

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MICHAEL NICHOLAS MARSHAL

CIVIL ACTION

VERSUS

NO: 18-3888

STATE OF LOUISIANA, ET AL.

SECTION: "A" (1)

ORDER AND REASONS

The following motion is before the Court: **Motion to Dismiss Pursuant to Rule 12(b)(6) (Rec. Doc. 14)** filed by Defendants, Ascension Parish Sheriff's Deputies Carson Fee and Clarence Domingue. Plaintiff, Michael Nicholas Marshall (pro se), has not filed a response. The motion, submitted on September 5, 2018, is before the Court on the briefs without oral argument.

Plaintiff Michael Nicholas Marshall has filed this complaint pro se against several defendants, including the State. The Court has reviewed the complaint numerous times in an attempt to understand Marshall's allegations. Marshall appears to assert that he has an invalid detainer of some sort that has caused him in the past to be stopped and arrested, although it also appears that he was properly incarcerated at least once for other crimes. The complaint references an arrest in 2012 in East Baton Rouge Parish, and an arrest in Ascension Parish in 2015. Marshall also complains about a search of a vehicle owned by Mr. Earl Willyard in 2015. It appears that Marshall is not incarcerated at this time.

Marshall filed his federal complaint on April 11, 2018. Marshall claims that his rights have been violated and the relief that he seeks is to have his MBA tuition paid, his rights restored, and \$250,000.00. (Rec. Doc. 1 at 3). The complaint, which again is difficult to understand, fails to suggest a violation of any federal right that occurred in the year preceding the filing of the complaint. Moreover, the complaint provides no basis whatsoever

to impute individual fault against any of the defendants sued personally in their individual capacities.

Deputies Carson Fee and Clarence Domingue are the sole movants on the instant motion to dismiss. The argument that Movants raise in support of their motion to dismiss is that all of Marshall's claims, whether state or federal, are prescribed.

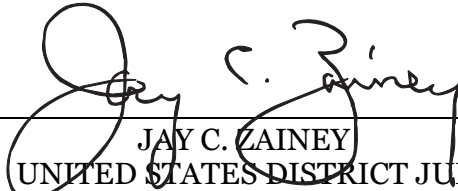
The Court has granted an identical motion filed by Deputy Scott Charleville. (Rec. Doc. 15).

As previously explained with respect to Deputy Charleville, the complaint provides no basis for liability under any theory as to Deputies Fee and Domingue. Even if Movants were involved in arresting Marshall in 2012 or 2015 or in searching the Willyard vehicle in 2015,¹ any claim arising out of those incidents was prescribed by the time that Marshall filed this lawsuit. Assuming that Marshall has a valid cause of action against some official as to an extant criminal attachment, Deputies Fee and Domingue are not the proper defendants to answer for that claim.

Accordingly, and for the foregoing reasons;

IT IS ORDERED that the **Motion to Dismiss Pursuant to Rule 12(b)(6)** (**Rec. Doc. 14**) filed by Defendants, Ascension Parish Sheriff's Deputies Carson Fee and Clarence Domingue is **GRANTED**. Plaintiff's complaint is dismissed with prejudice as to these defendants.

September 10, 2018



JAY C. ZAINERY
UNITED STATES DISTRICT JUDGE

¹ The Court is not suggesting that Marshall would have standing to assert a Fourth Amendment claim with respect to a vehicle that he did not own.