Crane v. Samsung Washing Machine Plant

2019 | Cited 0 times | D. South Carolina | November 1, 2019

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION Tracy Lee Crane,) C/A No. 8:19-cv-2773-TMC-JDA

Plaintiff,)

v.)

REPORT AND RECOMMENDATION Samsung Washing Machine Plant,)

Defendant.) _____)

Tracy Lee Crane, ("Plaintiff"), proceeding pro se, brings this civil action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. Plaintiff is a detainee at the Berkeley County Detention Center (the "Detention Center") in Moncks Corner, South Carolina. He files this action in forma pauperis under 28 U.S.C. § 1915 and § 1915A. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(d), D.S.C., the undersigned Magistrate Judge is authorized to review the Complaint for relief and submit findings and recommendations to the District Court. Having reviewed the Complaint in accordance with applicable law, the undersigned finds that this action is subject to summary dismissal.

BACKGROUND Plaintiff alleges that, on April 30, 2017, he was approached by Newberry detectives, who explained that he was not under arrest and that they needed to speak to him. [Doc. 1 at 3.] While he was standing there, a Samsung Security Officer came up behind him, reached into his pocket, and pulled out a candy canister. [Id.] The Samsung Security Officer opened the candy canister and stated to police, "Officer look what we have here drugs." [Id.] The officers did not arrest Plaintiff for the thing they were questioning him

about, but they said their hands were tied regarding the drugs. [Id.] Plaintiff was taken to jail, and then to prison, and was sentenced to one year. [Id.] For his relief, Plaintiff asks that the Court grant an award of attorneys' f ees, payment for his home that he lost, $20,000 for each day he was in prison, and for his job back at the plant. [Id.] Plaintiff also asks for an award of $50,000 to be paid to Boom Recycling for the contract they lost because of these events. [Id.]

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STANDARD OF REVIEW Plaintiff filed this action pursuant to 28 U.S.C. § 1915, the in forma pauperis statute. This statute authorizes the District Court to dismiss a case if it is satisfied that the action "fails to state a claim on whic h relief may be granted," is "frivolous or malicious," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). Further, Plaintiff is a prisoner under the definition in 28 U.S.C. § 1915A(c), and "seeks redress from a gover nmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a). Thus, even if Plaintiff had prepaid the full filing fee, this Court would be charged with screening Plaintiff's lawsuit to identify cognizable claims or to dismiss the Complaint if (1) it is frivolous, malicious, or fails to state a claim upon which relief may be granted, or (2) seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A.

Because Plaintiff is a pro se litigant, his pleadings are accorded liberal construction and held to a less stringent standard than formal pleadings drafted by attorneys. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam). However, even under this less stringent standard, Plaintiff's Co mplaint is subject to summary dismissal. The mandated liberal construction afforded to pro se pleadings means that if the court can reasonably

read the pleadings to state a valid claim on which Plaintiff could prevail, it should do so, but a district court may not rewrite a petition to include claims that were never presented, Barnett v. Hargett, 174 F.3d 1128, 1133 (10th Cir. 1999), or construct Plaintiff's legal arguments for him, Small v. Endicott, 998 F.2d 411, 417–18 (7th Cir . 1993), or "conjure up questions never squarely presented" to the court, Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985). The requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. See Weller v. Dep't of Soc. Servs. , 901 F.2d 387, 391 (4th Cir. 1990).

Although the Court must liberally construe the pro se Complaint and Plaintiff is not required to plead facts sufficient to prove his case as an evidentiary matter in the Complaint, the Complaint "must c ontain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Ashcroft v. Iqbal, 556 U.S. 662 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)); see also Francis v. Giacomelli, 588 F.3d 186, 193 (4th Cir. 2009) (explaining that a plaintiff may proceed into the litigation process only when his complaint is justified by both law and fact). "A claim has 'facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" Owens v. Baltimore City State's Attorneys Office , 767 F.3d 379, 388 (4th Cir. 2014).

DISCUSSION Plaintiff filed his Complaint pursuant to 42 U.S.C. § 1983, which "'is not itself a source

of substantive rights,' but merely pr ovides 'a method for vi ndicating federal rights elsewhere conferred.'" Albright v. Oliver, 510 U.S. 266, 271 (1994) (quoting Baker v. McCollan, 443 U.S. 137, 144 n.3 (1979)). A civil action under § 1983 "creates a private right of action to vindicate violations of 'ri ghts, privileges, or immunities secured by the Constitution and laws' of the United States." Rehberg v. Paulk, 566 U.S. 356, 361 (2012). To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

Here, the Complaint is subject to summary dismissal because Plaintiff has failed to state a claim for relief. Plaintiff attempts to assert a claim for "illegal search [and] seizure by Samsung Security." [Doc. 1 at 2.] However, Plaintiff's a llegations fail to state a claim for relief for the following reasons.

First, the crux of this action appears to be a challenge to the lawfulness of Plaintiff's arrest and incarceration at the Detention Center. To the extent Plaintiff seeks release from prison, such relief is not available in this civil rights action. See Heck v. Humphrey, 512 U.S. 477, 481 (1994) (stating that "habeas cor pus is the exclusive remedy for a state prisoner who challenges the fact or duration of his confinement and seeks immediate or speedier release, even though such a claim may come within the literal terms of § 1983"); Preiser v. Rodriguez, 411 U.S. 475, 487–88 (1973) (atta cking the length of duration of confinement is within the core of habeas corpus). Further, to the extent that Plaintiff seeks

money damages based on his allegedly unlawful arrest or confinement, his claim fails because he has not alleged facts showing that his sentence and conviction have been invalidated, and he has therefore failed to meet Heck's "favorable termination" requirement. See Wilson v. Johnson, 535 F.3d 262, 263 (4th Cir. 2008). Accordingly, his claims for money damages are barred by Heck, 512 U.S. at 481. Second, the only named Defendant in this action, Samsung Washing Machine Plant, is subject to dismissal because it is not a party that is amenable to suit under 42 U.S.C. § 1983. As noted, to state a § 1983 claim, Plaintiff must allege that he was deprived of a constitutional right by a person acting under the color of state law. Dowe v. Total Action Against Poverty in Roanoke Valley, 145 F.3d 653, 658 (4th Cir. 1998). It is well-settled that "[a]nyone whose conduct is 'fairly attributable to the state' can be sued as a state actor under § 1983." Filarsky v. Delia, 566 U.S. 377, 383 (2012). However, purely private conduct, no matter how wrongful, is not actionable under § 1983. See Lugar v. Edmondson Oil Co., 457 U.S. 922, 936 (1982); Mentavlos v. Anderson, 249 F.3d 301, 310 (4th Cir. 2001).

Here, Defendant is not a state actor for purposes of § 1983. Thus, Plaintiff's claims against Defendant are subject to dismissal because Defendant was not acting under color of state law. See, e.g., Chiles v. Crooks, 708 F. Supp. 127, 131 (D.S.C. 1989) (explaining plaintiff's allegations against priv ate security guards failed to establish joint action to satisfy the Fourteenth Amendment's stat e-action

requirement or § 1983's "color of state law" requirement). "Private security officers do not become state actors simply by being at the scene of an arrest or seizure." Cox v. Duke Energy, Inc., 176 F. Supp. 3d 530, 545 (D.S.C. 2016), aff'd, 876 F.3d 625 (4th Cir. 2017); see also Grant-Davis v. Fortune, No.

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2:15-cv-4211-PMD-MGB, 2015 WL 12868172, at *3 (D.S.C. Nov. 20, 2015) ("Generally, the acts of private security guards, hired by a store, do not constitute state action under § 1983.") (internal quotat ion marks omitted), Report and Recommendation adopted by 2015 WL 12868171 (D.S.C. Dec. 7, 2015), aff'd , 645 F. App'x 288 (4th Cir. 2016). Plaintiff has failed to allege facts showing that the Samsung Plant's Se curity Department was "endowed by law with plenary police powers such that they [we]re de facto police officers, [to qualify them] as state actors under the public function test." United States v. Mayes, No. 2:12-cr-00501-DCN-1, 2013 WL 267770, at *4 (D.S.C. Jan. 24, 2013) (internal quotation marks omitted); see also Studivent v. Lankford, No. 1:10-cv-144, 2012 WL 1205722, at *1 n.2 (M.D.N.C. Apr. 11, 2012) ("Plaintiff has made no factual allegation that plausibly demonstrates that his former employers exercised the type of police power that would subject them to liability as state actors under section 1983."). Thus, Defendant is entitled to summary dismissal.

Accordingly, for the reasons explained above, this action should be summarily dismissed pursuant to 28 U.S.C. § 1915 and § 1915A without further leave to amend. 1

See

1 Plaintiff's Complaint was entered on the do cket on September 30, 2019. By Order dated October 2, 2019, the Court notified Plaintiff that this action was subject to summary dismissal because the Complaint failed to state a claim for relief and failed to name a proper Defendant. [Doc. 8.] The Court, however, noted that Plaintiff may be able to cure the deficiencies of his Complaint and granted Plaintiff twenty-one days to amend his Complaint. [Id. at 6–7.] Plaintiff was specifically warned as follows:

If Plaintiff fails to file an amended complaint or fails to cure the deficiencies identified [in the Court's Order], the Court will recommend to the district court that the claims be dismissed without leave for further amendment, pursuant to 28 U.S.C. § 1915 and § 1915A (explaining that, as soon as possible after docketing, district courts should review prisoner cases to determine whether they are subject to summary dismissal).

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Workman v. Morrison Healthcare, No. 17-7621, 2018 WL 2472069, at *1 (4th Cir. June 4, 2018) (explaining that, where the district court has already afforded a plaintiff with the opportunity to amend, the district court, in its discretion, can either afford plaintiff an additional opportunity to file

an amended complaint or dismiss the complaint with prejudice); Goode v. Cent. Va. Legal Aid Soc'y, Inc. , 807 F.3d 619, 624 (4th Cir. 2015).

RECOMMENDATION In light of all the foregoing, it is recommended that the District Court dismiss this action without leave to amend and without issuance and service of process. See Neitzke, 490 U.S. at 324–25.

IT IS SO RECOMMENDED.

s/Jacquelyn D. Austin United States Magistrate Judge November 1, 2019 Greenville, South Carolina

Plaintiff's attention is directed to the important notice on the next page.

[Id. at 7.] Plaintiff did not file a response to the Court's Order and has failed to cure the deficiencies identified by the Court.

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Notice of Right to File Objections to Report and Recommendation The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a time ly filed objection, a district court need not conduct a de novo review, but instead must 'only sa tisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk United States District Court 300 East Washington Street, Room 239

Greenville, South Carolina 29601 Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

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