

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOHNNY DUNCAN

NO. 15-5486

VERSUS

SECTION: B – LEMELLE

STATE OF LOUISIANA, *et al.*

MAG. JUDGE: 1 – SHUSHAN

MOTION TO DISMISS PURSUANT TO
FED. R. CIV. P 12(b)(6)

NOW INTO COURT, through undersigned counsel, come the Defendants Tangipahoa Parish Registrar of Voters Office and John Russell in his official capacity as Tangipahoa Parish Registrar of Voters, (collectively “Registrar Defendants”) who move this Honorable Court, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss the above-entitled action on the ground that, as demonstrated by the following, it fails to state a claim on which relief may be granted.

1.

Rule 12(b)(6) of the Federal Rules of Civil Procedure permits a motion to dismiss for failure of the complaint to state a claim on which relief can be granted.

2.

While a complaint need not have detailed factual allegations, a plaintiff does have the obligation to provide the grounds for his entitlement to relief. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955 (2007).

3.

The complaint must contain enough factual material to let the court draw the reasonable inference that the defendant is liable based on the misconduct alleged. *Id.*

4.

The plaintiff must plead enough facts to state a claim for relief that is plausible on its face. *Id.* at 570. "Factual allegations must be enough to raise a right to relief above the speculative level . . . on the assumption that all the allegations in the complaint are true (even if doubtful in fact) . . ." *Id.* at 1965.

5.

Conclusory allegations and unwarranted factual deductions will not suffice to avoid a motion to dismiss. *United States ex rel. Willard v. Humana Health Plan of Texas, Inc.*, 336 F.3d 375, 379 (5th Cir. 2003).

6.

Therefore, assuming all of the facts raised in Plaintiff's Complaint are true, the complaint fails to state a claim on which relief may be granted as to the Registrar Defendants, all of which is more fully shown by the memorandum attached to this motion and incorporated by reference.

Respectfully submitted this 27th day of December, 2015.

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BY: 

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and Registrar of Voters John Russell*

CERTIFICATE OF SERVICE

I do hereby certify that, on this 27th day of December 2015, the foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system which gives notice of filing to all counsel of record. Counsel of record not registered in the CM/ECF system were served via other means.

Baton Rouge, Louisiana, this 27th day of December 2015.



William P. Bryan, III