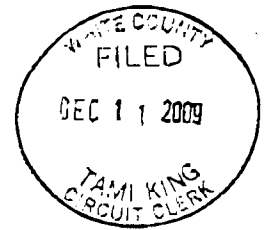


IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
FIRST DIVISION



JERRY L. MYERS

PLAINTIFF

v.

NO. CV-2009-617

STATE OF ARKANSAS

DEFENDANT

MOTION FOR JUDGMENT ON THE PLEADINGS

Pursuant to Rule 12(c) of the Arkansas Rules of Civil Procedure, defendant the State of Arkansas submits the following motion to dismiss the complaint of plaintiff Jerry L. Myers, and states:

1. Myers filed his complaint for declaratory judgment against the State of Arkansas, asking the Court to declare Ark. Code Ann. § 5-62-120, as amended by Arkansas Act 33 of 2009, unconstitutional.
2. The State of Arkansas timely answered the complaint on October 9, 2009, and now moves the Court to grant judgment in its favor on the pleadings pursuant to Rule 12(c) of the Arkansas Rules of Civil Procedure.
3. Myers' complaint should be dismissed for each of the following reasons:
 - a. Myers' complaint is barred by the doctrine of sovereign immunity. Thus, the Court lacks subject matter jurisdiction over the plaintiff's complaint. Accordingly, the complaint should be dismissed pursuant to Article 5, Section 20 of the Arkansas Constitution and Rules 12(b)(1) and 12(b)(6) of the Arkansas Rules of Civil Procedure.
 - b. Even if Myers' complaint was not barred by the doctrine of sovereign immunity, Myers lacks standing to bring his complaint.

c. Even if Myers' complaint was not barred by sovereign immunity, and if Myers did have standing to bring this complaint, Myers has failed to state facts that, even if true, would compel the Court to conclude that the challenged statute is unconstitutional. Accordingly, the complaint should be dismissed pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure.

d. If Myers were permitted to proceed against the State of Arkansas, venue is improper in this Court pursuant to Ark. Code Ann. § 16-60-103(3). Accordingly, the complaint should be dismissed pursuant to Rule 12(b)(3) of the Arkansas Rules of Civil Procedure.

e. Myers has failed to perfect service of process on the State of Arkansas. Thus, the Court has not obtained personal jurisdiction over the defendant. Accordingly, the complaint should be dismissed pursuant to Rules 12(b)(2) and 12(b)(5) of the Arkansas Rules of Civil Procedure.

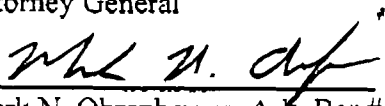
4. A brief in support of this motion to dismiss is being filed contemporaneously.

WHEREFORE, the State of Arkansas respectfully requests the Court to dismiss the complaint of plaintiff Jerry L. Myers, and to grant the State of Arkansas all other appropriate relief.

Respectfully Submitted,

DUSTIN McDANIEL
Attorney General

By:

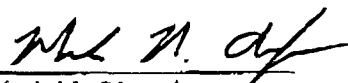

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CERTIFICATE OF SERVICE

I, Mark N. Ohrenberger, do hereby certify that on December 9, 2009, I served a copy of the foregoing document on the following individual via U.S. Mail:

Mr. John Ogles
Ogles Law Firm, P.A.
P.O. Box 891
Jacksonville, Arkansas 72078


Mark N. Ohrenberger