STATE OF MICHIGAN

COURT OF CLAIMS

MARK FOLEY,

Plaintiff,

v

Case No. 25-000109-MB

MICHIGAN STATE POLICE,

Hon. Sima G. Patel

Defendant.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION

In this mandamus action, plaintiff, Mark Foley, alleges that defendant, the Michigan State Police (the MSP), denied his request to reopen an investigation into allegations of misuse of the Law Enforcement Information Network (LEIN) on the part of a Kalamazoo police officer. The MSP moves for summary disposition under MCR 2.116(C)(8) at the outset of the case on the basis that plaintiff cannot state a claim for mandamus relief. The Court agrees with the MSP and therefore GRANTS the motion and DISMISSES plaintiff's complaint.

I. BACKGROUND

Plaintiff's lawsuit arises from a March 2020 incident, in which he confronted his wife, Danielle Foley, about a suspected extramarital affair. At the time, Danielle worked in local law enforcement. Danielle allegedly threatened plaintiff's life during the conversation, which occurred over text message. Danielle said she had " 'friends and family in the police and courts,' " and would use her connections if plaintiff reported her threats to law enforcement. Danielle allegedly

told plaintiff she filed a criminal complaint against him and claimed a police officer named Michael DeLoach was coaching her on what to say in relation to the criminal investigation.

According to plaintiff, he reported these threatening statements to the police in April 2020 and turned over the text messages in question. Plaintiff alleges that in July 2020, Kalamazoo Department of Public Safety Officer Matthew McLove gave Danielle plaintiff's home address without plaintiff's consent. Plaintiff and Danielle were not living together at that time. Plaintiff asserts he did not give Officer McLove his address, contrary to a statement that Officer McLove made in a July 2020 police report. Thus, plaintiff surmises that Officer McLove used the LEIN to obtain his address and provide it to Danielle.

In April 2022, plaintiff submitted a request to the City of Portage under the Freedom of Information Act (FOIA), MCL 15.231 *et seq*., for information about his April 2020 police report. He asserts that the response was mailed to him, but Danielle intercepted the mail. Plaintiff eventually received some documents responsive to his FOIA request. Later that month, plaintiff filed a complaint against Officer McLove with the Kalamazoo Department of Public Safety Office of Professional Standards. Plaintiff alleges that Kalamazoo Public Safety Captain Danielle Guilds issued a letter of determination in response to his complaint, in which she stated that Officer McLove "had left the department, was not interviewed by Internal Affairs, had accessed the LEIN database, but did not pursue the issue any further." Plaintiff alleges his request with the Kalamazoo Department of Public Safety to reopen the investigation was immediately denied.

Plaintiff asserts that on July 24, 2023, he contacted Lynette Felton, of the MSP, to open an investigation into the alleged LEIN misuse at the Kalamazoo Department of Public Safety. In March 2024, while his request for investigation was pending, plaintiff requested "concurrence"

from the MSP's staff counsel under Court of Claims "LCR 2.119(2)"[1] even though no action was pending in this Court. Later that month, Felton contacted plaintiff via e-mail and informed him the matter would be investigated. Several months later, on June 18, 2024, Felton told plaintiff via e-mail, " 'The investigation for the complaint into LEIN misuse is complete and has been determined to be unfounded.' " Plaintiff asserts he made another "demand for concurrence" under LCR 2.119(A)(2), but no further information was provided. He alleges that because of his demand for concurrence, the MSP initiated an Internal Affairs investigation against Felton, which was against plaintiff's wishes. On July 22, 2024, the Internal Affairs complaint was completed.

On May 30, 2025, plaintiff filed requests for investigation with the Judicial Tenure Commission (JTC) against the judges involved in plaintiff's domestic-relations matter. He alleges that in those requests for investigation, he "made a full disclosure . . . of a death threat received from Danielle Foley while she was under the employment of the City of Portage Department of Public Safety." On June 16, 2025, plaintiff asked Felton to reopen the MSP investigation on the basis of the information he disclosed to the JTC. Plaintiff cited four statutes as legal support for his request: MCL 28.214, MCL 750.122, MCL 750.505, and MCL 750.217c. On June 25, 2025, Felton informed plaintiff that the LEIN-misuse issue would not be investigated further.

Plaintiff filed this lawsuit on June 27, 2025. In his amended complaint,[2] plaintiff alleges that the MSP had a duty to reopen the investigation into his LEIN-misuse allegations because of

[1] This Court will presume that plaintiff meant to cite LCR 2.119(A)(2), which relates to concurrence in a motion. The rule cited by plaintiff, LCR 2.119(2), does not exist.

[2] After this Court issued a show-cause order, plaintiff filed an amended complaint containing a verification as required under MCL 600.6434(2), as well as a verified notice of intent, thus complying with the requirements of the show-cause order.

his "recent disclosure of critical facts" in his JTC request for investigation. He adds that the documents he obtained through his FOIA request reveal that Danielle "authenticated the threatening text messages by providing copies to the investigator. These very communications now serve as central supporting evidence for the death threat allegation in the [JTC] Request for Investigation . . . ." It is unclear from the amended complaint exactly what new evidence plaintiff asserts he presented to the MSP that was not already available to plaintiff or the MSP at the time of the original investigation. Plaintiff argues that the various inconsistencies and failures among the agencies to investigate his allegations of LEIN misuse required the MSP to reopen the investigation into Officer McLove and various other public officials. He asserts that the alleged LEIN misuse violated his due-process and equal-protection rights.

Plaintiff attaches a variety of documents to his complaint, including documents relating to the 2020 events and the various investigations. Plaintiff requests that this Court (1) issue a writ of mandamus "to compel the [MSP] to immediately reopen and conduct a thorough, impartial, and complete investigation into the allegations outlined in the Plaintiff's complaint," (2) issue a ruling on the interpretation of LCR 2.119(A)(2) and "compel production of concurrence for this and any other case if a [sic] plaintiff requests," and (3) refer the matter to the Attorney General for investigation and prosecution.

The MSP moves for summary disposition at the outset of the case under MCR 2.116(C)(8), arguing that plaintiff does not have a clear legal right to have the MSP reopen the investigation and that the MSP does not have a clear legal duty to do so. The MSP also argues that the act of investigating alleged misconduct requires the exercise of discretion and judgment and therefore cannot be considered ministerial in nature. The MSP further contends that this Court need not issue a ruling on the interpretation of LCR 2.119(A)(2) because the plain meaning of the local

court rule is clear and does not require judicial construction. Plaintiff was served with a copy of the motion for summary disposition but has not responded. The Court dispenses with oral argument under LCR 2.119(E)(3).

II. ANALYSIS

The MSP moves for summary disposition under MCR 2.116(C)(8). A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of the complaint by examining whether the nonmoving party has failed to state a claim on which relief can be granted. *McCoy v Berrien Co Clerk*, 348 Mich App 602, 613; 19 NW3d 897 (2023). The motion is decided on the basis of the pleadings alone, and the Court will accept as true all factual allegations supporting the claims, as well as reasonable inferences or conclusions that may be drawn from the facts. *Id*. "The court may grant a motion for summary disposition under MCR 2.116(C)(8) only when a claim is so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *Id*. (cleaned up). The Court will consider the documents attached to plaintiff's complaint as part of the pleading. See MCR 2.113(C)(1) and (2).

Plaintiff requests a writ of mandamus, which is an extraordinary remedy falling within the Court's discretion. *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016).

> To obtain the extraordinary remedy of a writ of mandamus, the plaintiff must show that (1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result. In relation to a request for mandamus, a clear, legal right is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided. [*Id*. (cleaned up).]

As far as whether an act is ministerial in nature, "[a] ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Id*. at 42 (cleaned up).

At the outset, the Court notes that plaintiff's allegations relating to LCR 2.119(A)(2) involve a misunderstanding of the language of this local court rule, which provides, in the context of motion practice in this Court, "The moving party must affirmatively state that he or she requested opposing counsel's concurrence in the relief sought on a specified date, and that opposing counsel has denied or not acquiesced in the relief sought, and therefore, that it is necessary to present the motion." This local court rule relates to the requirement that a party request concurrence in the relief sought when a *motion* is filed in this Court. It does not create an independent right to mandamus relief.

Plaintiff further alleges he had a clear legal right to have the MSP "reopen and conduct a thorough, impartial, and complete investigation" into plaintiff's allegations. In his complaint, plaintiff relies on five statutes to support that he had a right to further investigation: MCL 28.214, MCL 750.122, MCL 750.217c, MCL 750.483a, and MCL 750.505. The Court concludes that none of these statutes grants plaintiff a clear legal right to a reopened MSP investigation.

Starting with MCL 28.214, a provision of the CJIS Policy Council Act, MCL 28.211 *et seq.*, this statute outlines the duties of the Criminal Justice Information Systems (CJIS) Policy Council and prohibits the unauthorized disclosure of information governed by the CJIS Policy Council Act. See MCL 28.214(1) and (4)-(5). Reviewing the statute as a whole, there is nothing in its language that would create a clear legal right to reopen the MSP investigation into alleged

LEIN misuse. Nor is there any language in this statute that creates a clear legal duty on the part of the MSP to perform the requested act.

The other four statutes on which plaintiff relies are separate provisions of the Michigan Penal Code, MCL 750.1 *et seq.* These provisions also do not outline a clear legal right to performance of the duty sought. MCL 750.122 is a criminal statute prohibiting witness bribery, interference, retaliation, and intimidation. MCL 750.505 outlines the punishment for indictable common-law offenses. MCL 750.217c prohibits falsely impersonating a public officer or employee. MCL 750.483a prohibits a variety of misconduct, including evidence tampering, withholding of information ordered by the court to be produced, interference with or retaliation for reporting a crime, influencing a statement made to a police officer, and offering false evidence.

Although these statutes criminalize certain conduct that plaintiff alleges has occurred in the context of his dispute with Danielle, none of the statutes outline a clear legal right to have the MSP investigate or reopen an investigation into alleged LEIN misuse upon receipt of alleged new evidence. Nor do any of these statutes outline a clear legal duty on the part of the MSP to either reopen the investigation into the allegations outlined in plaintiff's complaint or to have the matter referred to the Attorney General for further review. Plaintiff does not articulate in his amended complaint any other law that would provide him with a clear right to have the MSP investigation reopened. Therefore, plaintiff does not have a clear legal right to performance of the duty sought, and the MSP does not have a clear legal duty to perform the requested act.

The claim also fails, as a matter of law, because the requested act is discretionary in nature. The decision whether to reopen a previously closed misconduct investigation on the basis of new evidence is the type of decision that requires an exercise of discretion or judgment. The decision-

maker must evaluate whether the new evidence provided by the claimant is legitimate and warrants a renewed investigation.[3] Because plaintiff cannot state a claim in relation to the first three elements of mandamus relief, the Court will not address the final element of whether no other adequate legal or equitable remedy exists that might achieve the same result. For these reasons, plaintiff's mandamus claim fails as a matter of law, and summary disposition is warranted in the MSP's favor under MCR 2.116(C)(8).

III. CONCLUSION

IT IS ORDERED:

1. Defendant's motion for summary disposition is GRANTED.
2. Plaintiff's complaint is DISMISSED with prejudice.
3. This is a final order resolving all issues in this matter.

Date: May 28, 2026

Sima G. Patel
Judge, Court of Claims

[3] Although, as plaintiff states in his amended complaint, allegations in a pro se complaint are generally held to less stringent standards than a formal pleading prepared by a lawyer, plaintiff's claim for mandamus relief is legally unenforceable, and no factual development could possibly justify recovery. See *Haines v Kerner*, 404 US 519, 520; 92 S Ct 594; 30 L Ed 2d 652 (1972).