



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

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April 15, 2019

LETTER OPINION

Mr. Glenn Myer
2042 Peach Orchard Drive #408
Falls Church, Virginia 22043

RE: *Myer v. All Dulles Area Muslim Society a.k.a. ADAMS Center, et al.*, Case No. CL-2017-10836

Gentlemen:

This matter came before the Court on March 28, 2019, upon the individual ADAMS defendants' Motion to Dismiss; and upon the Plaintiff's Motion for Sanctions against Defendants. After considering the parties' written submissions, the evidence presented, and the arguments made, Plaintiff's Motion for Sanctions was denied for the reasons stated from the bench. For the reasons that follow, the Defendants' motion will be granted, and the case will be dismissed.

BACKGROUND

Glenn Myer brought this Petition for a temporary and permanent injunction against the Board of Directors of the All Dulles Area Muslim Society Center ("ADAMS Center") as against twenty-two individuals and the ADAMS Center as a corporation on August 4, 2017. The Complaint has since been amended four times and the current version (the "4th Amended Complaint"), filed March 2, 2018, seeks a temporary and permanent injunction against thirty-four individuals, including members of the ADAMS Center and Fairfax and Loudoun County police officers, unnamed committee and sub-committee members at the ADAMS Center, numerous John Does, and the ADAMS Center Boy Scout Troop and its leaders. Myer has been a member of ADAMS Center for three years, and objects to the Board's management of the ADAMS Center, which is granted tax exemption under section 501(c)(3) of the Internal Revenue Code.

OPINION LETTER

ANALYSIS

1. Plaintiff's 4th Amended Complaint was not filed in good faith nor has it been pursued in good faith, and as such, should be dismissed as to the ADAMS Center individual defendants.

The threshold question is whether Plaintiff filed this Complaint in good faith. Virginia Code § 8.01-271.1 provides:

The signature of an attorney or party constitutes a certificate by him that (i) he has read the pleading, motion, or other paper, (ii) to the best of his knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (iii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

The Court is to apply a reasonableness standard in determining whether a litigant could, after reasonable inquiry, form a reasonable belief that the pleading was warranted by existing law. *Gilmore v. Finn*, 259 Va. 448, 466, 527 S.E.2d 426, 435 (2000). Contemptuous and disparaging language is inherently improper and subject to sanction under the statute. *Williams & Connolly, LLP v. PETA*, 273 Va. 498, 643 S.E.2d 136 (2007). Further, vengeful or vindictive litigation, or litigation brought for purposes of intimidation, are all improper purposes under the statute. *Kambis v. Considine*, 290 Va. 460, 778 S.E.2d 117 (2015).

Plaintiff's 4th Amended Complaint is filled entirely with conclusory language unfounded in fact or law. A reasonable person would not believe this Complaint was warranted by existing law. For example, Plaintiff asserts he is an owner of the ADAMS Center, but Plaintiff is not now, nor has he ever been, an owner of the property and has no good faith basis to make such a claim. Defendants provided to the Court the ADAMS Center Articles of Incorporation, which provide that no earnings or property may inure to the benefit of any member or other private individual, and that upon dissolution any property is to be turned over to specified religious and charitable organizations. Finally, there is no cognizable claim anywhere in Plaintiff's 4th Amended Complaint. Plaintiff's Complaint consists almost entirely of conclusory statements that the named defendants violated sundry IRS regulations for section 501(c)(3) charitable organizations. However, seven of the individuals being sued have never served as an officer or director of the organization. Moreover, Plaintiff fails to give any specific instances where an officer or director engaged in political activity in his or her capacity as an officer. A reasonably prudent person could not find the allegations raised in the 4th Amended Complaint to be based in law or in fact.

Plaintiff has also failed to pursue his claim in good faith, amply demonstrated by his by repeatedly insulting, disparaging, and contemptuous language, frivolous appeals, attempts at re-litigating matters already addressed, and baseless accusations of racism, corruption, and unethical motives.

2. A pre-filing injunction is the proper sanction against Plaintiff.

Pursuant to Virginia Code § 8.01-271.1, pleadings and motions must be filed for a proper purpose, after appropriate inquiry to ensure they are well-grounded in fact and in law, and cannot be filed for any improper purpose, such as harassment.

In *Adkins v. CP/IPERS Arlington Hotel LLC*, 293 Va. 446, 799 S.E.2d 929 (2017), the Virginia Supreme Court found that a pre-filing injunction was an appropriate sanction in response to Plaintiff's vexatious and frivolous complaints. Ms. Adkins had filed "at least 41 pro se civil actions in the circuit courts of Northern Virginia, including 20 cases in the Circuit Court of Fairfax County, 17 cases in the Circuit Court of the City of Alexandria, and four cases in the Circuit Court of Arlington County." *Id.* 293 Va. at 448, 799 S.E.2d at 930. Each of Ms. Adkins' complaints contained baseless allegations, much like those in Mr. Myers' cases.

In *Cromer v. Kraft Foods N. Am, Inc.*, 390 F.3d 812, 817 (4th Cir. 2004), the Court recognized that a pre-filing injunction is "a drastic remedy [which] must be used sparingly, consistent with constitutional guarantees of due process of law and access to the courts." That Court did, however, lay out a four-factor test to consider in deciding whether such a remedy is appropriate, and the Virginia Supreme Court adopted such test in *Adkins*, which was reaffirmed in *Gordon v. Kiser*, 296 Va. 418, 821 S.E.2d 531 (Dec. 6, 2018).

The four factors to be considered are (1) the party's history of litigation and whether the party has filed vexatious, harassing or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation or simply intended to harass; (3) the extent of the burden on the courts and parties; and (4) the adequacy of alternative sanctions.

Gordon, 296 Va. at 425, 821 S.E.2d at 536 (citing *Adkins*, 293 Va. at 452, 799 S.E.2d at 932).

After applying these factors, the Court finds that imposing a pre-filing injunction that requires Mr. Myer to obtain leave of this Court before filing any future claim, motion, or other pleading in this court or any other court of the Commonwealth of Virginia to be appropriate.

Mr. Myer has a long history of litigation – there are twelve pending or recent lawsuits brought by the plaintiff in this Court alone.¹ He has noted appeals of six of those cases, including this one,² and has brought suit in the U.S. District Court involving essentially the same claims at issue in this case, including many of the same defendants as well as several Fairfax County

¹ CL 2017-15525, *Myer v. Eaves Fairfax Towers*; CL 2018-4572, *Myer v. Mercedes*; CL 2018-7101, *Myer v. Mercedes*; CL 2018-7102, *Myer v. Delgado*; CL 2018-7103, *Myer v. Silver*; CL 2018-7104, *Myer v. Pope*; CL 2018-7396, *Myer v. Douglas & Douglas, Inc.*; CL 2018-10632, *Myer v. AvalonBay*; CL 2018-10681, *Myer v. AvalonBay*; CL 2018-11141, *Myer v. American Bankers Insurance*; CL 2019-2586, *Myer v. SOS Security*.

² CL 2018-7101, *Myer v. Mercedes*; CL 2018-7102, *Myer v. Delgado*; CL 2018-7103, *Myer v. Silver*; CL 2018-7104, *Myer v. Pope*; CL 2018-7396, *Myer v. Douglas & Douglas, Inc.*; CL 2018-10681, *Myer v. AvalonBay*. Mr. Myer has also noted an appeal in a traffic citation. MI 2018-1592, *Commonwealth v. Myer*.

Circuit Court judges.³ In his cases in each of those courts, Mr. Myer names multiple defendants and repeatedly seeks to amend his complaints any time a new individual “wrongs” him. Mr. Myer has no good faith basis for pursuing litigation in the action at bar. The complaints in other pending actions appear to be comprised of conclusory language and the Plaintiff’s own narrative without any factual or legal basis for his claims. These cases have become such a burden on this Court that the Virginia Supreme Court had to step in and recuse all fifteen judges of the bench and appoint a judge designate. The undersigned judge has had to schedule five hearings in this case to hear baseless and frivolous motions, many of which have already been heard by him or other judges. Finally, because Mr. Myer has repeatedly been determined indigent, monetary sanctions will be ineffective in preventing future improper behavior.⁴ Plaintiff’s harassing behavior has been intentional and deliberate: any time a judge rules against Plaintiff, he brings further harassing litigation (for example, he has brought suit against the judges of the Fairfax County Circuit Court and has asked the Virginia Supreme Court to remove the undersigned judge designate). The plaintiff has alleged a conspiracy between the undersigned judge and defense counsel regarding the issue of a subpoena to an IRS expert after the issue had been previously ruled on many times; and Mr. Myer has filed numerous motions filled only with vitriolic language directed at defense counsel, calling him a pedophile, a war criminal, and a “dick,” and providing no legal argument to support his claims. Plaintiff will continue to bring frivolous lawsuits and file repetitive and unnecessary motions and pleadings if not stopped.

While noting the extreme nature of such a remedy, this Court finds a pre-filing injunction to be appropriate to sanction to prevent Mr. Myer’s filing of frivolous, harassing, and duplicative lawsuits.

CONCLUSION

After reviewing the evidence presented by the parties in briefs and argument, the Court finds that Plaintiff’s 4th Amended Complaint was not filed in good faith and should be dismissed with prejudice as to the individual ADAMS defendants. As all other defendants have either been dismissed previously or have not been properly served,⁵ this entire case will be dismissed with prejudice. Mr. Myer will be enjoined from further filings in this Court or in any other court of the Commonwealth of Virginia without first obtaining leave of this Court.⁶

³ *Myer v. All Dulles Area Muslim Society*, 1:17-cv-1316 et al.; *Myer v. White*, Civil Action No. 1:18-cv-545 (AJT/JFA), 2018 U.S. Dist. LEXIS 148393 (E.D. Va. May 21, 2018); *Myer v. White*, 735 F. App’x 125 (4th Cir. 2018).

⁴ In 2019 alone, Mr. Myer has been determined indigent by two judges in two different cases.

⁵ Defendant Christopher Hines was dismissed with prejudice on August 10, 2018. Defendant Sergeant Steranko was dismissed with prejudice on May 15, 2018. Defendant Timothy Iverson filed a special appearance on April 3, 2019 to dismiss the suit for lack of service within one year. Defendant Iverson was served on March 1, 2019 with the first complaint and has never been served with the 4th Amended Complaint. As such, there has been no proper service on Defendant Timothy Iverson.

⁶ See *McMahon v. F & M Bank-Winchester*, 45 F.3d 426 (4th Cir. 1994) (finding a pre-filing injunction barring the plaintiff from filing any civil action in *any* federal court without leave of court to be an appropriate sanction) (emphasis added). This Court does not restrict whether another court of this Commonwealth can accept filings from Plaintiff, only that Plaintiff will face contempt in this Court for failure to comply with this Letter Opinion or the accompanying court orders.

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Sincerely



Charles E. Poston, Judge Designate

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