

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES CAMP,)
)
Plaintiff,)
v.)
)
BETTY B. CASON, in her official)
capacity as Probate Judge for Carroll)
County, Georgia and BILL)
HITCHENS in his official capacity)
as the Commissioner of the Georgia)
Department of Public Safety)
)
Defendants.)

CIVIL ACTION NO.
1:06-CV-1586-CAP

DEFENDANT BETTY B. CASON’S ANSWER AND DEFENSES

COMES NOW BETTY B. CASON, in her official capacity as a judicial officer of the Probate Judge for Carroll County, and files her Answer and Defenses to the Plaintiff’s Complaint, and shows this Court as follows:

FIRST DEFENSE

The Complaint fails to state or set forth claims against Defendant Cason upon which relief can be granted.

SECOND DEFENSE

As a Second Defense, Defendant Cason answers the numbered paragraphs of

the Complaint, as follows:

1.

In response to Paragraph 1 of the Complaint, Defendant Cason denies that she has violated any civil rights, statutory, constitutional, or privacy rights of the Plaintiff as alleged under the legal authorities set forth in paragraph 1.

2.

In response to paragraph 2 of the Complaint, Defendant Cason denies the allegations as set forth under paragraph 2. Plaintiff has received the rights, benefits, and privileges afforded under O.C.G.A. § 16-11-129 without having to disclose his private Social Security Account Number (SSN).

3.

In response to paragraph 3 of the Complaint, Defendant Cason denies that she has violated Plaintiff's privacy rights, other rights, benefits, and privileges. Plaintiff has received a Georgia Firearms License (GFL) without having to disclose his SSN.

4.

In response to paragraph 4 of the Complaint, Defendant Hitchens, of the Department of Public Safety, is responsible for the statewide GFL application form under O.C.G.A. § 16-11-129(a). The forms are furnished to Defendant Cason by

Defendant Hitchens. After the commencement of this action, Defendant Hitchens submitted a revised application form to this Court and Defendant Cason, which states that employment information is optional, but will be helpful for contacting applicant. Plaintiff has received a Georgia Firearms License (GFL). Defendant Cason denies the remaining allegations as set forth in paragraph 4.

5.

Defendant Cason incorporates her responses to paragraphs 1 through 4. Furthermore, Defendant Cason denies that Plaintiff is entitled to declaratory or prospective injunctive relief.

6.

In response to paragraph 6 of the Complaint, Defendant Cason denies the allegations as set forth in paragraph 6. Defendant Cason is a judicial officer under 42 U.S.C. section 1983. Defendant Cason denies that the Court has jurisdiction over any related state claims.

7.

In response to paragraph 7 of the Complaint, Defendant Cason incorporates her responses to paragraphs 1 through 6. To the extent that the action is not moot, this Court has jurisdiction over any state claim, and Plaintiff has standing, Defendant Cason does not contest venue.

8.

Defendant Cason admits that Plaintiff is a residence of Carroll County, Georgia.

9.

In response to paragraph 9 of the Complaint, Defendant Cason denies the allegations that she violated any of Plaintiff's rights and denies that the application form presently requires social security or employment information.

10.

In response to paragraph 10 of the Complaint, Defendant Cason admits that she is a judicial officer and the Probate Judge in Carroll County, but denies the remaining allegations of this paragraph.

11.

Defendant Cason can neither admit nor deny the allegations contained in paragraph 11 of Complaint for want of sufficient information to form a belief as to the truth thereof. As a further explanation, Defendant Cason states that she was not at the Carroll County Probate Court on or about June 14, 2006 and thus cannot state what occurred on such date.

12.

Defendant Cason can neither admit nor deny the allegations contained in

paragraph 12 of Complaint for want of sufficient information to form a belief as to the truth thereof. As a further explanation, Defendant Cason states that she was not at the Carroll County Probate Court on or about June 14, 2006 and thus cannot state what occurred on such date. As such the allegations as set forth in paragraph 12 are denied.

13.

Defendant Cason can neither admit nor deny the allegations contained in paragraph 13 of Complaint for want of sufficient information to form a belief as to the truth thereof. As a further explanation, Defendant Cason states that she was not at the Carroll County Probate Court on or about June 14, 2006 and thus cannot state what occurred on such date. As such the allegations as set forth in paragraph 13 are denied.

14.

In response to paragraph 14 of the Complaint, Defendant Cason denies the contention and submits that the current application does indicate that providing the questioned information is voluntary.

15.

Defendant Cason can neither admit nor deny the allegations contained in paragraph 15 of Complaint for want of sufficient information to form a belief as to

the truth thereof. As a further explanation, Defendant Cason states that she was not at the Carroll County Probate Court on or about June 14, 2006 and thus cannot state what occurred on such date. As such the allegations as set forth in paragraph 15 are denied.

16.

Defendant Cason can neither admit nor deny the allegations contained in paragraph 16 of Complaint for want of sufficient information to form a belief as to the truth thereof. As a further explanation, Defendant Cason states that she was not at the Carroll County Probate Court on or about June 14, 2006 and thus cannot state what occurred on such date. As such the allegations as set forth in paragraph 16 are denied.

17.

In response to paragraphs 17 and 18 of the Complaint, Defendant Cason does not have sufficient knowledge or information to admit or deny actions associated with Defendant Hitchens; accordingly, to the extent that said allegations imply a violation of rights, the same are denied. Defendant Cason admits that she responded to Plaintiff's letter stating that she would abide by the decision of the DPS.

18.

In response to paragraph 19 of the Complaint, Defendant Cason admits that at all times relevant, she was acting as a judicial officer and the Probate Judge of Carroll County. To the extent that Plaintiff alleges that Judge Cason has acted in capacity other than as a judicial officer under the Federal Courts Improvement Act of 1996, P.L. 104-317, Defendant Cason denies the allegations.

19.

Defendant Cason denies the allegations as set forth in paragraphs 20 and 21.

20.

In response to paragraphs 22, and 23 of the Complaint, Defendant Cason does not have sufficient knowledge or information to admit or deny the allegations relating to Defendant Hitchens; accordingly, to the extent that the allegations assert a violation of rights on the part of Defendant Cason, the same are denied.

21.

In response to paragraphs 24, 25, 26, 27, 30, and 31 of the Complaint, Defendant Cason incorporates her responses from paragraphs 1 through 20 and denies any implication or contention that she violated Plaintiff's rights.

22.

Defendant Cason denies the allegations as set forth in paragraph 28.

23.

Defendant Cason can neither admit nor deny the allegations contained in paragraph 29 of Complaint for want of sufficient information to form a belief as to the truth thereof. As a further explanation, Defendant Cason states that she was not at the Carroll County Probate Court on or about June 14, 2006 and thus cannot state what occurred on such date. As such the allegations as set forth in paragraph 29 are denied. However, Defendant Cason admits that she responded to Plaintiff's letter stating that she would abide by the decision of the DPS.

24.

Defendant Cason denies the allegations as set forth in paragraphs 32, 33, 34, and 36.

25.

Defendant Cason admits that of paragraph 35 of the Complaint.

26.

In response to paragraph 37 of the Complaint, Defendant Cason reincorporates and restates her responses by reference to paragraphs 1 through 36.

27.

Defendant Cason denies the allegations as set forth in paragraphs 38 and 39.

28.

In response to paragraph 40 of the Complaint, Defendant Cason denies any inference that she violated Plaintiff's rights. Furthermore, Defendant objects to Plaintiff's blanket and legal opinions that are unsupported or properly defined by citation to legal authority.

29.

Defendant Cason denies the allegations as set forth in paragraphs 41, 42, and 43.

30.

In response to paragraph 44 of the Complaint, Defendant Cason reincorporates and restates her responses by reference to paragraphs 1 through 43.

31.

Defendant Cason denies the allegations as set forth in paragraphs 45 and 46.

32.

In response to paragraph 47 of the Complaint, Defendant Cason reincorporates and restates her responses by reference to paragraphs 1 through 46.

33.

Defendant Cason denies the allegations as set forth in paragraphs 48, 49, 50, and 51. Plaintiff has received a GFL license.

34.

In response to paragraphs 52 and 53 of the Complaint, Defendant Cason incorporates her responses from paragraphs 1 through 33 and denies any implication or contention that she violated Plaintiff's rights.

35.

In response to paragraph 54 of the Complaint, Defendant Cason submits that an injunction has been issued against the Probate Court, which renders this action moot.

36.

All paragraphs herein not specifically admitted, denied, or otherwise controverted are hereby denied. Further, Defendant Cason denies that Plaintiff is entitled to any relief whatsoever.

THIRD DEFENSE

Defendant Cason shows that Plaintiff was not subjected to or caused to be subjected to a deprivation of any constitutional rights, privileges, or immunities under the provisions of the United States or Georgia Constitutions or federal or state laws.

FOURTH DEFENSE

Any and all of plaintiff's claims against Defendant Cason are barred in

whole or in part by the doctrines of judicial immunity, official immunity, and discretionary act immunity, federal law, and the laws of the State of Georgia.

FIFTH DEFENSE

Defendant Cason asserts that she is not the cause-in-fact of any alleged injury to Plaintiff and that she cannot be held liable for actions involving the Plaintiff in which Defendant Cason does not have jurisdiction or legal authority to direct or of which she had no knowledge.

SIXTH DEFENSE

The Complaint fails to establish that Defendant Cason breached any duty which may have been owed to the Plaintiff.

SEVENTH DEFENSE

Defendant Cason submits that there is no case or controversy against Defendant Cason, that no controversy arises under the Constitution and laws of the United States, and that no supplemental jurisdiction exists for Plaintiff to maintain any state law claims against Defendant Cason. Defendant Cason submits that no ancillary or pendent jurisdiction exists and no adequate and independent state grounds exist to provide the Court subject matter jurisdiction for state law claims.

SEVENTH DEFENSE

Defendant Cason submits that the instant action was rendered moot when the Plaintiff received a Georgia Firearms License without having to disclose his SSN or employment information, and that the instant action was rendered moot when Defendant Hitchens revised the firearms application so that the disclosure of the SSN and employment information were made optional.

EIGHTH DEFENSE

Defendant Cason submits that Plaintiff has no standing to assert claims on behalf of other individuals who have, or may seek a firearms license.

NINTH DEFENSE

Defendant Cason reserves the right to raise any other defenses allowed by law at such time as the allegations are more specifically pled or as the contentions are more fully developed.

WHEREFORE, having stated defenses and answered the Plaintiff's Complaint, Defendant Cason urges this Court to dismiss this case as moot.

[signature follows]

Respectfully Submitted, this 10th day of May, 2007.

S/ DAVID A. BASIL

DAVID A. BASIL

Georgia Bar No. 041034

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CERTIFICATION AS TO FONT

Pursuant to N.D. Ga. Local Rule 7.1 D, I hereby certify that this document is submitted in Times New Roman 14 point type as required by N.D. Ga. Local Rule 5.1(b).

S/ DAVID A. BASIL

DAVID A. BASIL

Georgia Bar No. 041034

CERTIFICATE OF SERVICE

I hereby certify that on May 9th, I electronically filed DEFENDANT CASON'S ANSWER AND DEFENSES with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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Ed Stone, Esq.
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This 10th day of May, 2007.

S/ DAVID A. BASIL
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