

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Gregory T. Redmond, :
Appellant :
 : No. 1661 C.D. 2010
v. :
 : Submitted: December 3, 2010
SEPTA :

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE JAMES R. KELLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH

FILED: May 5, 2011

Gregory T. Redmond (Redmond) appeals from the May 4, 2010, order of the Court of Common Pleas of Delaware County (trial court), which sustained SEPTA's preliminary objections and dismissed Redmond's third amended complaint with prejudice.¹

On January 27, 2009, Redmond attempted to enter SEPTA's 69th Street Market Terminal by way of a passenger gate. When a SEPTA employee directed Redmond to instead enter the facility via a turnstile, Redmond objected and demanded to go through the gate. A discussion ensued and, after the police became involved, a SEPTA employee permitted Redmond to enter through the gate.

Redmond, who has been *pro se* at all times during this litigation, filed a complaint against SEPTA on February 20, 2009, raising counts for harassment,

¹ Redmond initially appealed the trial court's order to the Superior Court. However, because the defendant in this matter is a government agency, the Superior Court concluded that the appeal was within our exclusive jurisdiction and transferred it to this Court on June 29, 2010.

unjustified denial of entry, and emotional distress, and demanding punitive damages in the amount of \$500,000. SEPTA filed preliminary objections to the complaint, which were sustained, and the trial court granted Redmond the opportunity to file an amended complaint within twenty days.

On or about July 13, 2009, Redmond filed an amended complaint that contained counts for strict liability, assault and battery, and negligent and intentional infliction of emotional distress. Redmond averred the additional fact that he was recovering from an automobile accident and needed to pass through the gate instead of the turnstile. SEPTA filed preliminary objections to the amended complaint, which the trial court sustained. The trial court granted Redmond leave to file an amended complaint.

Redmond filed a second amended complaint on or about October 19, 2009, raising the claims of “declaratory of judgment” for harassment, inflicting harm, and assault. Again, the trial court sustained SEPTA’s preliminary objections to the complaint. The trial court granted Redmond a third opportunity to amend his complaint.

On or about March 2, 2010, Redmond filed a third amended complaint, alleging that SEPTA violated “the Disabilities Act of 1990” when its employee refused to open the gate for him. SEPTA filed preliminary objections on the grounds of legal insufficiency, failure to conform to rules of court, and sovereign immunity. The trial court sustained SEPTA’s preliminary objections; however, this time the trial court concluded that the defects in the complaint could not be remedied by amendment and struck Redmond’s complaint with prejudice.

On appeal to this Court,² Redmond contends that the trial court violated his rights to due process and equal protection under the Fourteenth Amendment to the Constitution of the United States by denying him the opportunity to reinstate his complaint.

We observe that Redmond's *pro se* brief contains no Statement of the Question Involved, as required by Pa. R.A.P. 2116, and that he failed to develop any argument to support his constitutional claims. We also observe that Redmond's brief contains no argument addressing the merits of the preliminary objections; nor does he assert that it is possible to amend his complaint to assert a proper cause of action against SEPTA.

No provision of Constitutions of the United States or the Commonwealth of Pennsylvania grants Redmond the right to prosecute a meritless action, and a court is not required to grant a plaintiff an opportunity to amend a complaint where it would be a futile exercise. Koresko v. Farley, 844 A.2d 607 (Pa. Cmwlth. 2004). After a careful review of the record, we conclude that the trial court correctly determined that Redmond failed to plead a cause of action against SEPTA and that Redmond's complaint cannot be amended to properly plead his claims. Accordingly, we affirm on the well-reasoned opinion of the Honorable James F. Proud of the Court of Common Pleas of Delaware County in Redmond v. Southeastern Pennsylvania Transportation Department, No. 09-1887, filed June 28, 2010.

PATRICIA A. McCULLOUGH, Judge

² Our scope of review from an order granting preliminary objections is limited to determining whether the trial court committed legal error or abused its discretion. Palmer v. Bartosh, 959 A.2d 508 (Pa. Cmwlth. 2008).

