

**IN THE SUPERIOR COURT FOR THE STATE OF RIDGEWAY
IN AND FOR RIDGEWAY COUNTY**

SYITHZ,

CIVIL DIVISION

CASE NO.: 05-2024-RSC-CM-2926

v.

JUDGE: HON. ALEXJCABOT

CHICKEN10135,

Defendant.

_____/

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Motion to Dismiss. For the reasons that follow, the Court hereby **ORDERS** that the Motion to Dismiss is **DENIED**.

I. INTRODUCTION

On April 27, 2024, Plaintiff Syithz brought the above action against Defendant Chicken10135, a deputy sheriff in the Ridgeway County Sheriff's Office, for false arrest, official misconduct, and false imprisonment. The Court dismissed the first and third counts of the Complaint on April 28, 2024, for failure to state a claim upon which relief can be granted at variance with Rid. R. Civ. P. 12(a). Defendant now moves to dismiss the second count of the Complaint for failure to state a claim for three reasons: 1) Plaintiff did not allege that Defendant's actions were unauthorized; 2) Plaintiff did not allege concrete injury to himself and entitlement to relief; and 3) Plaintiff did not name Defendant in his official capacity. The Court has carefully reviewed Defendant's argument but finds it to be without merit.

II. LEGAL STANDARD

A complaint should be dismissed for "failure to state a claim upon which relief can be

granted[.]” See *Rid. R. Civ. P. 12(a)*; see generally *LargeTitanic2, Gov. of Rid. v. Nevplaysgames, et al.*, 1 *Rid.* 98 (2023) (“[W]e have held that federal doctrines . . . are incorporated into our system of laws and therefore federal precedent relating to such may be used as precedent.”) A failure-to-state-a-claim motion tests the “legal sufficiency” of a complaint. See *Navarro v. Block*, 250 F. 3d 729 (9th Cir.2001); see also *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir.1988).

Under *Rid. R. Civ. P. 12(a)*, a complaint fails to state a claim if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). In deciding such a motion, the Court must view all allegations in the complaint in the light most favorable to the plaintiff and must accept all material allegations—as well as any reasonable inferences—as true. *Balistreri*, 901 F.2d 696, 699 (9th Cir.1988). Dismissal is proper only where there is no cognizable legal theory or an absence of sufficient facts alleged to support a cognizable legal theory. *Ibid.*

III. ANALYSIS

Plaintiff’s Complaint was not prepared by counsel. It is settled law that the allegations of such a complaint, "however inartfully pleaded" are held "to less stringent standards than formal pleadings drafted by lawyers" *Haines v. Kerner*, 404 U. S. 519, 520 (1972); see also *Maclin v. Paulson*, 627 F. 2d 83, 86 (CA7 1980); *French v. Heyne*, 547 F. 2d 994, 996 (CA7 1976). Such a complaint can only be dismissed for failure to state a claim if it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Haines*, *supra*, at 520-521, quoting *Conley v. Gibson*, *supra*, 355 U.S. 41, 355 U.S. 45-46 (internal citations omitted); *Hughes v. Rowe*, 449 U.S. 10 (1980).

The Court begins by addressing the issue of capacity. While the Complaint does not on its

face state whether the action is for individual or official liability, Defendant's notion that this is constitutive of failure to state a claim is rejected. Indeed, "[t]he course of proceedings . . . will indicate the nature of the liability sought to be imposed." See *Kentucky v. Graham*, 473 U.S. 159 n. 14 (1985) (quoting *Brandon v. Holt*, 469 U.S. 464, 469 (1985)). Under the "course of proceedings" test, courts are not limited by the presence or absence of language identifying capacity to suit on the face of the complaint alone.

Rather, courts may examine "the substance of the pleadings and the course of proceedings in order to determine whether the suit is for individual or official liability." See *Pride v. Does*, 997 F.2d 712, 715 (10th Cir.1993); see also *Houston v. Reich*, 932 F.2d 883, 885 (10th Cir. 1991); see also *Price v. Akaka*, 928 F.2d 824, 828 (9th Cir. 1990), cert. denied, ___ U.S. ___, 112 S.Ct. 436, 116 L.Ed.2d 455 (1991); *Shabazz v. Coughlin*, 852 F.2d 697, 700 (2d Cir. 1988); *Shockley v. Jones*, 823 F.2d 1068, 1071 (7th Cir. 1987).

Factors relevant to this analysis include "the nature of the plaintiff's claims, requests for compensatory or punitive damages, and the nature of any defenses raised in response to the complaint, particularly claims of qualified immunity." *Moore v. City of Harriman*, 272 F.3d 769, 772 n. 1 (6th Cir.2001); see also *Biggs v. Meadows*, 66 F.3d 56, 61 (4th Cir.1995). A court may also take into consideration "whether the parties are still in the early stages of litigation," *Moore, supra*, 272 F.3d at 772 n. 1, including whether amendment of the complaint may be appropriate. No single factor is dispositive in an assessment of the course of proceedings.

In deciding whether the Complaint is against Defendant in his official capacity, the Court asks not only whether Plaintiff's intent is to hold Defendant officially liable, but whether this intent can "be ascertained fairly." *Biggs, supra*, 66 F.3d at 61. Firstly, the Complaint specifically alleges that Defendant is a government official. Compl. ¶ 3 ("[Defendant] proceeds to get out [of

the vehicle] along with *another* State officer[.]") The Court finds that the language "another" as used in the Complaint admits of the fact that Plaintiff brings his action against Defendant officially as indicative of Defendant's status as a government official.¹

The Court further notes that the Complaint's claim for official misconduct under 1 R. Stat. § 3114 by its very nature gives fair notice to Defendant that this is an official-capacity action. Under 1 R. Stat. § 3114, "[a]ny individual *who is a public servant and commits an act relating to his office* but constitutes an unauthorized exercise of his official functions, knowing that such act is unauthorized; or refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office" is liable for official misconduct. Thus, the Court is not troubled by the Complaint's silence on capacity.

Indeed, the allegations as well as the nature of Plaintiff's claim viewed in the light most favorable to Plaintiff makes clear that Plaintiff seeks to hold Defendant officially liable and by consequence that this is an official-capacity action. The Court's findings today are by no means novel. Indeed, the Court has already pointed out in its previous Memorandum Opinion and Order (doc. 05/28/2024) that "the substance of Plaintiff's pleading makes clear that official liability is sought" and barred Count III by reason of sovereign immunity pursuant to 1 R. Stat. § 3203. *Id.* at pg. 3. The record shows that Defendant raised no objection to its previous ruling.

The Court maintains that this is an official-capacity claim based on the course of proceedings and substance of pleadings. In so determining, the Court turns to Defendant's remaining two arguments. Defendant argues that the Complaint fails to state a claim because it does not allege that Defendant's actions were unauthorized, and because it does not allege that Defendant suffered concrete injury to himself and entitlement to relief. The Court rejects

¹ The word "another" is defined as "one more person or thing or an extra amount." *See* McIntosh, J. (ed.). (2023) Cambridge Advanced Learner's Dictionary & Thesaurus (4th ed.). <https://dictionary.cambridge.org/dictionary/english/another> (last accessed Apr. 31, 2024.)

Defendant's claims. It is a settled rule of law that a court must draw all reasonable inferences from a complaint. See *Balistreri v. Pacifica Police Dept.*, *supra*, 901 F.2d 696, 699.

A cogent example is that of a plaintiff who pleads in his complaint that "The defendant caused my vehicle to explode." Surely, he needs not additionally plead that "My vehicle was damaged." And similarly if a plaintiff pleads in his complaint that "The defendant arrested me without probable cause or a warrant and absent exigent circumstances" he needs not additionally plead that "The arrest was unconstitutional." Rather, in both examples, the first allegation reasonably admits of the second by inference. The same line of reasoning counsels against Defendant's proposition that the Complaint fails to state a claim.

In order to state a claim for official misconduct, the Complaint must allege: 1) that Defendant is a public servant; and 2) that he knowingly committed an act relating to his office but constitutes an unauthorized exercise of his official functions or refrained from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office. 1 R. Stat. § 3114. Firstly, the Court has already found that the Complaint alleges that Defendant is a public servant. Compl. ¶ 3. Secondly, the Complaint alleges that Defendant, acting with another government official, repeatedly shot his car until it exploded, Compl ¶ 1-2.

In order to determine whether an act is "unauthorized," the Court asks whether the act is contrary to law or policy. Indeed, an agent has only authority to act by the commands of his principal, and if his acts violate those commands his conduct is "unauthorized" to all extents and purposes. See *e.g.* *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 701 (1949) ("[A]n allegation that the actions of Government officers are wrongful under general law is sufficient to show that they are unauthorized[.]") (internal citations omitted).

In alleging that Defendant continuously shot his vehicle in concert with another State

officer until the vehicle exploded, the Complaint presents allegations of facts that would entitle Plaintiff to relief under 1 R. Stat. § 3114. Indeed, it stands to reason that it may be reasonably inferred that the Defendant acted knowingly and outside his official authority by reason of his gross and illegal conduct as described in the Complaint. The Court determines that the Complaint states a proper claim for official misconduct under 1 R. Stat. § 3114 and contemporaneously denies Defendant's Motion to Dismiss the Complaint.

IV. CONCLUSION

Accordingly, the Court finds that the Complaint states a claim upon which relief can be granted. The Court therefore **ORDERS** that the Motion to Dismiss is **DENIED**.

SO ORDERED, ADJUDGED, AND DECREED in chambers in Palmer, Ridgeway County, Ridgeway, this 31st day of May, 2024.

BY: 

ALEX J. CABOT
Ridgeway Superior Court Judge

Copies to: Syithz
Chicken10135
Stickza, Solicitor General