STATE OF MICHIGAN

COURT OF CLAIMS

TIMOTHY ALAN LIVERMORE,

Plaintiff,

v

Case No. 26-000004-MM

Hon. Sima G. Patel

MICHIGAN DEPARTMENT OF CORRECTIONS, MICHIGAN STATE POLICE/SORU ET AL, HEIDI WASHINGTON, ABIGAIL M. GAINEY, MARTIN J. BYRNES, JAMI SELDEN-MANOR, and AL RENZ,

Defendants.
_____ /

OPINION AND ORDER DISMISSING CLAIMS AGAINST INDIVIDUAL DEFENDANTS, DENYING THE PARTIES CROSS-MOTIONS FOR SUMMARY DISPOSITION, AND DIRECTING PLAINTIFF TO FILE AN AMENDED COMPLAINT

I. BACKGROUND

On January 6, 2026, plaintiff Timothy Alan Livermore filed suit against the Michigan Department of Corrections (MDOC), Michigan State Police (MSP), and several named individual defendants. Plaintiff was required to register and be named on Michigan's Sex Offender Registration (SORA) from October 12, 2018 through August 20, 2024 following his 2017 Michigan conviction for resisting and obstructing a peace officer. Plaintiff was required to register based on a 2006 Florida conviction for holding the minor children of his girlfriend prisoner during a domestic violence event. It is undisputed that none of plaintiff's convictions were for sexual offenses or events with a sexual component. Following the Michigan Supreme Court's ruling in

People v Lymon, 515 Mich 145; 29 NW3d 58 (2024), that requiring an individual whose offense contained no sexual component to register under SORA amounts to cruel and unusual punishment, defendants eliminated plaintiff's registration requirement and removed his name from the SORA.

In the current action, plaintiff contends that his placement on the SORA amounted to cruel and unusual punishment and violated his right to due process. Plaintiff also contends that defendants committed libel or slander. He seeks monetary relief for his damages. The complaint is only five pages long and includes sparse allegations to support the claims.

On February 2, 2026, plaintiff moved for summary disposition in his favor under MCR 2.116(C)(10), raising for the first time factual allegations supporting his claims. He appended approximately 140 pages of exhibits to support his motion, material that otherwise would not be before the Court until the completion of discovery. For the purposes of considering the parties' cross-motions for summary disposition only, the Court will consider plaintiff's summary disposition motion as including an attempt to amend the complaint.

The MDOC and MSP filed separate but substantively identical motions for summary disposition pursuant to MCR 2.116(C)(4), (7), and (8) on March 17, 2026. Defendants contend that plaintiff's complaint lacked sufficient factual allegations to state a claim for relief. Defendants also contend that plaintiff's claims accrued when his name was placed on the SORA in 2018 and, therefore, are barred for failure to file notice of the claims within the notice period of MCL 600.6431 of the Court of Claims Act (COCA) or the three-year COCA statute of limitation in MCL 600.6452(1).

It should be noted that no party responded to the opposing side's motion for summary disposition.

II. INDIVIDUAL DEFENDANTS

Plaintiff made no allegation in the complaint that he was suing the five named individual defendants—Heidi Washington, Abigail M. Gainey, Martin J. Byrnes, Jami Selden-Manor, and Al Renz—in their official capacities. Although plaintiff generally stated in the complaint that "state officials" had engaged in conduct that violated his constitutional rights and amounted to libel or slander, plaintiff made no factual allegations to explain the individual defendants' actions.

In the brief supporting his motion for summary disposition, plaintiff identified Abigail M. Gainey as the presentencing investigator assigned to his case but made no allegation of any action on her part. He identified Martin J. Byrnes as an "MDOC Agent" who met with plaintiff on October 12, 2018, at the jailhouse and allegedly informed plaintiff that he, Byrnes, had authority to place him on the SORA and there was no opportunity for judicial review of that decision. Jami Selden-Manor, plaintiff asserted, was a supervisor in the Sex Offender Registration Unit and refused plaintiff's request during a telephone conversation on August 19, 2024, to remove plaintiff's name from the SORA because there was no court order for his removal. Plaintiff made no allegations against, and never mentioned, MDOC Director Heidi Washington or defendant Al Renz.

Pursuant to MCL 600.6419(1) and (7), this Court has jurisdiction over an individual "officer, employee, or volunteer of this state" only if that person was acting, or reasonably believed they were acting, "within the scope of his or her authority while engaged in or discharging a government function in the course of his or her duties." Plaintiff made no allegation pertaining to defendants Washington and Renz and although he mentioned defendant Gainey, plaintiff made no allegation of any wrongdoing. Absent any allegation in the complaint to support this Court's

jurisdiction, the Court DISMISSES plaintiff's claims against defendants Washington, Renz, and Gainey.

III. COCA NOTICE AND STATUTORY LIMITATIONS PERIODS

The MDOC and MSP seek dismissal of plaintiff's claims because he did not file his claim or notice of intent (NOI) to file his claim within the timeframe provided in MCL 600.6431(1) and (4) or the three-year statute of limitations of MCL 600.6452(1). The requirements of MCL 600.6431 are conditions precedent to "successfully expose the defendant state agencies to liability," *Fairley v Dep't of Corrections*, 497 Mich 290, 298; 871 NW2d 129 (2015), and the failure to comply with the notice requirements mandates dismissal of the case, *Elia Cos, LLC v Univ of Mich Regents*, 511 Mich 66, 68; 993 NW2d 392 (2023).

Plaintiff was placed on the SORA on October 12, 2018, and his name was removed on August 20, 2024. Plaintiff filed his NOI on January 28, 2025, and his complaint on January 6, 2026. Defendants contend that plaintiff's claims accrued on the date his name was placed on the SORA. Accordingly, defendants argue that plaintiff was required to file his NOI by April 12, 2019, and that the statute of limits expired on October 12, 2021. If plaintiff's claims accrued on the date he was removed from the SORA, however, his claims would be timely. Therefore, the date of accrual is outcome determinative in this matter.

In general, MCL 600.5827 states that a claim accrues for purposes of calculating a period of limitations "at the time the wrong upon which the claim is based was done regardless of the time when damage results." The date of the "wrong" is "the date on which the defendant's breach harmed the plaintiff, as opposed to the date on which defendant breached his duty." *Frank v*

Linkner, 500 Mich 133, 150; 894 NW2d 574 (2017) (cleaned up). "The relevant 'harms' for that purpose are the actionable harms alleged in a plaintiff's cause of action." *Id.*

In the complaint, plaintiff alleged that he was harmed through "lost wages and mental suffering" throughout the period he was placed on the SORA. In his motion for summary disposition, plaintiff stated that he relied upon the harms delineated in his motion under MCR 6.500 in his underlying criminal action. In the attached motion for relief from judgment under MCR 6.500, plaintiff alleged that he was not permitted to attend events at the local high school, was disqualified from serving as a chaperone and other volunteer opportunities at his church, had been confronted in public with "displays of distaste and vulgar language," and has contemplated suicide. Plaintiff asserted without explanation that his SORA registry had impacted "areas such as housing, employment, relationships, traveling, etc." Plaintiff provided no dates for specific incidents.

The Court finds summary disposition based on the timeliness of the NOI and complaint unwarranted at this time. Plaintiff alleged that he suffered harm throughout the six years he was required to register under the SORA. Plaintiff's name was removed from the registry on August 20, 2024. He filed his NOI within six months of that date and filed his complaint within three years. Accordingly, the Court DENIES defendants' motion for summary disposition on this ground.

IV. MCR 2.116(C)(8) AND (10)

The MDOC and MSP also seek summary disposition under MCR 2.116(C)(8), contending that the complaint lacks sufficient factual allegations to state a claim for relief. Plaintiff, on the other hand, seeks summary disposition in his favor under MCR 2.116(C)(10).

> A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint. When considering such a motion, a trial court must accept all factual allegations as true, deciding the motion on the pleadings alone. A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery.
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> A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim. When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ. [*El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019) (cleaned up).]

In relation to defendants' summary disposition motion, the Court agrees that plaintiff's complaint did not sufficiently allege his claims. In his motion for summary disposition and accompanying brief, however, plaintiff more thoroughly outlined his claims. The Court could grant defendants' motion for summary disposition under MCR 2.116(C)(8) and allow plaintiff to file an amended complaint pursuant to MCR 2.116(I)(5). In the interest of judicial expedience, the Court instead DENIES defendants' motion for summary disposition and DIRECTS plaintiff to file an amended complaint that incorporates the detailed allegations included in his motion for summary disposition and accompanying brief.

Because plaintiff is directed to file an amended complaint, the Court will withhold ruling on his motion for summary disposition at this time. However, the Court notes that it appears clear based on *Lymon*, 515 Mich 145, that plaintiff's right to be free from cruel and unusual punishment was violated while he was required to register under the SORA.

IT IS ORDERED:

1. The Court DISMISSES plaintiff's claims against defendants Heidi Washington, Abigail M. Gainey, and Al Renz.

2. The Court otherwise DENIES defendants' motions for summary disposition without prejudice to defendants seeking summary disposition at a later date.

3. The Court DENIES plaintiff's motion for summary disposition without prejudice to plaintiff seeking summary disposition at a later date.

4. Plaintiff is DIRECTED to file and serve an amended complaint no later than September 30, 2026.

5. This is not a final order resolving all issues in this case.

Date: September 14, 2026

Sima G. Patel
Judge, Court of Claims