

COURT OF CHANCERY
OF THE
STATE OF DELAWARE

ABIGAIL M. LEGROW
MASTER IN CHANCERY

NEW CASTLE COUNTY COURTHOUSE
500 NORTH KING STREET, SUITE 11400
WILMINGTON, DE 19801-3734

May 13, 2015

George A. Jackson
SBI #00171250
Sussex Correctional Institution
Merit Building: West
P.O. Box 500
Georgetown, DE 19947

Re: *Jackson v. State of Delaware Dept. of Corrections, et al.*
C.A. No. 10947-ML

Dear Mr. Jackson:

I have received your letter dated May 4, 2015, which I am interpreting as exceptions to my draft report dated April 24, 2015. Although your exceptions were not received by the Court until after the exceptions period, I will accept the exceptions as timely because you assert the delay was caused by the Department of Corrections' mail system.

In my draft report, I recommended that the Court deny your petition to proceed *in forma pauperis* and dismiss your complaint because this Court lacks jurisdiction over your claims. As I understand your exceptions, you contend I erred in that conclusion because (1) this Court has jurisdiction by virtue of your claim for equitable relief, and (2) even if the Court lacks jurisdiction, I should have dismissed the complaint not because it is legally frivolous, but because it "plainly appears from the face of the complaint" that you are not entitled to relief.

As to the first point, although the complaint seeks a "mandatory injunction ordering Defendants to provide a substitute autoimmune disorder doctor pursuant to [the] Medical [T]reatment provision in the [Settlement] Agreement,"¹ a review of the settlement agreement indicates that relief is not available. The settlement agreement allows the parties to agree on "a substitute auto-immune disorders doctor within twenty (20) days of learning of the unavailability of Dr. Aponte." Your complaint does not allege Dr. Aponte is not available; to the contrary, you concede that Dr. Aponte examined you and provided a recommended course of treatment, but you disagree with Dr. Aponte's conclusion and contend he did not have all your records at the time he reached that conclusion. Because there is no reasonably conceivable set of

¹ Complaint ¶ 36.

circumstances under which the Court could provide the injunction you seek, there is no effective claim for equitable relief in your complaint.²

As to your second contention, I concluded that your complaint was legally frivolous, rather than concluding that you were not entitled to the relief you seek, because you *may* be entitled to the relief you seek in a court of competent jurisdiction. The order was worded in that way to foreclose any argument that this Court's order barred you from bringing your claims in another court.

For the foregoing reasons, your exceptions are denied and I am adopting my draft report as a final report. Exceptions may be taken in accordance with Court of Chancery Rule 144.

IT IS SO ORDERED.

Very truly yours,

/s/ Abigail M. LeGrow
Master in Chancery

² In addition, this request for an injunction appears to be the type of “open sesame” request for equitable relief that this Court repeatedly has said is not sufficient to invoke equitable jurisdiction. *See e.g., Spiro v. Vions Technology, Inc.*, 2014 WL 1245032, at *7 (Del. Ch. Mar. 24, 2014); *IBM Corp. v. Comdisco, Inc.*, 602 A.2d 74, 78 (Del. Ch. 1991). As Chancellor Allen explained in *McMahon v. New Castle Associates*, “one may not convert a claim for money damages arising from a breach of a commercial contract or a breach of a statutory duty into a claim maintainable in equity by the expedient of asking that the defendant be enjoined from breaching such duty again.” 532 A.2d 601, 605-06 (Del. Ch. 1987).