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IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

D.A. KING,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	Civil File No.
SPENCER R. MOORE, COMMISSIONER,	)	17-1-5863-28
DEPARTMENT OF DRIVER SERVICES, AND	)	
DAVID W. CONNELL, CHAIRMAN, BOARD OF	)	
DRIVERS SERVICES,	)	
	)	
Defendants.	)	

CIVIL NONJURY HEARING

September 5, 2017

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THE HONORABLE G. GRANT BRANTLEY, PRESIDING  
Cobb County Superior Court  
Marietta, Georgia

APPEARANCES OF COUNSEL:

On Behalf of the Plaintiff:	D.A. King
	Pro Se
On Behalf of the Defendants:	Amy K. Millard Radley
	Attorney at Law

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Kathleen J. Sherwood, RPR, CCR, B-2039	
Official Court Reporter	Marietta, Georgia 30090
Cobb County Superior Court	770-528-1872
70 Haynes Street	kathleen.sherwood@cobbcounty.org

1 P R O C E E D I N G S

2 (September 5, 2017, at 10:52 a.m. in open court.)

3 THE COURT: I read the pleadings. And you filed an  
4 answer before it was due, and you also filed a motion to  
5 dismiss and a motion for continuance.

6 I've read it. You give a good reason, and I won't  
7 push you all to a hearing unless you want one.

8 MS. RADLEY: Your Honor, we are fine with doing the  
9 hearing now. Out of an abundance of caution, with  
10 Mr. King being pro se, we did not want to cut him off from  
11 having time to respond knowing that there was the holiday  
12 weekend, that it was put in the mail on the 31st, that  
13 there was a good chance he would not have received the  
14 motion to dismiss prior to the hearing.

15 I did provide him with a copy when Your Honor took a  
16 recess. I had printed one out for him and did provide it  
17 to him.

18 We are fine with going forward; however, we would  
19 leave that to Mr. King's --

20 THE COURT: Okay. I will move to him in just a  
21 moment then. So he would have 15 days? 30 days?

22 MS. RADLEY: I believe he has 30 days, and then I  
23 would either have 10 or 15 to respond.

24 THE COURT: Would that be 30 from here?

25 MS. RADLEY: Yes, Your Honor, since he's just getting

1 it now.

2 THE COURT: Plus 15?

3 MS. RADLEY: I believe, for us to have time to  
4 respond, yes, sir, unless he wishes to waive that.

5 THE COURT: All right, sir. You are entitled to  
6 that, and I won't go forward unless you want to waive it  
7 and address it now. That's up to you.

8 MR. KING: Your Honor, please forgive me. I do not  
9 hear well. Was the discussion whether or not to have this  
10 settled today or to have a hearing sometime in the future?

11 THE COURT: All right. Come up to the microphone.  
12 You come with him. Ma'am, you come up here with him.

13 MS. RADLEY: Yes, Your Honor.

14 MR. KING: My apologies, Your Honor. I only heard  
15 part of what was said.

16 THE COURT: She has filed a motion to dismiss. You  
17 have 30 days within which to file a response to that, to  
18 argue against it if you do. Then she has another 15 days  
19 on top of that within which to file her response, because  
20 the movant always has the last word.

21 You follow me?

22 MR. KING: Yes, sir.

23 THE COURT: Now, I just told her that the motion  
24 really is one where she asked for a continuance, but she's  
25 doing it on your behalf.

1 MR. KING: I understand, Your Honor.

2 THE COURT: Now, if you want a continuance so you can  
3 file your response, that's fine, I believe you are  
4 entitled to it, and we'll be done for the day. But if you  
5 want to go forward with the hearing, she says she's ready.  
6 I will hear it. So it's your call.

7 MR. KING: I would just as soon have it finished and  
8 over with today, Your Honor.

9 THE COURT: All right. Have a seat and I'll hear her  
10 argument.

11 MR. KING: Your Honor, at the appropriate time, am I  
12 allowed to introduce another exhibit?

13 THE COURT: Well, wait until your turn. She's the  
14 moving party. She goes first.

15 All right.

16 MS. RADLEY: Good morning, Your Honor. In this case  
17 I am Amy Radley with the attorney general's office, and I  
18 represent Spencer Moore, the commissioner of the  
19 Department of Driver Services, and David Connell, who is  
20 the Chairman of the Board of Driver Services. Both have  
21 been sued in their official capacity as representatives of  
22 the agency of Department of Driver Services. Respondents  
23 Moore and Connell have moved to dismiss this action.

24 Truth be told, Your Honor, I am not exactly sure what  
25 the action is. In reviewing it, it appears that it could

1 possibly be taken or construed by this court as either a  
2 writ of mandamus or possibly a request for an injunction.

3 In either case, Mr. King fails to state a claim upon  
4 which relief may be granted.

5 First and foremost, the basis of his motion is based  
6 on his mistaken belief that lawful status means something  
7 that it simply does not.

8 Unfortunately, immigration law is basically a federal  
9 jurisdiction creation, and when it started years and years  
10 ago, they interchanged different terms back and forth, and  
11 as various pieces were added to the immigration puzzle,  
12 those same terms got construed differently in different  
13 areas.

14 The area that would concern the court here today is  
15 with regard to the REAL ID Act. The REAL ID Act is found  
16 at Public Law 109-13. It was actually passed as part and  
17 parcel of an emergency tsunami relief bill. And it is  
18 codified, actually, in a note. It specifically provides  
19 in Division B, Title II, Section 202, little c, 2, capital  
20 B, that "Evidence of Lawful Status, a State shall require,  
21 before issuing a driver's license or identification card  
22 to a person, valid documentary evidence that that  
23 person" -- and if you go down to numerical eight, which is  
24 in the statute as "viii," says if that person has approved  
25 deferred action status then that person has lawful status

1 for the purposes of the REAL ID Act.

2 The REAL ID Act is what governs federally the  
3 issuance of drivers' licenses and identifications that are  
4 suitable for federal purposes, such as boarding a plane,  
5 entering into a government building, the places where you  
6 are required to show identification.

7 The federal government has gone beyond simply the  
8 public law and has actually created in the code of federal  
9 regulations at 6CFR, section 37.3, they have actually  
10 provided a definition of lawful status that provides a  
11 person is in lawful status if they are an alien who has  
12 approved deferred action status.

13 And what we believe is that Mr. King was unaware of  
14 this public law and this regulation, because the  
15 regulation definition specifically in insular to the area  
16 of drivers' licenses and identification issued pursuant to  
17 REAL ID. It provides this definition does not affect  
18 other definitions or requirements that may be contained in  
19 the Immigration and Nationality Act and other laws.

20 All the things that are cited to by Mr. King in his  
21 petition come out of what we consider traditional  
22 immigration law where lawful status, permanent resident  
23 status, all those different terms are defined differently  
24 in other areas of the law.

25 So, first and foremost, I would state to the court

1 that there simply is no basis for the petition due to the  
2 respondents have followed the law. They have followed the  
3 REAL ID Act as required, and there have been no  
4 misstatements, no material inaccuracies or anything that  
5 has been presented.

6 So, first and foremost, he fails to state a claim  
7 simply because he's wrong.

8 With regard to if this court were to construe it as a  
9 writ of mandamus, the petitioner specifically says he  
10 can't cite to any law to this court.

11 THE COURT: Well, he has unverified pleadings,  
12 doesn't he?

13 MS. RADLEY: He does have unverified pleadings, Your  
14 Honor. He did sign the pleading. It's not notarized.  
15 Out of an abundance of caution, we wanted to go ahead and  
16 address, in case the court were to construe it as a  
17 mandamus, but, yes, it unverified.

18 With regard to mandamus, he has shown no legal duty  
19 on behalf of either respondent that is owed to him, in the  
20 basis of his petition. He has cited to no clear legal  
21 right that he is entitled to under the petition.

22 He has cited no harm. In fact, the only harm that he  
23 mentions in the entirety of his petition is with regard to  
24 the reputation of the Department of Driver Services that  
25 he believes has been harmed, yet he holds no stake in that

1 agency.

2 With regard to injunctive relief, if this court were  
3 to construe it instead or in part as injunctive relief,  
4 the petitioner here has presented no standing to the  
5 court. He's not part of the Department of Driver  
6 Services. He has cited to no harm that he is undergoing  
7 based upon his allegations of these misstatements. He has  
8 not presented any grave danger.

9 And, again, he has no part and parcel in the  
10 Department of Driver Services, so he can't have standing  
11 on their behalf to sue someone to an alleged damage to  
12 their reputation.

13 And, lastly, sovereign immunity would cover and bar  
14 any claims sounding an immunity in this case.

15 So we would ask that the court dismiss the petition  
16 in its entirety.

17 THE COURT: Your turn.

18 MR. KING: Thank you, Your Honor.

19 Would it be okay if I introduce these now? This is a  
20 public-record letter from the Georgia Department of Law to  
21 the Governor of Georgia on the issue that we are today  
22 discussing.

23 THE COURT: You got a copy for her to look at?

24 MR. KING: I already delivered one yesterday.

25 MS. RADLEY: I've got one, Your Honor.



1 MR. KING: May I bring it up?

2 THE COURT: Do you have any objection to my looking  
3 at it?

4 MS. RADLEY: No, Your Honor. Not at all.

5 THE COURT: All right, sir. So you may respond to  
6 her motion.

7 MR. KING: Thank you, Your Honor.

8 The relevant part of -- all of it's relevant, but  
9 mostly what I wanted the court to see was the underlying  
10 section in the footnote on the bottom of page 2.

11 THE COURT: All right, sir.

12 MR. KING: Thank you, Your Honor.

13 Obviously, I am a novice at this, and if I have no  
14 standing I certainly understand that particular legal  
15 principal.

16 I have been studying immigration for a long time, and  
17 I go to the capitol at my own expense trying to make  
18 people understand the real facts on immigration,  
19 especially illegal immigration.

20 THE COURT: You understand, of course, my decision  
21 today is not borne on politics --

22 MR. KING: Yes, Your Honor.

23 THE COURT: -- but will be based upon the law as I  
24 perceive it --

25 MR. KING: I understand, Your Honor.

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THE COURT: -- as I perceive it to be.

MR. KING: If I may back up, it is the Immigration and Nationality Act that defines immigration law in this country, and I don't think either of us are disputing that.

I am brilliantly aware of the REAL ID Act and its contents and the content of state law regarding drivers' licenses.

It is my effort today, at my own expense and considerable time, to simply convince someone to require the Department of Driver Services to inform the legislature and the public through the web sites and their presentations that people in the country illegally, illegal aliens, whether or not they have deferred action on deportation, are still illegal aliens, and they are, in fact, being issued drivers' licenses and official ID cards in the state of Georgia.

If we only are going by the REAL ID Act on whether or not someone is here illegally, that's not in line with the immigration law.

My position is that the Department of Driver Services over the over again is telling people that they only issue drivers' licenses to people with legal or lawful status.

Under the INA, an illegal alien clearly does not have lawful status, and no one who is not here illegally would

1 have a requirement for deferred action on deportation.

2 It is also -- I believe I am correct in saying that  
3 Department of Driver Services, as a result of a state  
4 court decision last year that was not followed up on, is  
5 issuing drivers' licenses and ID cards to people who  
6 happen to have a work permit and a Social Security number  
7 but do not have deferred action on deportation. They are,  
8 rather, in a legal limbo position.

9 I am not prepared to prove that today. At another  
10 time I can.

11 So my bottom line, Your Honor, if anybody takes the  
12 time to look through the screen prints that I have done  
13 from DDS, testimony that's been given in the legislature  
14 that I have been privy to and watched, and written letters  
15 to legislators clearly stating, without any further  
16 explanation, mentioning the arguments that we heard today  
17 on the INA and the difference between that and the REAL ID  
18 Act, DDS personnel are telling and convincing Georgia  
19 State legislators in charge of security of our driving and  
20 ID credentials that we are not issuing drivers' licenses  
21 to illegal aliens.

22 I believe that to be false, which is the reason that  
23 I took the time to come here today.

24 THE COURT: All right. You may close.

25 MS. RADLEY: Your Honor, his belief is simply his

1 belief. The REAL ID Act says what it says. That's the  
2 law. Respondents are following it.

3 THE COURT: All right. I will decide it.

4 First, I will make the observation that the law  
5 requires that those who represent themselves nonetheless  
6 educate themselves in the procedural law that applies to  
7 their issues as well as the substantive law.

8 I believe the motion is good, and I grant it on all  
9 arguments raised therein.

10 Direct that you prepare the order, proposed order,  
11 send it to me by e-mail.

12 Mr. King, if you will give her your e-mail address,  
13 she will copy you on it, and you will have an opportunity  
14 to object to the form of it but not to reargue the case.

15 I will give you about a day to do that after which I  
16 will adjust it or enter it as submitted.

17 MR. KING: Yes, Your Honor. Thank you very much,  
18 Your Honor.

19 THE COURT: All right, sir. I believe that takes  
20 care of the morning's hearings.

21 You might include in your proposed order, if you  
22 will, that because of the time, if someone looks at these  
23 time elements, that you made a motion, I was considering  
24 it, he was ready for a hearing. Okay.

25 MS. RADLEY: Yes, Your Honor. I'll put in there that

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he waived his response time.

THE COURT: All right. Thank you.

MS. RADLEY: Yes, Your Honor.

(Proceedings concluded at 11:07 a.m.)

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C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF COBB:

I hereby certify that the foregoing proceedings were taken down in the above-captioned case and reduced to typewriting under my direction, and that the foregoing pages 1 through 13 represent a true and correct transcript of said proceedings, except any documentary evidence attached hereto, which is maintained and provided by the Clerk of Cobb Superior Court.

This certification is expressly withdrawn and denied upon the alteration, disassembly, and/or photocopying of the foregoing proceedings unless such is done by the undersigned Certified Court Reporter and original signature is in BLUE ink and a raised seal attached thereto.

This, the 7th day of September, 2017.

\_\_\_\_\_  
KATHLEEN J. SHERWOOD, CCR B-2039  
Registered Professional Reporter