

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

Noemi Soto, :  
 :  
 Plaintiff, :  
 :  
 v. : CASE NO. 3:21cv006(VAB)  
 :  
 United States of America :  
 (Judicial Branch) :  
 and the State of Connecticut, :  
 :  
 Defendants. : **April 5, 2021**

PLAINTIFF OBJECTION  
TO RECOMMENDED RULING TO DISMISS  
PURSUANT TO 28 U.S.C. § 1915(e)(2)(B).

1. Pursuant to 28 U.S.C. § 1915(e)(2)(B), the court shall dismiss the case at any time if the court determines that the action or appeal- (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.

2. For the record, I – Pro Se Plaintiff, am not seeking monetary relief. I have clearly expressed in writing, within my complaint, that I seek Declaratory Relief. If seeking monetary relief will adversely impact the Court’s ability to adjudicate my grievance and provide an answer to the questions of law I am raising, I chose to not seek monetary relief.

3. The claims on which I seek relief, are of a **Substantive Due Process Violation** nature. I am claiming that the right to be heard by the Court, and the administration of redress for a Pro Se Litigants' complaint, is a fundamental right secured by US Constitutional Law; and the application of subordinate laws, rules and regulations to dismiss, obstruct, impede, or deny a US Citizen's complaint from receiving meaningful consideration and redress is a Dereliction of Judicial Duty.

4. This action is not frivolous nor malicious. In the wake of George Floyd, and the preceding riots and protests that resulted, a mass outrage of US citizens have cried, "No Justice, No Peace"; My action seeks urgent relief from the multitude of abuses that have withheld justice from the people and myself. **Justice is withheld, when meaningful consideration and redress of grievances is obstructed to the point that justice is deprived, and/or the grievance is suppressed because of undue burdens imposed on the complainant.**

#### **LEGAL STANDARD**

5. Plaintiff is not seeking declaratory relief under 10 U.S.C. §892 Art. 92. Jurisdiction for my right of action was clearly expressed and listed in Document 1, page 6, section B. Jurisdiction, on the official Complaint. I am seeking declaratory relief under

**a) 42 U.S.C. §1983:**

*Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the*

*District of Columbia, subjects, or **causes to be subjected, any citizen of the United States** or other person within the jurisdiction thereof **to the deprivation of any rights, privileges, or immunities secured by the Constitution** and laws, **shall be liable** to the party injured in an action at law, suit in equity, **or other proper proceeding for redress**, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, **injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.***

6. Plaintiff's original complaint was dismissed on lack of subject matter jurisdiction for the failure to exhaust an administrative remedy under the State level Executive Branch. Plaintiff argues however that the Court was informed prior to rendering judgment to dismiss, that they were aware that the statute of limitations had expired for plaintiff to engage the administrative remedy. This resulted in no administrative remedy being accessible to plaintiff before a judgement to dismiss was entered and "to the complete deprivation of any lawful course of action that could today remedy my original complaint issued in Middletown Court December of 2017."

7. Plaintiff also argues that judgment in favor to dismiss violated a declaratory decree from *Amodio v. Amodio*, 247 Conn. 724, 727-28, 724 A.2d 1084 (1999); which states:

*subject matter jurisdiction "involves the authority of a court to adjudicate the type of controversy presented by the action before it ... A court does not truly lack subject matter jurisdiction **if it has competence to entertain the action before it...** Once it is determined that a tribunal has authority or competence o decide the class of*

*cases to which the action belongs, the issue of subject matter jurisdiction is resolved in favor of entertaining the action ... **It is well established** that, in determining whether a court has subject matter jurisdiction, **every presumption favoring jurisdiction should be indulged.**"*

8. Plaintiff also argues that the ruling judgement in favor to dismiss willfully omitted factual consideration to the entirety of Plaintiff's legal argument, violating the declaratory decree of CT Practice Book 6-1, which states that: "the judicial authority's decision **shall encompass its conclusion as to each claim of law** raised by the parties and the factual basis therefor." Declaratory relief should have been available, to Plaintiff at the appellate level, but instead, Appellate Judges opted to also violate the declaratory decree of CT Practice Book 6-1, and deliberately failed to address Plaintiff's legal claims by affirming the entry of judgement with no opinion. *See Soto v. Christians Alliance, Inc., 193 Conn. App. 901 (2019)(per curiam).*

***b) Article 3 §2 of the US Constitution:***

***The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, ... ;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;— and between a State, or the Citizens thereof.***

9. Plaintiff is seeking judicial Power, via declaratory relief, to be extended to this Controversy arising under US Constitution, to which the United States Judicial Branch is a Party, and between the state of Connecticut and Pro Se Plaintiff is a natural born citizen thereof.

c) **Article 1 §2 of the Connecticut Constitution:**

*That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that they have at all times an undeniable and infeasible right to alter their form of government in such manner as they may think expedient.*

10. Pro Se Plaintiff argues that it is expedient for Judicial Power to address the controversies in this complaint. No Rule of law subordinate to Constitutional Supremacy, should be allowed to stand at the deprivation of proper administration of Justice. As it states in Article VI of the US Constitution: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

d) **28 U.S.C. Sec. 1331:**

*The district courts shall have **original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.***

11. This is a civil action arising under the Constitution of the United States. I have reason to believe the district court has original jurisdiction over the controversies being presented.

e) **28 U.S.C. § 1343(a)(1):**

*(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:*

*(1) To recover damages for injury to his person or property, or **because of the deprivation of any right or privilege of a citizen of the United States**, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;*

**42 USC 1985(2):** *if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;*

12. The deprivation of my original complaint being heard resulted in the probable loss of compensatory and punitive damages for a discrimination claim under which Connecticut law prescribes no monetary cap. I do believe there is sufficient evidence that the Judicial officer at the superior court and the Judicial officers at the appellate knowingly violated the **standard practice of encompassing a conclusion to each claim of law**, as declared in CT Practice Book 6-1, with the intent to hinder, obstruct and/or defeat my ability to obtain a ruling on the questions of law I lawfully raised in my pleadings and motions. I will however, affirm, that I prefer to renounce any monetary gain that may result from this claim if it will hinder or impeded the court's ability to issue the declaratory relief being sought.

**e) 28 U.S.C. § 1343(a)(2):**

*(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;*

13. Plaintiff argues that the appellate judges, the appellate court clerk responsible for posting the answer to my motion **after the expired timeframe** for me to appeal to the CT Supreme Court; the district court Judge who gave me 10 days to respond; and the district clerk who mailed the letter so I received it **after the expired timeframe** for me to reply; are all co-conspirators to the deprivation of my civil rights, whether willfully, knowingly, or with reckless indifference to my rights, and all have the power to prevent such abuse. The specific details of these facts are described in pages 17-20 of my complaint (Document 1). Plaintiff however, affirms that I prefer to renounce any recoverable damages if it will hinder, impede or further obstruct the remedy of declaratory relief being sought.

**e) 28 U.S.C. § 1343(a)(3):**

*(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;*

14. Plaintiff's position is that declaratory relief is necessary in order to meaningfully redress the **pervasive abusive practices** that lead to the deprivation of my civil right to effectively petition government and receive Justice in regards to my original complain that commenced in December of 2017.

**e) 28 U.S.C. § 1343(a)(4):**

*(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.*

15. In order to **secure equitable relief** that I present 10 U.S.C. § 892 Art. 92., as an example of, an Act of Congress, that provides a procedural remedy that can address the Dereliction of Duty for which Plaintiff is seeking relief via this action.

*U.S.C. §892 Art. 92. states: “Any person subject to this chapter who- (1) **violates or fails to obey any lawful general order or regulation;** (2) *having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order;* or (3) **is derelict in the performance of his duties;** shall be **punished as a court-martial may direct.**”*

16. Pro Se Plaintiff alleges that a Judicial officer is violating or failing to obey a lawful general order, when it fails to extend remedial Judicial Power to ALL cases, in Law and Equity as instructed by the US Constitution that it “shall” in Article 3. Section 2 which states:

*“The judicial Power **shall extend to all Cases**, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;”*

17. Pro Se Plaintiff argues that absolute immunity can not extend to a Judicial Officer not willing or able to perform the basic functions of the Judicial office. **A basic function of the Judicial officer is to provide a redress for the grievances presented to them.** The failure for a Judicial officer to provide a

redress or a path for which a redress may be obtained is a Dereliction of Judicial Duty.

18. Pro Se Plaintiff argues that a Judicial Officer, not competent to adjudicate a matter or able to prescribe a lawful remedial path is unfit to serve in the Office of Judge and should be subject to forfeit any and all compensatory benefits befitting those who do honorably discharging the duties of the office.

19. The only reason I mention the 2020 Presidential Election is to highlight the extent to which evading judicial responsibility has prevailed. Up to the US Supreme Court refusal to adjudicate a meaningful redress to the allegations of presidential election voter fraud! A dismissal for a “lack of standing claim” [to which every voting citizen and their representative should be able to claim standing on voter fraud] does not equate to “meaningful consideration, adjudication nor redress” to the widespread allegations of voter fraud that divided this nation in half. I personally voted for Trump in the 2020 election, and the fact that the controversy was not meaningfully resolved is simply another noteworthy claim for which I seek injunctive relief from “Dereliction of Judicial Duty”.

20. **Pro Se Plaintiff argues that the right to be heard by the Court, and the administration of redress, is a fundamental right secured by the US Constitution. The application of subordinate laws, rules and regulations to dismiss, obstruct, impede, or deny court worthy matters meaningful**

**consideration that result in the obstruction or denial of proper redress is a Dereliction of Judicial Duty and a direct violation of Article VI which states:**

*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, **shall be the supreme Law of the Land**; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the **Contrary notwithstanding**.*

21. Pro Se Plaintiff argues that the State of Connecticut violated the US Constitutional provision that expressly delegates Judicial Power, exclusively to the Judicial Branch, in the establishment of an administrative remedy under the Executive Branch over a Judicial matter.

22. Pro Se Plaintiff alleges that the ruling judgement in favor to dismiss that was held and affirmed by the state of Connecticut Superior and Appellate Court, elevates Executive Power over a Judicial matter to be superior to Judicial Power and Constitutional Law decrees that delegate “original jurisdiction” to The Court. This sets a dangerous precedent that dilutes the system of Checks and Balance clearly intended to exist at the formation of our Government. The fact that such a logic prevailed in the face of Pro Se Plaintiff asserting Constitutional Supremacy in my legal arguments is an injury the security and enforceability of US Citizen rights within the Jurisdiction of Connecticut. Due to the actions taken by the state with respect to my original

complaint, it is egregiously unclear if the state of Connecticut recognizes The US Constitution as Supreme Laws of our Land?

### **SUMMARY OF ARGUMENT**

23. Pro Se Plaintiff prays for the court to evaluate whether or not Constitutional Supremacy has been violated in the way my original complaint was handled. And whether or not such violations substantiate, dereliction of duty and merit ground to institute a remedy.

24. Pro Se Plaintiff prays for the court to evaluate whether or not it is within the jurisdiction of a Judge, and whether or not it is acceptable, in Law and Equity, for a judge's judicial capacity to permit the delay, denial or deprivation of redress for a grievance presented to The Court.

25. Pro Se Plaintiff prays for the court to evaluate whether or not it is acceptable, in Law and Equity, for absolute immunity to be extended to the willful, negligent, and reckless violation, disregard, or minimizing the authority of US Constitutional Provisions.

26. Pro Se Plaintiff prays for the court to evaluate whether it is necessary to divest a state of immunity through a statutory enactment in order to provide new safe-guards that protect US Citizens from the state's failure to affirm and support, whether by action, deed or enactment, the US Constitution as Supreme Laws of the Land, and for any injury occurring to a US Citizen as a result of the

failure to allow, any Thing in the Constitution or Laws of any state, Contrary to the US Constitution, to prevail over US Constitutional Rights.

27. Pro Se Plaintiff seeks declaratory relief that compels the Judicial Officer to abstain from using its discretionary power to evade Judicial responsibility to the people; and redirects discretionary power as a means by which to secure a path of redress can be extended to ALL cases and matters of controversies.

28. Pro Se Plaintiff seeks declaratory relieve that restates and affirms to the citizens of Connecticut, the fact that the State and its Judges are bound to uphold US Constitutional Supremacy at every level of Court.

### **CONCLUSION**

29. Recommended Ruling to dismiss this action pursuant to 28 USC § 1915(e)(2)(B) does not apply because I am not seeking monetary relief, my action is not frivolous or malicious, and I have stated claims upon which relief may be granted.

30. I pray that it is clear within the text of this objection that I am complaining about multiple allegations of judicial misconduct. Whether or not the allegations of misconduct apply to the natural order and function of judicial duties is part of the matter in question. I seek relief from the actions that have obstructed my right to have my grievance heard and redressed.

31. A Judge is subject to civil action under § 1983 for injunctive relief “ if a state-court declaratory decree was violated or state-court declaratory relief is unavailable. Both statements are true in my situation and I hope I clarified the details in paragraphs 6,7,8 and 12 of this document.

32. Irrespective of whether absolute immunity applies to the judges in my complaint, it is the applicability of such immunity, to the allegations of my complaint that is being challenged by my complaint. And whether soft guards should be enacted via congress to more perfectly secure US Citizens Constitutional rights as a matter of law and equity.

33. Ongoing violations of Constitutional law are being committed pervasively under the “official capacity of the Judicial Office,” in the State of Connecticut and across this nation, and I seek declaratory relief from the continuation of such violations.

34. The Eleventh Amendment immunity does not apply to me because it reads as follows:

*The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States **by Citizens of another State**, or by Citizens or Subjects **of any Foreign State**.*

This action has commenced against the State of Connecticut by a Citizen of the same State of Connecticut, and I am not a Citizen or Subject of a Foreign State.

35. Pro Se Plaintiff also reminds the Court that due to the context of the allegations contained herein, Pro Se Plaintiff demands to have a jury trial. On page 5 section (F) of the Civil Rights Complaint that was filed, explicitly depicts a check mark after “Yes” regarding the Jury Demand question “Do you wish to have a jury trial?”. The facts of my complaint clearly confer a direct conflict of interest for any Judicial Officer to be capable of fairly and impartially adjudicating this matter.

*Under CT Constituiont Article First Section 21.*

*The right of trial by jury shall remain inviolate.*

36. For these reasons, the undersigned objects to the dismissal of my complaint.

Dated this 5<sup>th</sup> day of April 2021 at Hartford, Connecticut.

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