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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RAPTURING, **Plaintiff,** **v.** **OLLIELFLETCHER,** **Defendant.**	**Civil Action No. 4:20-2220** **Hon. EnforcementBeyond**

MOTION FOR DISMISSAL WITHOUT PREJUDICE AND SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

Defendant OllieLFletcher, hereby moves for dismissal without prejudice on all claims in the Plaintiff's Complaint. The reasons in support of Defendants' Motion are set forth in the attached Memorandum of Points and Authorities.

I. Background

On September 1st, 2020, plaintiff Rapturing initiated proceedings against defendant OllieLFletcher, alleging that defendant caused multiple "irreversible stains" on his vehicle. Pl's. Civ. Compl., at 1. In addition, plaintiff claimed that he suffered psychological trauma due to

defendant allegedly blackmailing plaintiff with video evidence of the incident, and has had to replace his vehicle due to the stains on the car.

Defendant now moves to dismiss this case without prejudice because of plaintiff's failure to state a claim upon which relief can be granted, and because defendant has qualified immunity.

II. Argument

A. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Rule 12(b)(6) of the Federal Rules of Civil Procedure allow for a defense to a claim of relief if the complaint involves a "failure to state a claim upon which relief can be granted."

Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, will never suffice for civil complaints. *Ashcroft* v. *Iqbal*, 556 U. S. 662, 678 (2009) (quoting *Bell Atlantic Corp.* v. *Twombly*, 550 U. S. 544, 555 (2007)). Although a Plaintiff need not detailed factual allegations, to survive a Rule 12(b)(6) motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. *Ashcroft, supra,* see also *Arrighi* v. *Benda587*, 4:20-1545, pg. 3 (D.D.C. 2020). However, plaintiff's statements take up the appearance of legal conclusions "couched as factual allegation[s]." *Papasan* v. *Allain*, 478 U. S. 265, 286 (1980), *Trudeau* v. *Federal Trade Comm'n,* 456 F.3d 178, 193 (D.C. Cir. 2006), which will never be sufficient for a complaint to survive a 12(b)(6) motion to dismiss. While the judge must accept the complaint's *well-pleaded allegations* as true and "draw all reasonable inferences from those allegations in the plaintiff's favor," *Banneker Ventures, LLC* v. *Graham*, 798 F. 3d 1119, 1129 (D.C. Cir. 2015) (emphasis added), the tenet that a court must

accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. *United States v. Incels Union,* 10 U. S. ___, ___ (2020) (slip op. at 10). While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. *Id.*, at ___ (slip op. at 11). Plausibility requires "more than a sheer possibility that a defendant has acted unlawfully," but it is not a "probability requirement." *Banneker Ventures, supra*.

First, plaintiff claims that defendant's actions were "disgusting," which immediately would indicate that plaintiff relies on his legal conclusions to form his complaint. He claims that defendant trespassed onto his property, yet he does not describe the actual incident, pointing his claim even more towards legal conclusions couched as factual allegations, so this court cannot analyze his second statement as supportive of his claim. Game physics prevent staining on cars, which would debunk plaintiff's third statement. Finally, plaintiff's fourth statement cannot be taken into account because he erroneously and preemptively concluded that blackmail occurred without providing factual allegations, thus rendering his introduction invalid to establish factual allegations that allow him to access his reliefs. As such, plaintiff has not stated a claim upon which relief can be granted.

Defendant also wants to raise a point mentioned by plaintiff: claims of psychological trauma are virtually identical to claims of emotional distress, which "become jurisdiction of United States Clan Managers." *Volts* v. *Kirkman,* 9 F. 4d ___, ___ (D.C. Cir., 2019) (slip op. at 5). Emotional distress claims have the potential of causing reparations beyond the limitations of roleplay, and therefore must be handled appropriately by Clan Management. *Id.* Similarly, claims of psychological trauma are nonjusticiable on its face, and thus plaintiff's claim of psychological trauma cannot stand.

B. THE OFFICIAL IN QUESTION HAS QUALIFIED IMMUNITY

Second, even if the failure to state a claim cannot be recognized by this court, the doctrine of qualified immunity protects government officials from lawsuits insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Pearson* v. *Callahan*, 555 U. S. 223, 231 (2009), *Harlow* v. *Fitzgerald*, 457 U. S. 800, 813 (1982). The protection of qualified immunity applies regardless of whether the government official's error is a mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact. *Callahan, supra* (quoting *Groh* v. *Ramirez*, 540 U. S. 551, 567 (2004) (Kennedy, J., dissenting)).

To determine whether an official has qualified immunity, a court must consider two factors: first, whether the facts alleged show the officer's conduct violated a [statutory or] constitutional right. *Saucier* v. *Katz*, 533 U. S. 194, 201 (2001). Second, the court would have to determine whether the right was clearly established at the time of the suit. *Ibid.* Originally, this procedure was strict in requiring courts to analyze whether a constitutional right was established before looking at the clearly established prong. However, as the Supreme Court held in *Callahan*, while the sequence set forth there is often appropriate, it should no longer be regarded as mandatory. 555 U. S., at 236. As such, this court is free to first determine whether the right alleged in plaintiff's civil complaint was "clearly established." Defendant asks for such, as it would be the goal of this court to "secure the just, speedy and inexpensive determination of every action." *United States* v. *Incels Union*, 10 U. S. ___ (2020) (quoting *Celotex Corp.* v. *Catrett*, 477 U. S. 317, 327 (1986)).

As the Supreme Court has held, the term "clearly established" has been construed to require that "the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right." *Wilson* v. *Layne*, 526 U. S. 603, 615 (1999). While this

does not mean an official action is "protected by qualified immunity unless the very action in question has previously been held unlawful," in the light of preexisting law "the unlawfulness must be apparent." *Ibid* (quoting *Anderson* v. *Creighton,* 483 U. S. 635, 640 (1987)). Petitioners can demonstrate clear establishment through "any cases of controlling authority in their jurisdiction at the time of the incident that clearly established the rule on which they seek to rely," or through "a consensus of cases of persuasive authority such that a reasonable officer could not have believed that his actions were lawful." *Id.,* at 617. In other words, "existing precedent must have placed the statutory or constitutional question beyond debate." *Reichle* v. *Howards,* 566 U. S. 658, 664 (2012) (quoting *Ashcroft* v. *al-Kidd,* 563 U. S. 731, 735 (2011)).

Therefore, the Court would only be able to determine that the right pressed by plaintiff was clearly established if there was precedent supporting such a decision. And the precedent must be specifically adaptive towards the case. Because there are no cases that specifically deal with such, defendant would have qualified immunity.

III. Conclusion

For the reasons stated above, this court should grant defendant's motion to dismiss.

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Date: September 2, 2020

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