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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-1059

Filed: 7 June 2016

Anson County, No. 14 CVS 407

LATWANG JANELL REID, Plaintiff,

v.

STATE OF NORTH CAROLINA, Defendant.

Appeal by Plaintiff from order entered 2 February 2015 by Judge Gail M. Adams in Anson County Superior Court. Heard in the Court of Appeals 9 March 2016.

Latwang Janell Reid, Plaintiff-Appellant, pro se.

Attorney General Roy A. Cooper, III, by Special Deputy Attorney General Joseph Finarelli, for the Defendant-Appellee.

DILLON, Judge.

Latwang Janell Reid (“Plaintiff”) appeals from the trial court’s order granting the State of North Carolina’s motion to dismiss Plaintiff’s claims as frivolous. We affirm.

I. Background

In 2004, Plaintiff was convicted of a number of felonies, including attempted first-degree murder and first-degree burglary, in connection with events occurring in

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October 2002 in Cumberland County. He pleaded guilty to a number of the charges. He was sentenced to multiple terms of imprisonment totaling 101 years.

In October 2014, Plaintiff commenced this present action against the State of North Carolina (“Defendant” or “State”) by filing a document entitled “Alternate Writ of Habeas Corpus for Averment of Jurisdiction” (the “Complaint”) challenging the lawfulness of his confinement. In his Complaint, Plaintiff makes eight (8) allegations, essentially claiming to be a “Moorish American National” and contending that he was arrested in 2002 in violation of his “Liberty, Freedom, Sovereignty, Private, and inalienable birthrights; without establishing and attaching in personam and subject matter jurisdiction.” Plaintiff prayed that because the State lacked subject matter and personal jurisdiction over him, that he should be “be vacated from unlawful restraint of liberty, freedom, sovereignty [sic], private, and inalienable birthrights for lack of jurisdiction.”

The State moved to dismiss Plaintiff’s Complaint. After a hearing on the matter, the trial court granted the State’s motion, ordering “that the State’s Motion to Dismiss is GRANTED and Plaintiff’s case is DISMISSED WITH PREJUDICE as FRIVILIOUS.” Defendant appealed.

II. Analysis

Plaintiff makes three arguments on appeal.

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First, Plaintiff argues that the trial court erred in granting the State's Rule 12(b)(6) motion. Essentially, Plaintiff's personal jurisdiction arguments center around his contention that his real name is "Latwang Janell Reid El Bey," that the name used on the indictments against him in the 2004 case, "Latwang Janell Reid," is a "legal fiction," citing his declaration as a Moorish American National as proof of his true legal name, and that as a Moorish National he has not agreed to be subject to the jurisdiction of the State. Using similar arguments, he contends that the superior court lacked subject matter jurisdiction to try him.

We have carefully reviewed the arguments raised by Plaintiff in his brief and conclude that the trial court was correct in dismissing Plaintiff's Complaint as frivolous. Similar arguments have been advanced and rejected in our courts. *See, e.g., Owens-Bey v. County of Forsyth*, 203 N.C. App. 740, 693 S.E.2d 281 (2010) (unpublished); *see also State v. Mee*, 233 N.C. App. 542, 756 S.E.2d 103 (2014) (holding that defendant waived his right to counsel due to his dilatory tactics at trial, which included claims that he was a Moorish national and therefore not subject to state and federal laws). Similar arguments have been rejected by other courts. *See, e.g., United States v. Benabe*, 654 F. 3d 753, 767 (7th Cir. 2011).

Second, Plaintiff argues that the trial court erred in dismissing his Complaint as frivolous. Again, we have carefully reviewed Plaintiff's Complaint and agree with the trial court that Plaintiff has failed to present any rational argument based upon

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evidence or law in support of a claim that he is being unlawfully confined. Accordingly, this argument is overruled.

Finally, Plaintiff argues that the trial court erred by not allowing him to amend his complaint. Plaintiff's only argument on this point is that Rule 15(a) of the North Carolina Rules of Civil Procedure allows him to amend his complaint "as a matter of course" where no responsive pleading has been filed. N.C. Gen. Stat § 1A-1, Rule 15(a) (2015).

However, Plaintiff ignores the fact that the amendment was not filed with the clerk in Anson County until after the order dismissing his claims was filed, and he makes no argument that we should deem his amendment to have been filed earlier.¹ We therefore hold that the trial court did not err by barring Plaintiff from amending his Complaint after the order dismissing his Complaint had been duly entered.

AFFIRMED.

Judges CALABRIA and DIETZ concur.

Report per Rule 30(e).

¹ The United States Supreme Court has held that a document is deemed filed by an incarcerated litigant in federal proceedings when it is delivered to prison authorities for mailing, as opposed to when the document is actually received by the clerk's office. *Houston v. Lack*, 487 U.S. 266, 276, 108 S. Ct. 2378, 2385, 101 L. Ed.2d 245, 275 (1988). Here, Plaintiff has not provided any evidence establishing that he drafted the amendment himself in prison (we note that the amendment was typed) and then delivered it to a prison official for filing prior to the entry of dismissal order, or argued that we should adopt the *Lack* rule.