve certain documents on OPD because its registered agent is located on federal property. He states that he brought this to the attention of SCDOR, but it “did not amend the corporate requirement” of OPD. According to Plaintiff, SCDOR also failed to properly investigate a Tax Violation Complaint that he made against OPD.

In addition to the claim of negligent investigation made against CPD, Plaintiff also makes claims against SCDOR for “Denial of Equal Rights under the Law” and “Denial of Due Process Rights when the Process was Due.” Plaintiff further contends that the State is liable for “Failure to Provide Equal Protection under the Law” because it did not allow SLED to use its resources to investigate the Tax Violation Complaint.

A. Dismissal of CPD

The South Carolina Tort Claims Act is a limited waiver of the sovereign immunity typically enjoyed by governmental entities. S.C. CODE ANN. §15-78-20. Even in negligence action, where governmental immunity is waived, there remain several exceptions to the waiver. *See* S.C. CODE ANN. §15-78-60. One such exception exists for claims regarding “the failure to provide or the method of providing police or fire protection.” S.C. CODE ANN. §15-78-60(6). Where such allegations are made against a governmental entity, the entity is immune from suit.

In this case, Plaintiff's only claim against CPD is that it failed to properly investigate his allegations that OPD (or its agent) committed a crime. This clearly falls within the scope of the protections provided by the South Carolina Tort Claims Act. CPD has no duty to conduct an investigation in any particular case or to do so in the manner demanded by an alleged victim. Further, Plaintiff has neither alleged nor offered evidence that CPD owed a special duty of care to him under these circumstances. *See, e.g., Wells v. City of Lynchburg*, 331 S.C. 298, 501 S.E.2d 746 (Ct. App. 1998) (contrasting public duty rule with special duty of care). Therefore, Plaintiff's claims against CPD are dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

B. Dismissal of the State and SCDOR

Article I, section 3 of the Constitution of the State of South Carolina provides that state constitution states that no person shall be "denied equal protection of the laws." The "requirements of equal protection are satisfied if (1) the classification bears a reasonable relation to the legislative purpose sought to be effected; (2) the members of the class are treated alike under similar circumstances and conditions; and (3) the classification rests on some reasonable basis." *Doe v. Am. Red Cross Blood Servs.*, 297 S.C. 430, 437, 377 S.E.2d 323, 327 (1989).

The State's Constitution also proscribes the deprivation of one's property without due process of law. S.C. Const. art. I, § 3. "In order to prove a denial of substantive due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law." *See Harbit v. City of Charleston*, 382 S.C. 383, 675 S.E.2d 776 (Ct. App. 2009).

Although Plaintiff summarily alleges that he has been denied equal protection and due process, the allegations of the Complaint are insufficient to sustain either claim. As to equal

protection, Plaintiff alleges that the State and SCDOR failed to investigate a Tax Violation Complaint. He does not assert that he is a member of a class or that he and the members of that class are being treated any differently from others similarly situated. Further, even if those allegations were made, the failure to investigate a complaint does not state a claim for equal protection violation. Therefore, this claim is dismissed. *See, e.g. Moss v. Spartanburg Cnty Sch. Dist. No. 7*, 676 F.Supp.2d 452, 459 (D.S.C. 2009) (“To succeed on an equal protection claim, a plaintiff must first demonstrate that he has been treated differently from others with whom he is similarly situated and that the unequal treatment was the result of intentional or purposeful discrimination.”).

As to the denial of due process, the entirety of Plaintiff’s claim is that SCDOR “denied Plaintiff his right to due process of the law when the process was due.” Because Plaintiff has neither alleged nor offered evidence that SCDOR deprived him of any property interest, he has failed to allege facts sufficient to maintain this cause of action.

IT IS THEREFORE ORDERED that the Motion to Dismiss on Behalf of SC Department of Revenue (filed January 17, 2018), Motion to Dismiss on Behalf of the State of South Carolina (filed January 17, 2018), Motion to Dismiss by Defendant City of Columbia (filed January 19, 2018), Motion to Dismiss by Defendant City of Columbia (filed February 26, 2018) and Motion to Dismiss Plaintiff’s Amended Complaint on Behalf of the State of South Carolina and the South Carolina Department of Revenue (filed March 5, 2018) are GRANTED.

IT IS FURTHER ORDERED that this action, as against Defendants the State of South Carolina, S.C. Department of Revenue and City of Columbia Police Department, is DISMISSED WITH PREJUDICE.

AND IT IS SO ORDERED.

NOT SIGNED
↓

Jocelyn Newman
Circuit Court Judge

June 14, 2018
Columbia, South Carolina.

ELECTRONICALLY FILED - 2018 Jun 15 11:20 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4007649



Richland Common Pleas

Case Caption: Bishop Ruben Dewayne vs OPD Socrates Group LLC , defendant, et al
Case Number: 2017CP4007649
Type: Order/Dismissal

So Ordered

Jocelyn Newman

Electronically signed on 2018-06-14 20:15:48 page 9 of 9