

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

LAWRENCE LEITGEB,	§	C/A No. 7:10-2989-HFF-BHH
<i>Plaintiff</i>	§	
	§	
vs	§	Response to
	§	Defendants' Motion to Dismiss
THE STATE OF SOUTH CAROLINA	§	
Department of Motor Vehicles,	§	
THE STATE OF SOUTH CAROLINA,	§	
LINDA ANNETTE GRICE,	§	
Assistant General Counsel,	§	
<i>Defendants.</i>	§	

RESPONSE TO DEFENDANTS' MOTION TO DISMISS

1 LEGAL STANDARD

Plaintiff, Lawrence Leitgeb, the non-movant in Defendant's Motion to Dismiss or in the alternative for Summary Judgment proceeding, is not required to produce summary judgment evidence until after Defendant (movant) can establish there are no genuine issues of material fact disputed and/or the Defendant is otherwise entitled to summary judgment as a matter of law. *Casso v. Brand*, 776 S.W.2d 551, 556 (Tex. 1989). In deciding whether there is a disputed issue of material fact that precludes summary judgment the court takes as true all evidence favorable to Plaintiff, Lawrence Leitgeb. *See, e.g., Limestone Prods. Distribution, Inc. v. McNamara*, 71 S.W.3d 308, 311 (Tex. 2002). It is incumbent upon Defendant, movant, to show there are no material fact issues and that it is entitled to judgment as a matter of law. *Id.* Any evidence that favors Defendant's position is not considered unless it is uncontradicted. *Rhone-Poulenc, Inc. v. Steel*, 997 S.W.2d 217, 223 (Tex. 1999). This Court must view the evidence in the light most favorable to Plaintiff and must indulge every reasonable

inference and resolve all doubts in favor of Leitgeb. *Limestone Prods. Distribution, Inc. v. McNamara*, 71 S.W.3d 308, 311 (Tex. 2002).

In summary, movant must show “that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56.

2 ARGUMENT & AUTHORITIES

Defendant’s Motion to Dismiss/Summary Judgment should be in all things denied because there are genuine issues of material fact which remain in dispute and Defendant has not otherwise shown itself entitled to judgment as a matter of law.

3 FACTS

Defendant claims that Leitgeb “refused to provide his social security number based on a religious objection.” This is only a partial truth. The fact is that this Plaintiff objects to possessing a social security number for numerous reasons. The Defendant fails to address these numerous reasons with the exception of one, the religious objection. The case law the Defendant identifies to support his arguments focus solely on the rejection of the social security number for religious reasons. The case law the Defendants reference does not address any of the other arguments Plaintiff lays out in his complaint.

Plaintiff estimates that overall the Defendants only address about 15 percent of his arguments.

Defendant states on page three of his motion that “applying for a driver's license is voluntary.” It is not, as Bob Fondry can personally testify. (See recent Motion for Stay of Execution.)

Defendants in their motion reference Bowen v. Roy. Bowen v. Roy does not apply in this legal action because Bowen v. Roy involved a government handout, not a constitutional right.

4 **SUMMARY**

Defendants, in a Motion to Dismiss, have the burden of proof. They must base their arguments on undisputed facts, or, as an alternate, they must show how the non-movant's arguments fail as a matter of law. The lawyers filing this action on the behalf of the Defendants fail to prove either.

Signed: _____

L. Leitgeb

Pro Se Litigant