IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR KENT COUNTY

GORDON SMITH	:	
	:	C.A. No: 12C-01-016 (RBY)
Plaintiff,	:	
	:	
v.	:	
	:	
DELAWARE STATE POLICE, et al.	:	
	:	
Defendants.	:	

Submitted: September 14, 2012 Decided: October 12, 2012

Upon Consideration of Defendants

Motion for Partial Dismissal of the Complaint on Behalf of Certain State
Defendants, Justin Galloway, Guy Sapp, Delaware Family Court, Carl
Danberg, Delaware Department of Correction, Capitol Police Department,
Ricardo Lucas, and The Justice of the Peace Court
GRANTED IN PART and DENIED IN PART

OPINION AND ORDER

Gordon Smith, Pro Se.

Michael F. McTaggart, Esq., Deputy Attorney General, Department of Justice, Wilmington, Delaware for Defendants.

Young, J.

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SUMMARY

Gordon Smith ("Plaintiff") has filed an extremely lengthy complaint purporting to allege numerous causes of action and violations of his civil rights. A Motion for Partial Dismissal of the Complaint has been filed on behalf of the following Defendants: Justin Galloway, Guy Sapp, Delaware Family Court, Carl Danberg, Delaware Department of Correction, Capitol Police Department, Ricardo Lucas, and the Justice of the Peace Court. Defendants argue the Motion should be granted based on the doctrines of sovereign and judicial immunity. Because the established doctrines of judicial and sovereign immunity preclude any successful pursuit of the claims made by Plaintiff, the Motion for Partial Dismissal is **GRANTED** as to Defendants Guy Sapp, Delaware Family Court, Carl Danberg, Delaware Department of Correction, Capitol Police Department, Ricardo Lucas and the Justice of the Peace Court and **DENIED** as to Defendant Justin Galloway.

FACTS

The majority of the claims in this case arise from a series of events that took place January 14-15, 2010. Mr. Smith alleges that an error in the computer system at the Kent County Family Court created the appearance that he had been served with the Protection From Abuse Petition, when he actually had no notice. The Petition was filed by his ex-wife. Because he did not know of the Petition, he contacted her and left a message. His ex-wife reported the phone call, following which he was arrested and taken into custody. The arrest warrant was executed by the Dover Police Department. Plaintiff was later transferred into the custody of the Delaware State Police. Plaintiff alleges that, despite his "reasonable belief" that he would be released

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on bond, Defendant Galloway made some threatening remarks to him about going to "Vaughn." At some point, an unknown Family Court employee became aware of the issue, and the subsequent arrest, and attempted remedial action to get Plaintiff released. Despite these efforts, and the fact that Plaintiff's friend posted bail, Mr. Smith was transported to the Correctional Facility in Smyrna.

When Plaintiff arrived at the facility, he alleges that the transporting officer told someone at the DOC that he was "a troublemaker" "who needed to be taught a lesson." Despite the entry of the bail payment into the system, Plaintiff claims he was subjected to a strip search and injection at the DOC facility. Plaintiff also alleges that he informed the corrections staff of his former employment as both a probation officer and a member of a loss prevention group dealing with shoplifters and organized theft. Despite this information, no one at the facility took any extra steps to ensure his safety. Plaintiff further alleges that he was left alone with two inmates, one of whom is said to have made threatening demands of Plaintiff.

Plaintiff asserts, in detail, two other instances of alleged false arrest occurring on January 26, 2010 and August 9, 2010. There may also have been another incident taking place later in August, but it is extremely difficult to follow the myriad of allegations contained in the Complaint. In the midst of these arrests, there were interactions between Plaintiff, the Dover Police, the Delaware State Police and the Family Court, regarding various matters. It appears that some of these interactions may also be the grounds for some of Plaintiff's claims.

Essentially, Plaintiff claims to believe that the named Defendants, and others whom he cannot identify, were in some sort of unspoken conspiracy to continue

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causing him trouble. He alleges, among other things, that they committed perjury, didn't properly investigate, made sexual comments about his wife, and so on. All of these actions, combined with the arrests and charges against him have allegedly caused him injury. Plaintiff states that he has been unable to get a job that matches with his education, training and experience since this whole situation began.

STANDARD OF REVIEW

The applicable standard of review for a motion to dismiss is well-settled. For this purpose, the Court is to accept all well-pled allegations as true. To be well-pled, the complaint must put the opposing parties on notice of the claims being brought. If the complaint and facts alleged are sufficient to support a claim upon which relief may be granted, the motion must be denied. If any reasonable conception can be formulated to allow Plaintiff's recovery, the motion to dismiss must be denied. Dismissal is warranted only when "under no reasonable interpretation of the facts alleged could the complaint state a claim for which relief might be granted." However, the Court "does not blindly accept as true all allegations of a complaint nor

¹ Loveman v. Nusmile, Inc., 2009 WL 847655, at *2 (Del.Super. March 31, 2009), citing Anglo American Sec. Fund, L.P. v. S.R. Global Intern. Fund, L.P., 829 A.2d 143, 148–*49 (Del. Ch.2003).

² Savor, Inc. v. FMR Corp., 2001 WL 541484, at *2 (Del. Super. April 24, 2001) (citing Precision Air, Inc. v. Standard Chlorine of Delaware, Inc., 654 A.2d 403, 406 (Del.1995)).

³ Spence v. Funk, 396 A.2d 967, 968 (Del.1978).

⁴ *Id*.

⁵ *Id*.

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draw inferences from them in plaintiff's favor unless they are reasonable inferences."6

DISCUSSION

Whether any of Plaintiff's 479 numbered paragraphs, individually or in any combination, can be said to constitute well-pled allegations is a subject addressed briefly below. For purposes of this part of the discussion, they will be taken as such. This does not, however, constitute any endorsement thereof for any other purpose.

First, therefore, will be considered the issue regarding the doctrine of judicial immunity raised by Defendants. The protections provided by the doctrine of judicial immunity extend to cover judicial officers and others who are acting as "arms of the court." As Administrator of Family Court, Guy Sapp is entitled to absolute judicial immunity for the actions in question. When a court officer is performing a judicial function, or a function "integral to the judicial process," he cannot be held personally liable for his actions in a civil proceeding.⁸

Next is the issue presented regarding sovereign immunity. Even in the absence of the protection provided by the doctrine of judicial immunity, Guy Sapp and the Family Court are protected by the doctrine of sovereign immunity. Sovereign immunity also bars the claims against Defendants Officer Ricardo Lucas, the Capitol Police Department, the Delaware Department of Correction and Carl Danberg. The

⁶ Alston v. Delaware State University, 2011 WL 1225465, at *3 (Del. Super. March 31, 2011).

⁷ Buchanan v. Gay, 491 F.Supp.2d 483, 494-95 (D. Del. 2007).

 $^{^8}$ See Hughes v. Long, 242 F.3d 121, 126 (3rd Cir. 2001); Vick v. Haller, 514 A.2d 782 (Del. Aug. 22, 1986) (TABLE).

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doctrine of sovereign immunity provides that the State and instrumentalities cannot

be sued without the State's consent.9 This doctrine also extends to employees of the

state who are acting in their official capacities. 10 The General Assembly has waived

the protection of this doctrine as to risks of loss that are covered by the State

Insurance Coverage Program.¹¹ As demonstrated by the uncontroverted affidavits of

Defendants, no such insurance covers the acts alleged by Plaintiff.

None of the allegations in the lengthy complaint indicates that any of the above

individuals were acting outside their official capacities. As far as the entities are

concerned, there are no claims or facts alleged that would implicate any exception to

the sovereign immunity bar. Again, there is no applicable insurance, or additional

state waiver, that would allow these claims to proceed.

The Motion also mentions the Justice of the Peace Court and its judges as a

potential issue. The Complaint did not name any of them as Defendants. This Court

will not make a ruling regarding the dismissal of claims against individuals and

entities not named as Defendants, though the above-referenced principles of law

would appear to apply.

Defendants' Motion also raised a statute of limitations argument as grounds for

dismissing some of the claims. Plaintiff's claim, as a result of the Court having been

closed for an extended holiday weekend, is, by the slimmest of margins, considered

⁹ Power v. State, 1996 WL 945012, at *3 (Del. Super. Nov. 27, 1996).

¹⁰ *Id*.

¹¹ 18 Del. C. §6511.

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timely, because it was filed on the Court's reopening. The Motion did not include any

basis for dismissal of the claims against Officer Justin Galloway aside from

untimeliness. Though the doctrine of sovereign immunity is potentially applicable to

Officer Galloway, it was not specifically set out as an alternative ground for

dismissal. Thus, the claims against him are unaffected by this decision.

Finally, the Court would like to remind Plaintiff that it will "not permit itself,

out of an abundance of fair play, to become the victim of frivolous or malicious

claims which on their face are clearly...subject to a defense of immunity or...some

other defect. Such complaints are not worthy of serious consideration and do not

justify the waste of judicial and other public and private resources that would have

to be expended on them."12

CONCLUSION

For the reasons discussed, the Motion for Partial Dismissal of the Complaint

is **GRANTED** as to Defendants Guy Sapp, Delaware Family Court, Carl Danberg,

Delaware Department of Correction, Capitol Police Department, Ricardo Lucas, and

the Justice of the Peace Court and **DENIED** as to Defendant Justin Galloway.

SO ORDERED this 12th day of October, 2012.

/s/ Robert B. Young

J.

RBY/lmc

oc: Prothonotary

cc: Opinion Distribution

¹² Power v. State, 1996 WL 945012, at *2 (Del Super. Nov. 26, 1996).

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