

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

QUINCY J. CANNON,

Plaintiff,

v.

RICHMOND COUNTY SHERIFF'S
DEPARTMENT,

Defendant.

CIVIL ACTION NO.: CV 124-035

MOTION TO DISMISS

COMES NOW Defendant Richmond County Sheriff's Office, misidentified as the Richmond County Sheriff's Department, and files this Motion to Dismiss, showing the Court the following:

PLAINTIFF'S ALLEGATIONS

Plaintiff alleges that he was employed as a deputy sheriff with the Richmond County Sheriff's Office ("RCSO") from June 2, 2018 to November 22, 2022. Doc. 7 ¶ 2. Plaintiff alleges that on November 11, 2022 he arrested an extremely combative person. *Id.* ¶ 21. The Georgia Bureau of Investigation instituted an investigation into the use of excessive force on that arrestee which resulted in Plaintiff's arrest on December 15, 2022. *Id.* ¶ 22, 26. Plaintiff further alleges that his POST certification was rescinded and that he was asked to resign or be terminated by the Chief Deputy of the RCSO. *Id.* ¶ 27-28. Plaintiff has filed this suit against the Richmond County Sheriff's Office alleging race discrimination under Title VII. *Id.* ¶ 47. Specifically, Plaintiff alleges that white deputies were treated more favorably than him. *Id.* ¶ 51.

MOTION TO DISMISS STANDARD

Federal Rule of Civil Procedure 12(b)(6) provides for dismissal of a complaint for failure to state a claim upon which relief can be granted. To survive a motion to dismiss, a plaintiff's complaint must state a plausible claim for relief. Fed. R. Civ. P. 8(a)(2); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Factual allegations must raise a right to relief above the speculative level. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). A plaintiff must plead factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Ashcroft* at 678.

ARGUMENT

A. The Richmond County Sheriff's Office Is Not A Legal Entity Subject To Suit.

In Georgia, legal entities are limited to natural persons, artificial persons such as corporations, and quasi-artificial persons that the law designates with capacity. *Ga. Insurers Insolvency Pool v. Elbert County*, 258 Ga. 317, 318 (1988). A sheriff's office does not fall into one of those categories, and it is not a legal entity subject to suit. *Seibert v. Alexander*, 351 Ga. App. 446 (2019); *Dean v. Barber*, 951 F.2d 1210, 1214 (11th Cir. 1992); *Ocampo v. Appling County Sheriff's Office*, No. 2:17-cv-70, 2017 U.S. Dist. Lexis 137064, *10 (S.D. Ga. Aug. 25, 2017), adopted by 2017 U.S. Dist. LEXIS 176808 (S.D. Ga. Oct. 25, 2017). Thus, Plaintiff's claims against the Richmond County Sheriff's Office should be dismissed.

CONCLUSION

Based on the foregoing, Plaintiff fails to state a claim, and Plaintiff's complaint should be dismissed.

Respectfully submitted this 5th day of June 2024.

/s/Tameka Haynes

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CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the foregoing **Motion to Dismiss** in accordance with ECF rules by electronically filing a copy with the Clerk of Court using the CM/ECF system, via email, or via the United States Mail with adequate postage attached thereon to:

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This 5th day of June 2024.

/s/Tameka Haynes
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Georgia Bar No. 453026
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