

Commonwealth of Kentucky

Court of Appeals

NO. 2016-CA-001143-MR

STEVEN F. BREWSTER

APPELLANT

v. APPEAL FROM WASHINGTON CIRCUIT COURT
HONORABLE ALLAN RAY BERTRAM, JUDGE
ACTION NO. 16-CI-00054

AMERICAN MENSA, LTD.; BLUEGRASS MENSA;
AND KENTUCKIANA MENSA

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: COMBS, JOHNSON, AND D. LAMBERT, JUDGES.

COMBS, JUDGE: Appellant, Steven F. Brewster, *pro se*, appeals from an Order of the Washington Circuit Court that dismissed his Complaint with prejudice.

After our review, we are compelled to affirm.

On May 6, 2016, Mr. Brewster, *pro se*, filed a Complaint in Washington Circuit Court against American Mensa, Ltd., Bluegrass Mensa, and

Kentuckiana Mensa (Appellees or Mensa, collectively). The Complaint reflects that Mensa is an international, not-for-profit organization. Its membership consists of an elite group of intellectually gifted individuals who must score at or above a high percentile on standardized intelligence tests. In 2006, Mr. Brewster joined Mensa. He also served as a Gifted Children's Coordinator (GCC) for Bluegrass Mensa, his local group.

In 2013, Mr. Brewster moved from Lexington, Kentucky, to Washington County, Kentucky. He notified Mensa of his change of address. According to Appellees' brief, that address change automatically transferred his membership from Bluegrass Mensa to the Kentuckiana Mensa group. It appears that in 2015, Mr. Brewster learned that someone else had assumed the GCC position for Bluegrass Mensa. Appellees allege that Mr. Brewster's "claims including negligence, defamation, fraud, theft, failure to provide services and criminal actions, [arose] from the suggestion that [he] was somehow entitled to the GCC role."

On June 2, 2016, the Appellees filed a motion to dismiss for failure to state a claim upon which relief can be granted pursuant to CR¹ 12.02(f). The Motion was heard on June 22, 2016. By an order entered on June 23, 2016, the circuit court granted Mensa's motion and dismissed the Complaint with prejudice with the parties to bear their own costs. On June 24, 2016, Mr. Brewster filed a motion to reconsider. On July 20, 2016, he filed a Notice of Appeal to this Court.

¹ Kentucky Rules of Civil Procedure.

Mr. Brewster subsequently filed a motion to be heard and “a Motion to Show Me and To Be Shown.”

The Washington Circuit Court conducted hearings on August 3, 2016, and on August 31, 2016. A docket sheet Order entered on August 4, 2016, reflects the following handwritten findings and rulings:

- Deny Pla. criminal action against others.
- Pla. allegations in Fayette Co.
- Deny Pla. sanctions against Def. atty for service.
- Deny Pla. default judgment against Kentuckiana Mensa
- Deny Pla. CR 59.05 relief from dismissal.
- Deny Pla. amend complaint to defamation
- Deny Pla. pauper status.
- July 20, 2016 was not rule day.

Another docket sheet Order entered on September 1, 2016, reflects the following handwritten findings and rulings:

- More oral stms by Pla.
- Pla. not demonstrate error in court ruling.
- Cr 12.2(f) dismissal was correct.
- Deny Pla. CR 59.05 relief.
- Pla. alleges more acts in other jurisdictions.
- Pla. not comply RCr 2.02.
- Pla. not satisfy Fed. Fourth Amendment
- Deny Pla. criminal action in Washington Co. for these allegations.
- Pla. should refrain from baseless scandalous dispersions.

(Underline original).

To the extent that the filing of the Notice of Appeal may have been premature, we shall treat it as relating forward, and we shall consider the merits of the case.

Mr. Brewster contends that he was entitled to judgment by default, but no answer was required on the part of the Appellees. Mensa properly filed a pre-answer motion under CR 12.02(f). That rule provides in relevant part:

Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim shall be asserted in the responsive pleading thereto **if one is required, except** that the following defenses may at the option of the pleader be made by motion: ... (f) failure to state a claim upon which relief can be granted A motion making any of these defenses shall be made before pleading if a further pleading is permitted. (Emphasis added.)

We find no error in the circuit court's granting Appellees' CR 12.02(f) Motion. The standard of our review is *de novo*. *Morgan v. Bird*, 289 S.W.3d 222 (Ky. App. 2009). We have reviewed the parties' arguments, and are compelled to agree with Appellees that the Complaint fails to state a cognizable claim for relief under Kentucky law. It is true that pleadings filed *pro se* are not required to meet the standard of those applied to legal counsel. However, they "must give at least fair notice of the claim for relief to be sufficient." *Beecham v. Commonwealth*, 657 S.W.2d 234, 236 (Ky. 1983).

Again, no claim that is actionable or cognizable has been stated in the Complaint. To recapitulate, Mr. Brewster asserted claims for "negligence, defamation, fraud, theft, failure to provide services and criminal actions" as a result of Mensa's replacing him as the Gifted Children's Coordinator for its Bluegrass Chapter. Although his disappointment in losing that position is certainly understandable, it does not serve as the predicate for any legal cause of action. No

act of discrimination or malice has been demonstrated. He was replaced as a direct result of his own volitional choice to move from the Bluegrass Mensa to the Kentuckiana Mensa.

Accordingly, we affirm.

ALL CONCUR.

BRIEF FOR APPELLANT:

Steven F. Brewster, *pro se*
Springfield, Kentucky

BRIEF FOR APPELLEE:

Stephen L. Richey
Cincinnati, Ohio