

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio ex rel.	:	
Sterling G. Robinson,	:	
	:	
Relator,	:	
	:	
v.	:	No. 15AP-225
	:	
Franklin County Common Pleas	:	(REGULAR CALENDAR)
Judge Colleen O'Donnell,	:	
	:	
Respondent.	:	

DECISION

Rendered on September 29, 2015

Sterling G. Robinson, pro se.

*Ron O'Brien, Attorney General, and A. Paul Theis, for
respondent Industrial Commission of Ohio.*

ON OBJECTIONS TO THE MAGISTRATE'S DECISION

HORTON, J.

{¶ 1} Relator, Sterling G. Robinson ("Robinson"), commenced this original action on March 26, 2015, seeking a writ of mandamus ordering respondent, the honorable Colleen O'Donnell, judge of the Franklin County Court of Common Pleas ("Respondent"), to refrain from proceeding with criminal case No. 14CR-2832, wherein Robinson is the defendant. Robinson argues that the trial court lacks jurisdiction.

{¶ 2} In mid July 2014, following his indictment in case No. 14CR-2832, Robinson filed a Fictitious Name/Original Filing with the Ohio Secretary of State under his own name but with all capital letters, i.e., STERLING GALEN ROBINSON. In addition, Robinson filed and/or executed a Commercial Security Agreement, a Hold Harmless and Indemnity Agreement, a UCC Financing Statement, and a Power of

Attorney; all between STERLING GALEN ROBINSON as the debtor, and Sterling Galen Robinson as the creditor, and in one instance Robinson refers to himself as a "Personam Sojourn and People of Posterity." (Relator's Exhibit D.)

{¶ 3} While Robinson's argument is not clear, he argues that these filings and documents, in conjunction with R.C. 1702.12(E)(1), divests the trial court of jurisdiction. The court notes that Robinson's argument follows the pattern of similar pro se "sovereign citizen" arguments that have been unsuccessful in jurisdictions throughout the United States. *Gunnell v. State*, 10th Dist. No. 13AP-90, 2013-Ohio-3928, ¶ 5-7. *See also Village of St. Paris v. Galluzzo*, 2d Dist. No. 2014-CA-4, 2014-Ohio-3260, and *Dayton v. Galluzzo*, 2d Dist. No. 25913, 2014-Ohio-4854 (wherein similar arguments were rejected). In *St. Paris v. Galluzzo*, 2d Dist. No. 2014-CA-29, 2015-Ohio-3385, ¶ 47, the court noted:

We agree with these observations. We have previously described an argument made on these grounds as "wholly frivolous." *State v. Few*, 2d Dist. Montgomery No. 25969, 2015-Ohio-2292, ¶ 6. Other courts in Ohio have also characterized such arguments as frivolous. *See State v. Thigpen*, 8th Dist. Cuyahoga No. 99841, 2014-Ohio-207, ¶ 39; *State v. Farley*, 5th Dist. Muskingum Nos. CT2013-0026, CT2013-0029, 2013-Ohio-5517, ¶ 13; and *State v. Gunnell*, 10th Dist. Franklin No. 13AP-90, 2013-Ohio-3928, ¶ 6.

{¶ 4} On April 2, 2015, this matter was referred to a magistrate pursuant to Civ.R. 53(C) and Loc.R. 13(M) of this court. On April 23, 2015, respondent filed a motion to dismiss. On May 21, 2015, the magistrate issued a decision, including findings of fact and conclusions of law, which is appended hereto. The magistrate recommended that we dismiss the requested writ of mandamus because Robinson failed to state a claim upon which relief can be granted. Specifically, the magistrate concluded that Robinson can prove no set of facts that would warrant the relief sought.

{¶ 5} On May 28, 2015, Robinson filed objections to the magistrate's decision, alleging a failure by the magistrate to include an analysis of R.C. 1702.12(E)(1) in conjunction with the purported Hold Harmless and Indemnity Agreement. Robinson's objections are without merit as neither R.C. 1702.12(E)(1), nor the purported Hold Harmless and Indemnity Agreement, either standing alone or in conjunction, divests the trial court of jurisdiction.

{¶ 6} R.C. 1702.12(E)(1) authorizes non-profit corporations to indemnify, under certain limited circumstances, persons acting in good faith on the corporations behalf, for "expenses, including attorney's fees, judgments, fines, and amounts paid" that are reasonably incurred in certain actions, suits, or proceedings. R.C. 1702.12(E)(1). Even assuming that STERLING GALEN ROBINSON is a non-profit corporation, nothing in R.C. 1702.12(E)(1) "indemnifies" a person from the consequences of a criminal conviction or divests the court of personal jurisdiction. The only potential indemnification is in the form of "expenses." Likewise, the Hold Harmless Indemnity Agreement, even if valid, is on its face merely an agreement between STERLING GALEN ROBINSON and Robinson, and in no way binds the state or acts to divest the trial court of jurisdiction.

{¶ 7} Despite Robinson's attempt to escape liability by registering his name in all capital letters as a corporation, the statute he attempts to hide behind does not apply in this situation. In light of the above analysis, Robinson's objections to the magistrate's decision are overruled. Additionally, we find no error in the magistrate's decision.

{¶ 8} Based on the court's independent review of the matter, we find that the magistrate has properly determined the facts and applied all pertinent law to them. Accordingly, we adopt the magistrate's decision as our own, including the findings of fact and conclusions of law contained therein. In accordance with the magistrate's decision, this action is dismissed with prejudice.

Action dismissed.

TYACK and KLATT, JJ., concur.

APPENDIX**IN THE COURT OF APPEALS OF OHIO****TENTH APPELLATE DISTRICT**

State of Ohio ex rel.	:	
Sterling G. Robinson,	:	
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Relator,	:	
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v.	:	No. 15AP-225
	:	
Franklin County Common Pleas	:	(REGULAR CALENDAR)
Judge Colleen O'Donnell,	:	
	:	
Respondent.	:	

MAGISTRATE'S DECISION

Rendered on May 21, 2015

Sterling G. Robinson, pro se.

*Ron O'Brien, Attorney General, and A. Paul Theis, for
respondent Industrial Commission of Ohio.*

**IN MANDAMUS
ON RESPONDENT'S MOTION TO DISMISS**

{¶ 9} Relator, Sterling G. Robinson, has filed this original action requesting that this court issue either a writ of mandamus or prohibition ordering respondent, the Honorable Colleen O'Donnell, Judge of the Franklin County Court of Common Pleas, to refrain from proceeding with a criminal case where relator is named as a defendant.

Findings of Fact:

{¶ 10} 1. Relator is the named defendant in a case pending in the Franklin County Court of Common Pleas ("trial court").

{¶ 11} 2. On March 26, 2015, relator filed this mandamus/prohibition action arguing that the trial court does not have jurisdiction over him. In his complaint, relator asserts that there is a:

Hold harmless and Indemnity agreement between the natural person Sterling Galen Robinson and the nonprofit corporation STERLING G. ROBINSON. * * * State of Ohio and the lower court acting in its ministerial capacity, patently and unambiguously lacks jurisdiction to proceed over the natural person's 'registered organization' is trying or attempting to assert jurisdiction over the registered organization STERLING G. ROBINSON, and under the circumstances considering the natural person Sterling G. Robinson, secure party creditor to be [L]iable.

{¶ 12} 3. On April 23, 2015, respondent filed a motion to dismiss arguing:

Relator has no clear legal right to mandamus, respondent under no clear legal duty, and there exists an adequate remedy at law. While difficult to follow, the essence of Relator's request for relief is that because Relator has registered his name spelled in all capital letters as a corporation and because he has an indemnity agreement with himself the court below incorrectly denied Relator's argument that the court did not have personal jurisdiction over him. * * * There is simply no support in the law that one might avoid criminal liability by "incorporating" one's own name when spelled in capital letters as a different entity that [sic] one's own self. Furthermore, there is likewise no support in law that would allow liability on a criminal charge to be transferred by an agreement between an individual and a corporate entity to the corporate entity thereby absolving an individual from personal criminal liability for their actions. Consequently, Relator has no clear legal right to the relief prayed for. Likewise, Respondent is under no obligation to rule in his favor on such a jurisdictional argument.

{¶ 13} 4. On April 28, 2015, relator filed a memorandum contra respondent's motion to dismiss asserting that:

[H]e has a secure transaction that formed a corporation, an [sic] registered organization under Ohio law supported with document evidence that was authorized by the General Assembly and authorized, approved, filed and duly recorded

by the Secretary of State to bring forth its corporate existence.

The name of the Ohio nonprofit corporation is STERLING GALEN ROBINSON * * *. The all capital letter name STERLING GALEN ROBINSON also having been filed and recorded by the Secretary of State as a fictitious name/original filing.

{¶ 14} 5. On April 29, 2015, respondent filed a reply to relator's memorandum contra asserting that relator's response presents no legally cognizable arguments and merits no response.

{¶ 15} 6. The matter is currently before the magistrate on respondent's motion to dismiss.

Conclusions of Law:

{¶ 16} A motion to dismiss for failure to state a claim upon which relief can be granted is procedural and tests the sufficiency of the complaint. *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 65 Ohio St.3d 545 (1992). In reviewing the complaint, the court must take all the material allegations as admitted and construe all reasonable inferences in favor of the nonmoving party. *Id.*

{¶ 17} In order for a court to dismiss a complaint for failure to state a claim upon which relief can be granted, it must appear beyond doubt from the complaint that relator can prove no set of facts entitling him to recovery. *O'Brien v. Univ. Community Tenants Union*, 42 Ohio St.2d 242 (1975). As such, a complaint for writ of mandamus is not subject to dismissal under Civ.R. 12(B)(6) if the complaint alleges the existence of a legal duty by the respondent and the lack of an adequate remedy at law for relator with sufficient particularity to put the respondent on notice of the substance of the claim being asserted against it, and it appears that relator might prove some set of facts entitling him to relief. *State ex rel. Boggs v. Springfield Local School Dist. Bd. of Edn.*, 72 Ohio St.3d 94 (1995).

{¶ 18} It does appear that the substance of relator's complaint is that the trial court does not have jurisdiction over him because of the existence of the corporation STERLING G. ROBINSON, a corporation with whom he has an indemnity agreement. Relator asserts that respondent's argument that "Relator's indemnity agreement is with

himself * * * is a deliberate misrepresentation of the facts" because a person can also be "a corporation or nonprofit corporation."

{¶ 19} The magistrate has carefully reviewed relator's complaint and agrees with respondent that the complaint fails to state a claim upon which relief can be granted and it appears beyond doubt that relator can prove no set of facts warranting the relief that he requests. Therefore, the magistrate recommends that this court should grant respondent's motion and dismiss relator's claim with prejudice.

/S/ MAGISTRATE
STEPHANIE BISCA

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).