STATE OF MICHIGAN

COURT OF CLAIMS

VINCE BURGESS,

Plaintiff,

v Case No. 26-000112-MM

MICHIGAN STATE POLICE, Hon. Sima G. Patel

Defendant.
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ORDER DENYING PLAINTIFF'S 9/28/26 MOTION FOR RECONSIDERATION

On September 28, 2026, this Court dismissed plaintiff's complaint pursuant to MCR 2.116(C)(7) and (8). Plaintiff moved for reconsideration of the Court's order later that same day. The Court DENIES plaintiff's motion.

To support a motion for reconsideration, the movant "must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error." MCR 2.119(F)(3).

The Court summarily dismissed plaintiff's request for writ of mandamus to compel defendant's compliance with internal operating procedures for internal investigations. Plaintiff had the burden to adequately plead and then establish a clear legal duty on defendant's part and a clear legal right on plaintiff's part. *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016). Plaintiffs did not direct the Court to any internal operating procedure, nor did he attempt to

summarize defendant's duties under any internal procedure. As a result, the Court concluded that plaintiff had not sufficiently pled a claim upon which relief could be granted.

In his motion for reconsideration, plaintiff contends that the internal operating procedures are in the sole custody of defendant and could not be uncovered until discovery, and as this Court struck plaintiff's premature discovery request, plaintiff was unable to gather the necessary information to support his claim. Plaintiff could have filed a request for information under the Freedom of Information Act or inquired into the accessibility of defendant's internal operating procedures prior to filing suit. Instead, plaintiff presented an extremely cursory complaint that fails to identify any duty that could be compelled by a writ of mandamus. In any event, the failure to identify the internal operating procedures was not the only basis for the Court's dismissal of Count I. Plaintiff has not challenged the Court's determination that the acts he sought to compel are discretionary, not ministerial. The Court did not err in dismissing Count I.

In relation to Count II, plaintiff contends that he adequately pleaded equal protection and gross negligence claims based on defendant denying a disabled citizen the right to file criminal reports by phone, a right allegedly granted to nondisabled citizens. He further contends that these claims fall outside the scope of governmental immunity under MCL 691.1407. As noted in the Court's opinion and order, plaintiff failed to allege conduct falling within the statutory definition of "gross negligence"—"conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results"—connected to the alleged withdrawal of the right to file reports over the phone. He has not challenged that finding in his argument for reconsideration.

In relation to the equal protection element of Count II, the Court concluded that plaintiff failed to identify anyone compared to whom he received differential treatment or to plead that the

alleged differential treatment was undertaken based on plaintiff's disability. Plaintiff contends that he "explicitly pleaded that Defendant arbitrarily revoked telephonic emergency and complaint reporting access specifically due to Plaintiff's documented mental health disability and indigent status." This is not an accurate summarization of the single sentence in the complaint underlying this Count. Rather, plaintiff alleged that defendant withdrew and refused plaintiff's "established ADA accommodation to report criminal offenses safely by telephone, barring a vulnerable, disabled citizen from receiving basic police protection." Plaintiff's complaint alleged that this right was taken from him *despite* his disability, *not because* of it. Further, plaintiff made no allegation regarding anyone who was treated differently. Accordingly, plaintiff has not pleaded that defendant violated his right to equal protection.

The Court DENIES defendant's motion for reconsideration.

Date: September 30, 2026

Sima G. Patel
Judge, Court of Claims