

{¶3} On June 7, 2004, plaintiff filed another motion in opposition to defendant's motion to consolidate and dismiss. However, defendant never filed such a motion in this case.

{¶4} On June 9, 2004, defendant filed a motion to dismiss pursuant to Civ.R. 12(B)(6), failure to state a cause of action upon which relief can be granted. In support of the motion to dismiss, defendant stated in pertinent part:

{¶5} "Nowhere in the Complaint is it mentioned that the Ohio Attorney General's Office had anything to do with Plaintiff's claim. Therefore, it can only be true that the Ohio Attorney General's Office has no involvement in this claim and should be dismissed as a Defendant. Accordingly, Plaintiff's Complaint must be dismissed for failure to state a claim upon which relief can be granted.

..

{¶6} "Without a doubt, Plaintiff can prove no set of facts in support of his claim entitling him to a judgment against the Ohio Attorney General's Office. Plaintiff's Complaint only alleges that DRC employees and DRC attorneys acted wrongfully. There are absolutely no allegations against any personnel employed by the Ohio Attorney General's Office. Therefore, even if every allegation in Plaintiff's Complaint were true, the Office of the Ohio Attorney General cannot be held responsible. Accordingly, it should be clear from the face of the Complaint that Plaintiff can prove no set of facts that would entitle him to relief."

{¶7} On June 10, 2004, plaintiff filed a motion to waive costs and fees due to indigency status. On June 24, 2004, plaintiff filed a memorandum contra to defendant's motion to dismiss. While plaintiff cites numerous sections from the Ohio Revised Code and the Ohio Constitution, plaintiff provides no factual basis for the Attorney General's involvement in his allegations of wrongdoing. Plaintiff names persons employed by the Department of Rehabilitation and Correction as alleged engaging in criminal activities, however, he has proved no factual basis for the involvement of the Attorney General's Office in any alleged wrongdoing.

{¶8} In order to grant a motion to dismiss pursuant to Civ.R. 12(B), it must be shown "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *O'Brien v. University Community Tenants Union, Inc.* (1975), 42 Ohio St. 2d 242,

245. The non-moving party is entitled to the presumption that all factual allegations are true and all reasonable inferences are made in his favor. *Mitchell v. Lawson Milk Co.* (1988), 40 Ohio St. 3d 190, 192.

{¶9} In the case at bar, plaintiff has presented no evidence or factual basis to conclude that defendant was engaged in any alleged wrongdoing asserted by plaintiff.

{¶10} Having considered all the evidence in the claim file and the pleadings and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. All of plaintiff's pending motions are DENIED. Plaintiff's case is DISMISSED pursuant to Civ.R. 12(B). The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

[Cite as *Swiger v. Ohio Atty. Gen.*, 2004-Ohio-4734.]

Entry cc:

Shelby F. Swiger, #A215-336
2500 South Avon Belden Road
Grafton, Ohio 44044-9802

Plaintiff, Pro se

Ohio Attorney Generals Office
State Office Tower, 17th Floor
30 East Broad Street
Columbus, Ohio 43215-3428

Defendant

DRB/laa
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