

In The District Court of the United States,
For the Western Federal District of Oklahoma

FILED
SEP 22 2006
Phil Lombardi, Clerk
U.S. DISTRICT COURT

We the people, et al,)
Plaintiff,)
Vs.)
UNITED STATES, et. al.)
Defendants)

case number: 06-cv-460-TCK-PJC

PLAINTIFF'S REPLY TO DEFENDANTS' W.A. DREW EDMONDSON MOTION TO
DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AND
BRIEF IN SUPPORT. The Defendants being W.A. Drew Edmondson,

Eddie L. Andrews, the plaintiff herein, hereby asks that this Court strike defendant's motion to dismiss, "as it is the only answer they have filed) with noncompliance and with the notice requirements of Rules 9 and 12 of Rules of Civil Procedure. W.A. Drew Edmondson has just committed common law fraud.

The First Affirmative Defense

The last sentence of Rule 12(b) provides that:

"A motion, answer, or reply presenting the defense numbered (6) shall include a short, concise statement of the grounds on which such defense is based" The defense numbered (6) referred to therein is the Rule 12(b)(6) defense of failure to state a claim upon which relief may be granted. The reason for this requirement of specificity is clear: in the absence of a statement of the grounds upon which this defense is based, it becomes a "catchall" place-holder for any defense that may be proffered later, allowing for trial by ambush, not to mention trial by afterthought. Despite this direction in the text of Rule 12(b) the defendant's First Affirmative Defense, on page 1 of their Answer, says in full:

"First Affirmative Defense

Come now defendant _____ moves this court to dismiss Plaintiff's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on the grounds that Plaintiff's Complaint fails to state a claim for relief. Accordingly, the plaintiff asks that the defendants' First Affirmative Defense be struck as inadequately pled, for its failure to give the plaintiff the required notice of its basis.

The Eleventh Affirmative Defense

Rule 9(c) provides that:

"(c) Conditions precedent .In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. *A denial of performance or occurrence shall be made specifically and with particularity.*" *[Emphasis added]*

As with the preceding defense, this defense one that a defendant cannot assert generally but must plead with greater specificity. (In fact, the plaintiff himself went beyond the requirements of this rule and did plead his compliance specifically.) Once again, the defendants ignore the clearly-stated requirements of the last sentence of Rule 9(c) .The defendants' Eleventh Affirmative Defense, on page -- of their Answer, says, in full:

"Eleventh Affirmative Defense"

Therefore, a suit brought against a state official in his official capacity is the same as a suit brought against the state.

Not only does this not state what the plaintiff failed to do procedurally, it doesn't even make clear what claims it is addressed to! Because **THEY WERE NOT SUED IN THEIR OFFICIAL CAPACITY!** Accordingly, the plaintiff asks that the defendants' Eleventh

Affirmative Defense be struck as inadequately pled, for its failure to give the plaintiff the required notice of its basis.

For William F. Downes to consider matters not of record based on the un-sworn, undocumented theories and conclusions of counsel, "It is improper for the trial court to look beyond the complaint to decide a motion to dismiss. . . . unless it were treating the motion as one for summary judgment . . . even had the trial court treated the motion as one for summary judgment, it would have been incorrect to base the decision on allegations in briefs." See Federal Rules of Civil Procedure, rule 12 (b)(6) - "If, on a motion asserting the defense number (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56." "Statements of counsel in brief or in argument are not sufficient on a motion to dismiss or for summary judgment." - *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647.

Lisa Stoops misapplied the law regarding judicial immunity. The belief that judges can "do any damn thing they want to" is both inimical to the cause of justice, destructive to the integrity of American Jurisprudence, and blatantly unlawful. The record undeniable shows that the defendants W.A. Drew Edmondson and counsel Lisa Stoops, committed perjury, subornation of perjury, and prepared and submitted a false document to a court of record. In a world where there was even a modicum of respect for the rule of law, the said defendants would already be doing time. Instead Lisa Stoops effected a cover up in contravention of the following authorities "No man in this country is so high that he is above the law." No officer of the law may set that law at defiance with impunity. All the officers of the Government, from the highest

to the lowest, are creatures of the law, and are bound to obey it. It is the only supreme power in our system of government, and every man, who, by accepting office, participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives. See INTERNATIONAL POSTAL SUPPLY COMPANY v. BRUCE (05/31/04) 194 U.S. 601, 48 L.Ed. 1134, 24 S. Ct. at page 609. Immunity from suit is a high attribute of sovereignty -- a prerogative of the State itself -- which cannot be availed of by public agents when sued for their own torts. The Eleventh Amendment was not intended to afford them freedom from liability in any case where, under color of their office, they have injured one of the State's citizens. To grant them such immunity would be to create a privileged class free from liability from wrongs inflicted or injuries threatened. Public agents must be liable to the law, unless they are to be put above the law. See OLD COLONGY TRUST COMPANY v. CITY SEATTLE ET AL. (06/01/26) 271 U.S. 426, 46 S. Ct. 552, 70 L. Ed. At page 431. No officer of the law may set that law at defiance with impunity. See United States v. Lee, 106 U.S. 196, 220 and Burton v. United States, 202 U.S. 344. The objection is that, as the real party cannot be brought before the court, a suit cannot be sustained against the agents of that party; and cases have been cited to show that a court of chancery will not make a decree unless all those who are substantially interested be made parties to the suit. This is certainly true where it is the power of the plaintiff to make them parties; but if the person who is the real principal, the person who is the true source of the mischief, by whose power and for whose advantage it is done, be himself above the law, be exempt from all judicial process, it would be subversive of the best established principles to say that the laws could not afford the same remedies against the agent employed in doing the wrong which they would afford against him could his principal be joined in the suit." See IN REAYERS.; IN RESCOTT.; IN

REMCCABE. 123 U.S. 433, 31 L. Ed. 216, 8 S. Ct. at page 512. The liability of state judicial officials and all official participants in state judicial proceedings under § 2 was explicitly and repeatedly affirmed. The notion of immunity for such officials was thoroughly discredited. The Senate sponsor of the Act deemed the idea 'akin to the maxim of the English law that the King can do no wrong. It places officials above the law. It is the very doctrine out of which the rebellion [the Civil War] was hatched." Cong. Globe, 39th Cong., 1st Sess., 1758 (1866) (Sen. Trumbull). Thus, § 2 was "aimed directly at the *State judiciary*." Id., at 1155 (rep. Eldridge). See also id., at 1778 (Sen. Johnson, member of the Senate Judiciary Committee). There was "no difference in the principle involved" between a civil remedy and a criminal sanction. Ibid. See *BIRSOCE ET AL v. LAHUE ET AL*. (03/07/83) 460 U.S. 325, 103 S. Ct. 1108, 75 L.Ed. 2d 96, 51 U.S.L.W. at page 359. The Court in *Yates v. Village of Hoffman Estates, Illinois*, 209 F. Supp. 757 (N.D.Ill. 1962) held that "not every action by a judge is in exercise of his judicial function. . . it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse." When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges' orders are void, of no legal force or effect. *The U.S. Supreme Court, in Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974) stated that when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of the Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. A judge's private, prior agreement to decide in favor of one party is not a judicial act. Although a party conniving with a judge to predetermine the outcome of a judicial proceeding may deal with him in his "judicial capacity," the other party's expectation of judicial impartiality is actively frustrated by the

scheme. It is the antithesis of the "principled and fearless decision-making" that judicial immunity exists to protect. Rankin v. Howard, 633 F.2d 844 (9th Cir. 1980) cert. Denied, 451 U.S. 939, 101 S. Ct. 2020, (1981), Pierson v. Ray, 386 U.S. 547, 554, 87 S.Ct. 1213 (1967), and Gregory v. Thompson, 500 F.2d 59 (9th Cir. 1974).

The Constitutional Mandate to end judicial crime - three areas

1. Long ago, Congress unified the type of civil actions, which can filed in federal district courts. For many years, it has been prohibited to file a civil action without coming under authority of statute. Where the matter is "federal question" jurisdiction, the complainant must state the federal statutory authority to file the complaint. Absent stating the statutory authority, the party has failed to state a claim upon which relief can be granted. By filing a complaint under authority of a federal statute, known as federal question jurisdiction, the complainant has stated a claim upon which relief can be granted. In spite of the clear face of the federal question, (statutory authority), implicit within which is the statement of the claim, federal district court judges have dismissed millions of complaints for breach F.R.Civ.P. r 12(b)(6), a legal and logical impossibility. Every federal district court judge who has dismissed a complaint for breach of 12(b)(6) where the complainant has cited a federal statute, has violated 18 U.S.C. § 1961 - obtaining money by artifice, 18 U.S.C. § 241 - conspiracy against rights, and 18 U.S.C. § 1001 - false statement, all felonies requiring termination of employment, forfeiture of pension, and upon conviction, imprisonment for five years. Since federal district court judges are held to a higher standard, every federal district court judge who has committed the crime of dismissing a federal question complaint under authority of F.R.Civ.P. r 12(b)(6) should be made to serve five years consecutively for each offense and every dismissal should be vacated and the claim reinstated.

On review of dismissals under F.R.Civ.P. r 12(b)(6), circuit court judges are required to examine the record *de novo* to determine if the complainant cited a federal question statute and reverse the lower court ruling if that is their finding. With very rare exception, circuit panels, including *en banc* panels, merely rubber stamp the crimes of the lower courts warranting termination of every circuit court judge who sustains a lower court dismissal under authority of F.R.Civ.P r 12(b)(6), forfeiture of pension, and upon conviction, five years in prison for each offense to be served consecutively.

2. Frequently, opposing parties in their opposition to federal question complaints, tender for the court's consideration of matters not of record requiring evaluation of the motion to dismiss under the summary judgment standard. With very rare exceptions, federal district court judges sustained by circuit court judges commit the following criminal acts: (1) presume facts not in evidence, and (2) decide the material facts of a case, a power reserved for juries. Every time a federal district court judge dismisses a federal question complaint where the opposing party has moved for dismissal or for summary judgment but has failed to support the motion with affidavits, depositions, admissions to interrogatories, and other evidence which would be admissible at trial, that federal judge has violated 18 U.S.C. § 1961, 18 U.S.C. § 241, and 18 U.S.C. § 1001. Every time a federal district court judge determines the facts of a case without a trial, the federal judge as violated 18 U.S.C. § 1961, 18 U.S.C. § 241, and 18 U.S.C. § 1001.

3. Tens of thousands of times, federal district court judges have prosecuted individuals under authority of 26 U.S.C. §§ 7201, 7203 and associated *tax crime* statutes: however, without naming what other section of title twenty-six has been violated, these prosecutions fail to state a claim due to the fact that these "tax crime statutes" are penalty statutes defining the penalty for violation of another section of title twenty-six. Every federal district court judge of presided over

a tax crime prosecution which didn't identify what other section of title twenty-six was violated has committed crimes found at 18 U.S.C § 1961, 18 U.S.C. § 241, 18 U.S.C. § 1001, and 18 U.S.C. § 1962 - collection of a false debt. Every circuit panel, including *en banc* panel, that has sustained the conviction of an individual for violating a penalty has also committed criminal acts found at 18 U.S.C. § 1961, 18 U.S.C. § 241, 18 U.S.C. § 1001, and 18 U.S.C. § 1962.

4. Every Senator and Congressman, in receipt of this private bill, has a duty to make inquiry into the above and foregoing allegations. Every Senator or Congressman who fails to make such inquiry or fails to assist in the prosecution of the seemingly countless criminal federal judges and criminal circuit court judges will have violated 18 U.S.C. § 3 - aiding and abetting after the fact to avoid prosecution sustains a federal district court judge's determination of the facts of a case without a trial, the circuit panel has violated 18 U.S.C. § 1961, 18 U.S.C. § 241, and 18 U.S.C. § 1001.

5. Congress has a duty under the Constitutional mandate for checks and balances to terminate judges for violation of the good behavior standard required for continued employment. Every Senator or Congressman, in receipt of this private bill, has a duty to make inquiry into the above and foregoing allegations. Every Senator or Congressman who fails to make who fails to make such inquiry or fails to assist in the prosecution of the seemingly countless criminal federal judges and criminal circuit court judges will have violated 18 U.S.C. § 3 - aiding and abetting after the fact to avoid prosecution.

Conclusion and Remedy Sought

Linda Soper childish and delusional misconduct affirms that Soper, like Soper business associates Martha R. Kulmacz, W.A. Drew Edmondson, . Will tell any lie, violate any rule, break any law, or commit any crime necessary to perfect the bar's schemes of fraud and extortion.

The Constitution's mandates for due process and equal protection of the law, the rule of law expressed in the Federal Rules of Procedure and the Federal Rules of Evidence, require stricken all of Soper motions.

This court shall notice that Linda Soper Pleads matters off record. When motion to dismiss tenders for consideration of matters, off the record the court must evaluate the pleadings according to the summary judgment standard. Cite omitted: This is one of the simplest and most fundamental rules in law for those trained in the legal arts. The summary judgment standard requires that statements of counsel in brief or in argument are not sufficient for a motion to dismiss or for summary judgment. This court shall notice that Eddie L. Andrews has supported Eddie L. Andrews's averments in pleading with an affidavit which has not been rebutted and evidence which has not been disputed. Without affidavits of competent fact witnesses to rebut the affidavit and evidence placed on record by Eddie L. Andrews. Linda Soper Unverified, undocumented paper cannot be considered by this court.

Statements of counsel in brief or in argument are not sufficient for motion to dismiss. This court is noticed: Eddie L. Andrews has entered facts on the record - the defendants have entered nothing on the record. Linda Soper's motion for summary judgment must be denied as a matter of law as legally insufficient.

All defends' motions to dismiss must be stricken as a matter of law to avoid conclusion that this court is aiding and abetting W.A. Drew Edmondson,. "FOR EXTRINISIC FRAUD PRACTICED BY Linda Soper FAILURE TO EMPOWER THIS COURT TO RULE AND DETERMINE AS Linda Soper REQUESTS

Prepared and submitted by: Eddie L. Andrews

Eddie L. Andrews

CERTIFICATE OF SERVICE

I, Eddie L. Andrews, hereby certify that on Sept 220, 2006, I sent a copy of the foregoing Plaintiff motion, PLAINTIFF'S REPLY TO DEFENDANTS' W.A. DREW EDMONDSON MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT. The Defendants being W.A. Drew Edmondson,

To: Linda Soper
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Rod Class, Carl Weston, Dwight L. Class, Angela Andrews, Maria Janet Moffitt, Sherwood T. Rodrigues
, the last known address, by way of United States mail or courier with postage paid.

Signature	<u>Eddie L. Andrews</u>	Eddie L. Andrews, P.O. Box 1132, Catoosa, OK 74015 (918)408-7465
Dated signed	<u>22 Sept 2006</u>	