

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABDUR RAHMAN KANTAMANTO : CIVIL ACTION
AKA THEODORE WRIGHT :
 :
v. :
 :
 :
BRUCE CASTOR, DISTRICT ATTORNEY, :
MONTGOMERY COUNTY, PENNSYLVANIA : NO. 05-4110

M E M O R A N D U M

DUBOIS, J. OCTOBER , 2005

Plaintiff, a prisoner, has filed a pro se 42 U.S.C. § 1983 civil rights lawsuit against District Attorney Bruce Castor and Montgomery County.¹ He is alleging that he was falsely imprisoned from January 24, 2005 to May 17, 2005. In his prayer for relief, he is requesting money damages.

I. DISCUSSION

A. District Attorney Bruce Castor

The doctrine of absolute immunity shields prosecutors from liability related to their official acts. Imbler v. Pachtman, 424 U.S. 409 (1976). Nothing in this Complaint suggests that District Attorney Bruce Castor acted outside the scope of his prosecutorial duties with respect to the claims set forth in this Complaint. Therefore the claim against this defendant will be dismissed pursuant to 28 U.S.C. § 1915A(b)(2).

B. Montgomery County

Municipal liability cannot be imposed absent an allegation

¹ Plaintiff has filed two identical pleadings, which are captioned "Notice Of Amendments To Complaint" (Documents No. 9 and 10), in which he adds Montgomery County as a defendant and adds an additional paragraph to his prayer for relief.

that unlawful actions were taken pursuant to a municipality's policies, practices, customs, regulations or enactments. Monell v. Department of Social Services, 436 U.S. 658 (1978). There are no such allegations in this Complaint. However, pro se plaintiffs are held "to less stringent standards than formal pleadings drafted by lawyers." Haines v. Kerner, 404 U.S. 519, 520 (1972). Therefore, although plaintiff may or may not have a valid claim against Montgomery County, I will allow the claim to proceed. When Montgomery County has been served and represented on the record, the Court will address the issue of liability, and the individuals responsible for what plaintiff claims happened to him will be added to the case as defendants.

II. CONCLUSION

For the foregoing reasons, the claim against District Attorney Bruce Castor will be dismissed pursuant to 28 U.S.C. § 1915A(b)(2). Plaintiff's claim against Montgomery County may proceed.

An appropriate order follows.

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O R D E R

AND NOW, this day of October, 2005, having considered plaintiff's Complaint and Motion to proceed in forma pauperis, and in accordance with the Memorandum filed this date, IT IS HEREBY ORDERED that:

1. Plaintiff's Motion to proceed in forma pauperis is GRANTED.

2. Plaintiff's claim against District Attorney Bruce Castor is DISMISSED as legally frivolous pursuant to 28 U.S.C. § 1915A(b)(2). The Clerk is directed to strike this defendant from the caption of the complaint.

3. The Clerk is directed to AMEND the caption of the complaint to add Montgomery County as a defendant.

4. The Complaint and plaintiff's "Notice Of Amendments To Complaint" (Document No. 9) are to be filed, the summons is to issue, service of the summons, the Complaint and Document No. 9 is to be made upon the defendant by the U.S. Marshals Service in the event that waiver of service is not effected under Fed.R.Civ.P. 4(d)(2). To effect waiver of service the Clerk of Court is specially appointed to serve a written waiver request on the defendant. The waiver of service request shall be accompanied by

a copy of the Complaint and Document No. 9, and shall inform the defendant of the consequences of compliance and of failure to comply with the request. The request shall allow the defendant at least 30 days from the date it is sent (60 days if addressed outside any judicial district of the United States) to return the signed waiver. If a signed waiver is not returned within the time limit given, the Clerk of Court's office shall transmit the summons and a copy of the Complaint and Document No. 9 to the U.S. Marshals Service for immediate service under Fed.R.Civ.P.4(c)(1), and a copy of this Order is to be directed to all parties.

5. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of this Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting pro se). Service may be by mail. Proof that service has been made is provided by a certificate of service. This certificate should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

"I, (name) , do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. Mail, properly addressed, this (date) day of (month) , (year).

(Signature)"

If any pleading or other paper submitted for filing does not include a certificate of service upon the opposing party or counsel

for opposing party, it may be disregarded by the Court.

6. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and local rules are to be followed. Plaintiff is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal of this action.

7. Plaintiff is **not** required to comply with Section 4:01 of the Civil Justice Expense and Delay Reduction Plan for the United States District Court for the Eastern District of Pennsylvania (the "Plan"), unless directed by further Order of the Court.

8. Plaintiff is specifically directed to comply with Local Rule 26.1(f) which provides that "[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute." Plaintiff shall attempt to resolve any discovery disputes by contacting defendant's counsel directly by telephone or through correspondence.

9. No direct communication is to take place with the District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

10. In the event the summons is returned unexecuted, it is plaintiff's responsibility to ask the Clerk of the Court to issue

an alias summons and to provide the Clerk with the defendant's correct address, so service can be made.

11. The parties should notify the Clerk's Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties' legal rights.

BY THE COURT:

JAN E. DUBOIS, J.