STATE OF MICHIGAN

COURT OF CLAIMS

VINCENT BURGESS,

Plaintiff,

v

Case No. 26-000112-MM

MICHIGAN STATE POLICE,

Hon. Sima G. Patel

Defendant.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S SECOND MOTION FOR SUMMARY DISPOSITION

Plaintiff filed suit on May 27, 2026, alleging that officers within defendant, Michigan State Police (MSP), engaged in misconduct, failed to investigate murder and theft complaints, lied to plaintiff, and expressed bias in favor of its officers and against plaintiff. Plaintiff raised two counts: (1) seeking a writ of mandamus to compel defendant to follow its internal regulations and misconduct investigation procedures, and (2) "gross negligence & equal protection" based on the "intentional falsification of reports, active bias, and arbitrary withdrawal of emergency telephonic reporting access" that "caused severe economic, administrative, and emotional harm."

On June 18, 2026, defendant sought summary disposition, contending that plaintiff filed notice of his claim beyond the six-month notice period of MCL 600.6431(4) of the Court of Claims Act (COCA). The Court denied defendant's motion because although plaintiff failed to file notice of his claim within the COCA notice period, the notice period was tolled due to plaintiff's disability.

Defendant thereafter filed an answer to plaintiff's complaint but also moved for summary disposition under MCR 2.116(C)(7) (governmental immunity) and MCR 2.116(C)(8) on August 25, 2026. Plaintiff did not respond to the motion within 14 days as required by Court of Claims LCR 2.119(C)(2). In reviewing defendant's motion under (C)(7) and (8), the court must accept as true the allegations in the complaint unless contradicted by evidence presented by the parties. *Odom v Wayne Co*, 482 Mich 459, 466; 760 NW2d 217 (2008); *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). Summary disposition is warranted under (C)(7) when a plaintiff has not pleaded a claim in avoidance of governmental immunity as a matter of law, *Odom*, 482 Mich at 466, and under (C)(8) when plaintiff has not pleaded a legally sufficient claim upon which relief could be granted. *El-Khalil*, 504 Mich at 159.

In Count I, 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).]

Plaintiff contends that defendant had a clear legal duty "to follow PSS [Professional Standards Section] regulations and internal misconduct procedures" and investigate two complaints filed by plaintiff—PSS-427-22 and PSS-173-25. Plaintiff contends that defendant administratively closed these complaints in bad faith and "completely failed to investigate" the alleged acts of officer misconduct. He contends that defendant "actively ignor[ed] confessed

supervisor bias and officer dishonesty." However, plaintiff has not identified any regulation or internal misconduct procedure by which defendant was bound.

In relation to officer dishonesty, plaintiff alleges that on July 15, 2022, "[Trooper] Kristina Droste sent legislative correspondence confirming that she had fully briefed [Detective-Sergeant] Adam Henderson on Plaintiff's criminal complaints" but that Henderson "lied directly to Plaintiff, claiming he had no knowledge of Plaintiff's identify to obstruct the investigation of severe felonies" included in the criminal reports plaintiff had made. Plaintiff did not attach the alleged "legislative correspondence" to his complaint or describe the correspondence in any detail. Because the MSP is a department within the Executive Branch, no correspondence from Droste to plaintiff could be described as "legislative." See <https://www.michigan.gov/som/government/branches-of-government/executive-branch>. The Court is left to assume that Trooper Droste sent a letter to the Legislature regarding complaints filed by plaintiff.

In relation to supervisor bias, plaintiff asserts that he "escalated the misconduct to [Sergeant] Jessie King, who allegedly informed plaintiff "that she 'takes sides' with her fellow officers even when they are completely wrong, demonstrating systemic, predetermined structural bias violating MSP Professional Standards." Again, plaintiff has not cited any professional standard, rule, or regulation.

Absent any reference to the standards, rules, or regulations controlling defendant's conduct, plaintiff has failed to sufficiently plead that he had a clear right and defendant had a clear legal duty to engage in any particular conduct, let alone that defendant had a ministerial duty to engage in an investigation. Moreover, whether to conduct an investigation and determining the

depth and course of an investigation are discretionary, not ministerial, acts. A writ of mandamus may compel an agency to exercise its discretion but cannot be used to challenge the manner in which discretionary acts are undertaken. *Teasel v Dep't of Mental Health*, 419 Mich 390, 410; 355 NW2d 75 (1984). Plaintiff has not provided the complaints he made to defendant or an affidavit attesting to the content of those complaints. Accordingly, plaintiff has not sufficiently pleaded that defendant completely failed to undertake a discretionary act rather than exercising its discretion to reject plaintiff's complaints and reports. Defendant is entitled to summary disposition of Count I under MCR 2.116(C)(8).

In Count II, plaintiff raises a claim entitled "gross negligence and equal protection." Plaintiff asserts, "The intentional falsification of reports, active bias, and arbitrary withdrawal of emergency telephonic reporting access" amounted to gross negligence but also violated the Equal Protection Clause of the Michigan Constitution. These are three distinct counts that should have been raised separately.

Plaintiff completely failed to state an Equal Protection claim. The first step in establishing an Equal Protection claim is to show that plaintiff was "treated differently from a similarly situated" person. *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 318; 783 NW2d 695 (2010). Plaintiff identified no one who received different treatment, let alone alleged that the differential treatment was based on plaintiff's mental health status. Defendant is entitled to summary disposition of this part of Count II pursuant to MCR 2.116(C)(8).

Plaintiff also intermingles intentional torts within his allegation of gross negligence. Specifically, intentionally falsifying reports and engaging in active bias do not sound in gross negligence, i.e. "conduct so reckless as to demonstrate a substantial lack of concern for whether

an injury results." MCL 691.1407(8)(a). MCL 691.1407 of the Governmental Tort Liability Act (GTLA) does not carve out an exception to governmental immunity for intentional torts committed by a governmental agency. Subsection (1) states that "a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function" unless an exception to immunity is established. Subsection (2) defines the immunity enjoyed by government officers, employees, and other agents. And subsection (3) provides that subsection (2) "does not alter the law of intentional torts as it existed before July 7, 1986." The GTLA thereby provides an exception to immunity for intentional torts committed by individual actors, but not agencies such as defendant in this case. Accordingly, defendant is entitled to summary disposition of plaintiff's intentional tort claims on governmental immunity grounds under MCR 2.116(C)(7).

Finally, plaintiffs allege that defendant "arbitrarily withdr[ew] . . . emergency telephonic reporting access" from him. It appears from the complaint that plaintiff is entitled to contact 911 for emergency services, but that defendant will not allow plaintiff to file reports and complaints about the illegal conduct of others by telephoning an MSP post. Plaintiff contends that he requires this accommodation because of his disability. This claim, too, could sound in intentional tort supporting dismissal on immunity grounds. Giving plaintiff the benefit of the doubt, even if this claim sounds in gross negligence, defendant is entitled to summary dismissal. Plaintiff has not cited any legal support for his position that defendant is required to accept citizen complaints by telephone. He has not described how, when or for what reason defendant took that right from plaintiff or explain how this was arbitrary. And again, plaintiff has not alleged conduct falling within the statutory definition of "gross negligence."

IT IS ORDERED:

1. The Court GRANTS defendant's motion for summary disposition.
2. Plaintiff's complaint is DISMISSED in its entirety and with prejudice.
3. This is a final order resolving all issues in this case.

Date: September 28, 2026

Sima G. Patel
Judge, Court of Claims