

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

JERRY L. ALSTON, and TRIPLE 7)
PARALEGAL SERVICES,) C.A. No. 06C-03-025 (JTV)
)
Plaintiffs,)
)
v.)
)
DELAWARE DEPARTMENT OF)
JUSTICE, VICTIM/WITNESS SERVICES,)
unknown agents, DELAWARE JUSTICE)
OF THE PEACE COURT, OFFICIAL)
PARROTT, individually and as an agent of)
JUSTICE OF THE PEACE COURT,)
DELAWARE DEPT. OF SAFETY AND)
HOMELAND SECURITY, CAPITOL)
POLICE and OFFICER JEFF DESAUL-)
NIERS, individually and as an agent of)
DELAWARE CAPITOL POLICE,)
TRINETTE R. SCOTT, individually,)
)
Defendants.)

Submitted: July 28, 2006

Decided: October 30, 2006

Jerry L. Alston, Dover, Delaware. *Pro Se.*

Linda M. Carmichael, Esq., Department of Justice, Wilmington, Delaware.
Attorney for the State.

*Upon Consideration of Plaintiff's
Motion For Certification of Law*

DENIED

VAUGHN, President Judge

Alston et al. v. Delaware Department of Justice, et al.
C.A. No. 06C-03-025 (JTV)
October 30, 2006

ORDER

1. The plaintiff is asking this Court to certify questions of law to the Delaware Supreme Court. Because the plaintiff does not state with particularity any important or urgent reasons why the Supreme Court should determine the question certified, the plaintiff's motion is *denied*.

2. The plaintiff has a lawsuit pending before this Court based on the following events. On January 20, 2006, the plaintiff appeared in the Justice of the Peace Court ("JP Court") in the matter of *Alston v. Scott*. The magistrate ordered the defendant in that case, Scott, to return a Playstation, a personal hand video game, to plaintiff Alston within 15 days. Immediately after that hearing, Scott assaulted Alston. Capitol Police Cpl. Jeff DeSaulniers ("DeSaulniers") arrested Scott for offensive touching and disorderly conduct. A no contact order was issued. One week later Scott mailed Alston the Playstation game per order of the JP Court.

3. As a result of the alleged contact, the act of Scott mailing the Playstation to Alston, Alston called DeSaulniers and demanded that he arrest Scott for violating the no-contact order. DeSaulniers decided not to pursue the complaint because Scott used the least offensive means to return the game while attempting to remain in compliance with the court order.

4. Alston now seeks money damages from DeSaulniers and several state defendants as well as Scott.

5. Under Superior Court Civil Rule 75, certification of questions of law is governed by Supreme Court Rule 41. The party filing the petition "shall set forth therein facts and issues at such length and with such clarity as to enable the Superior

Alston et al. v. Delaware Department of Justice, et al.

C.A. No. 06C-03-025 (JTV)

October 30, 2006

Court to make a finding necessary to warrant a certification ...” Supreme Court Rule 41 provides:

Certification will be accepted in the exercise of the discretion of the Court only where there exist important and urgent reasons for an immediate determination by this Court of the questions certified. A certification will not be accepted if facts material to the issue certified are in dispute. A certificate shall state with particularity the important and urgent reasons for an immediate determination by this Court of the question certified.

Reasons for certification include, but are not limited to, an original question of law, conflicting decisions and unsettled questions.¹

6. The plaintiff alleges that the question of law he raises involves an original question of law, conflicting decisions and an unsettled decision. The questions presented by the plaintiff appear to relate to allegations of racial disparity in Delaware courts and how such discrimination has impacted the plaintiff in the events that prompted the action now before the Superior Court. However, this Court finds that the plaintiff has not put forth an adequate basis for certification. There does not appear to be a novel legal question or split decisions from this Court regarding the plaintiff’s question. Additionally, the plaintiff cites recommendations contained in the Delaware Supreme Court Task Force on Racial and Ethnic Fairness Report as supporting his petition for certification. However, the plaintiff does not put forth with particularity the important and urgent reason for certification as required by the

¹Supreme Court Rule 41(b)(i)-(iii).

Alston et al. v. Delaware Department of Justice, et al.

C.A. No. 06C-03-025 (JTV)

October 30, 2006

Supreme Court rule.

7. Therefore, the plaintiff's motion is *denied*.

IT IS SO ORDERED.

President Judge

oc: Prothonotary
cc: Order Distribution
File