

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRUCE J. HALL,

Plaintiff,

v.

Case No. 2:19-cv-11909

Hon. David M. Lawson

Magistrate Elizabeth A. Stafford

GRETCHEN WHITMER

(Governor of Michigan) &

Arron Payment¹

(Chairperson Sault Ste. Marie Tribe),

Defendants.

Bruce J. Hall

In Pro Per

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*Application for Admission pending

¹ The name and title appearing in the caption are incorrect. The correct name and title are Aaron Payment, Chairperson, Sault Ste. Marie Tribe of Chippewa Indians.

**MOTION TO DISMISS BY DEFENDANT AARON PAYMENT, CHAIRPERSON
SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS**

For the reasons set forth in the accompanying brief, Defendant Aaron Payment, Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians (“Defendant”), respectfully requests that Plaintiff’s Complaint be dismissed under Fed. R. Civ. P. 8(a) and 12(b)(6) because as to Defendant the Complaint fails to state a claim upon which relief can be granted.

Per LR 7.1, counsel for defendant, Stephanie R. Zehren, conferred by telephone with the Plaintiff, Bruce J. Hall, in Pro Per, and explained the nature of this motion and its legal basis and requested but did not obtain concurrence in the relief sought.

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Date: September 16, 2019

CERTIFICATE OF SERVICE

Matthew J. Boettcher, attorney with the law firm of PLUNKETT COONEY, being first duly sworn, deposes and says that on the 16th day of September, 2019, he caused a copy of this Motion to be served upon all parties of record, and that such service was made electronically upon each party of record and via U.S. Mail to any party not registered to receive electronic copies from the court, by enclosing same in a sealed envelope with first class postage fully prepaid, addressed to the above, and depositing said envelope and its contents in a receptacle for the US Mail.

PLUNKETT COONEY

By: /s/Matthew J. Boettcher
Matthew J. Boettcher
(P40929)

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**BRIEF OF DEFENDANT, AARON PAYMENT, CHAIRPERSON OF THE SAULT STE.
MARIE TRIBE OF CHIPPEWA, IN SUPPORT OF MOTION TO DISMISS**

STATEMENT OF ISSUE PRESENTED

Whether Plaintiff's complaint should be dismissed under Fed. R. Civ. P. 8(a) and 12(b)(6) because as to Defendant, Aaron Payment, Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians, the complaint fails to state a claim upon which relief can be granted?

Defendant says "Yes."

CONTROLLING OR MOST APPROPRIATE AUTHORITIES

Fed.R.Civ.P. 8

Fed.R.Civ.P. 12

Ashcroft v. Iqbal, 556 U.S. 662; 129 S.Ct. 1937; 173 L.Ed2d 868 (2009).

Windsor v. The Tennessean, 719 F.2d 155 (6th Cir. 1983)

Lee Western Reserve Psychiatric Habilitation Ctr., 747 F.2d 1062, 1065 (6th Cir. 1984)

Greenan v. Romeo Village Police Department, 819 F. Supp. 658, 665 (E.D. Mich. 1993)

Echols v. Voisine, 506 F.Supp. 15 (E.D. Mich., 1979)

Abner v. SBC (Ameritech), 86 Fed. Appx. 958; 2004 WL 237438 (6th Cir. 2004)

STATEMENT OF FACTS

Because Defendant's motion requests dismissal for failure to state a claim upon which relief can be granted, the only claims to be considered are those pled in Plaintiff's Complaint.³ Indeed, rather than attempt to restate Plaintiff's claims, the entire Complaint is attached and incorporated here by reference. *See, Exhibit A.*

As best as can be discerned from the Complaint, Plaintiff appears to be making a claim to enforce certain contracts and treaties to which he was not a party, but is apparently "next of kin." He also requests relief in the form of having this Court issue an order to the State of Michigan to enter into a new Memorandum of Understanding (MOU) Tax agreement, directing the United States Department of Justice to investigate certain alleged mineral rights on behalf of Plaintiff and others, and issuing an order for the United States Department of Interior to conduct an investigation with respect to the Michilimackinac descendants of the Sault Ste. Marie Tribe of Chippewa Indians.

³ Defendant does not admit or endorse any of the facts or claims stated in Plaintiff's Complaint.

STANDARD OF REVIEW

Defendant brings this motion under Fed. R. Civ. P. 8(a) and 12(b)(6), on the ground that Plaintiff's Complaint fails to state a claim on which relief can be granted.

A Court considering a motion under Fed. R. Civ. P. 12(b)(6) must construe the complaint to determine if it contains sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662; 129 S.Ct. 1937; 173 L.Ed2d 868 (2009). The Court's inquiry is limited to whether the challenged pleading sets forth allegations sufficient to make out the elements of a right to relief. *Windsor v. The Tennessean*, 719 F.2d 155, 158 (6th Cir. 1983).

The complaint should be dismissed if the plaintiff can prove no set of facts in support of his claim, which would entitle him to relief. *Lee Western Reserve Psychiatric Habilitation Ctr.*, 747 F.2d 1062, 1065 (6th Cir. 1984); *see also Greenan v. Romeo Village Police Department*, 819 F. Supp. 658, 665 (E.D. Mich. 1993). However, the Court "need not accept as true legal conclusions or unwarranted factual inferences." *Id.*

ARGUMENT

A. Plaintiff's Complaint should be dismissed because it fails to state a claim upon which relief can be granted.

Rule 8(a)(2) of the Federal Rules of Civil Procedure calls for “a short and plain statement of the claim showing that the pleader is entitled to relief.”

Rule 8(e)(1) requires that “each averment of a pleading shall be simple, concise and direct.”

Plaintiff's Complaint fails to satisfy the requirements of Rule 8 because it is incomprehensible. As such, Plaintiff's Complaint should be summarily dismissed. *See, Echols v. Voisine*, 506 F. Supp. 15, 18 (E.D. Mich. 1979) (plaintiff's complaint dismissed because “[h]er whole pleading is a mixture of conclusions of law, evidentiary statements, irrelevant pejoratives, conjecture and random remarks which defy rational understanding and comprehension.”); *Abner v. SBC (Ameritech)*, 86 Fed. Appx. 958; 2004 WL 237438 (6th Cir. 2004) (“the district court properly dismissed Abner's complaints, as they lacked an arguable basis in law or fact. The complaints were completely incomprehensible and contained no legal theories upon which a valid federal claim may rest.”).

Put simply, Plaintiff's rambling allegations do not state a cause of action against Defendants, including Chairperson Payment. Indeed, from the

Complaint Defendant has no idea as to what he allegedly did wrong, or what claims he is being asked to defend. The Complaint does not set forth any allegations sufficient to make out the elements of a claim for relief. Indeed, none of the relief sought is directed in any way to the Chairperson Payment.

Defendant fully reserves and retains all other defenses or challenges that may be available, including without limitation, tribal sovereign immunity and/or any other jurisdictional objections.

CONCLUSION AND RELIEF REQUESTED

For these reasons, Defendant respectfully requests that this Court dismiss Plaintiff's Complaint, and that Defendant be granted such other relief as the Court deems just.

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