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FILED
SUPERIOR COURT
THURSTON COUNTY, WA

2019 OCT 28 AM 8:16

Linda Myhre Enlow
Thurston County Clerk

Hearing Date: September 19, 2019
Hearing Time: 9:00
Judge/Calendar: Carol Murphy

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

EX PARTE

REGINALD W. WILTON,

Plaintiff,

v.

SANDRA CONNER, ARNP, ERIN
LYSTAD, PA-C, DEPT. OF
CORRECTIONS,

Defendants.

NO. 19-2-02759-34

ORDER GRANTING DEFENDANTS'
MOTIONS TO DISMISS WITH
PREJUDICE AND FOR A FINDING
OF FRIVOLOUS LAWSUIT AND A
STRIKE AND DENYING
PLAINTIFF'S MOTIONS FOR
CONTINUANCE AND FOR CR 11(A)
SANCTIONS

On September 19, 2019, after reviewing the records on file and hearing argument from both parties, the Court considered Defendants' motion to dismiss pursuant to CR 12(b)(6), Plaintiff's oral motion for a continuance, Plaintiff's motion requesting the court to impose CR 11(a) sanctions and Defendants' motion for a finding that Plaintiff's lawsuit is frivolous and a first strike against Plaintiff for the purposes of RCW 4.24.430. Michelle Hitomi Hansen, Assistant Attorney General, represented the State Defendants and appeared in person. Plaintiff is pro se and appeared telephonically. The Court's review of its records on file specifically included a review of:

- Defendants' Motion to Dismiss.
- Memorandum in Support of Defendants' Motion to Dismiss;
- Declaration of Michelle Hansen with Attachments;

ORDER GRANTING DEFENDANTS'
MOTIONS TO DISMISS AND FINDING
OF FRIVOLOUS LAWSUIT AND A
STRIKE AND DENYING PLAINTIFF'S
MOTIONS FOR CONTINUANCE AND
FOR CR 11(a) SANCTIONS

- Plaintiff's Response to Defendants' Memorandum in Support of Motion to Dismiss with Attachments,
- Defendants' Reply in Support of Their Motion to Dismiss
- Plaintiff's Motion Requesting Court to Impose Sanctions Pursuant to CR 11(a); and
- Defendants' Response in Opposition to Plaintiff's Motion Requesting Court to Impose Sanctions Pursuant to CR 11(a).

Based on the above, the court finds and holds as follows:

Defendants' Motion to Dismiss Pursuant to CR 12(b)(6) - The court finds that Plaintiff may have conceded at the hearing that res judicata applied to all Defendants except for Defendant Erin Lystad and even if Plaintiff did not concede this point, the court finds that Plaintiff alleged no cause of action specific to Erin Lystad, rather all causes of action in Plaintiff's complaint are against all of the defendants together and appear essentially identical to Plaintiff's prior lawsuits. The court holds that res judicata applies to all claims that were brought and could have been brought in prior litigation once the elements of res judicata have been met. The court finds that here all elements of res judicata have been met and, for that reason, the court is dismissing the case.

Plaintiff's Oral CR 56(f) Motion for a Continuance - The court has considered Plaintiff's oral CR 56 (f) motion for a continuance which he made during the hearing as his formal written motion for a continuance was received by the clerk's office yesterday and the court did not see that written motion. The court holds similarly to the second judge who addressed the Spokane case that a continuance in this case would not make a difference with regard to this court's ruling because the court is making its findings as a matter of law based upon pleadings filed previously in the Spokane Superior Court and, essentially, Plaintiff's concessions that there are no declarations that could be filed that would make a difference in this court's ruling. The court finds that it would not be helpful or make any difference to continue this case to allow Plaintiff to obtain additional documents or declarations.

Plaintiff's Motion Requesting Court to Impose Sanctions Pursuant to CR 11(a) - The Court holds that there is a very high standard to meet when a party is seeking Rule 11 sanctions.

1 The court finds that in reviewing all of the pleadings in this case there is no conduct egregious
2 enough to meet the high standard of Rule 11 sanctions. Moreover, this court is not convinced that
3 any conduct in this case by defense counsel was even improper, much less meeting the standard
4 under Rule 11 for sanctions.

5 **Defendants' Motion for a Frivolous Lawsuit Finding and a Strike under RCW**
6 **4.24.430** – On the basis of the rulings above, this court finds that this lawsuit filed in Thurston
7 County against the defendants is frivolous and a strike for the purposes of RCW 4.24.430.

8 Based on the findings and holdings enumerated above, THE COURT HEREBY ORDERS
9 THAT:

- 10 1. Defendants' Motion to Dismiss Pursuant to CR 12(b)(6) is GRANTED based on the
11 doctrine of res judicata;
12 2. Plaintiff's Oral Motion for a Continuance is DENIED;
13 3. Plaintiff's Motion for Sanctions Pursuant to CR 11(a) is DENIED; and
14 4. Defendants' Motion For a Finding that Plaintiff's Lawsuit is Frivolous for the Purposes
15 of RCW 4.24.430 and a Strike Under That Statute is GRANTED; and
16 5. This case is hereby dismissed in its entirety with prejudice.

17
18 DATED this 25th day of October, 2019

19
20 Carol Murphy
JUDGE CAROL MURPHY

21
22 Presented by:

23 ROBERT W. FERGUSON
24 Attorney General

25 Michelle Hansen
26 MICHELLE HANSEN, WSBA# 14501
Attorneys for Defendants

Approved as to form and notice
of presentation waived:

Reginald Wilton
REGINALD WILTON, pro se
Plaintiff

ORDER GRANTING DEFENDANTS'
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