

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

NO. 4-10-0656

IN THE APPELLATE COURT

Filed 2/8/11

OF ILLINOIS

FOURTH DISTRICT

CHARLES M. EVERETT,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
THE CITY OF SPRINGFIELD,)	No. 10L36
Defendant-Appellee.)	
)	Honorable
)	John W. Belz,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Presiding Justice Knecht and Justice Myerscough
concurred in the judgment.

ORDER

Held: Where plaintiff failed to state a cause of action
against defendant, the trial court did not err in
granting defendant's motion to dismiss.

In February 2010, plaintiff, Charles M. Everett, filed
a *pro se* complaint against defendant, the City of Springfield,
and the County of Sangamon. That complaint was dismissed without
prejudice. In May 2010, plaintiff filed a *pro se* complaint
against defendant for defamation, libel, and slander. In July
2010, defendant filed a motion to dismiss, which the trial court
granted with prejudice in August 2010.

On appeal, plaintiff argues the trial court erred in
granting summary judgment for defendant. We affirm.

I. BACKGROUND

In February 2010, plaintiff filed a one-page, *pro se* complaint in case No. 10-L-36, indicating his desire to sue defendant and Sangamon County for defamation of character, slander, and racial discrimination. In April 2010, defendant filed a motion to strike the complaint, claiming it was unclear what issues plaintiff was alleging as it was "completely incomprehensible." In May 2010, the trial court granted defendant's motion to strike the complaint without prejudice.

In May 2010, plaintiff filed a *pro se* complaint against defendant in case No. 10-L-134 for defamation, libel, and slander in regard to an officer investigating an incident involving plaintiff. In July 2010, defendant filed a motion to dismiss the complaint, alleging plaintiff failed to allege sufficient facts to support his claims and defendant was immune from any liability.

In August 2010, the trial court consolidated the two cases. It then granted defendant's motion to dismiss with prejudice. The court found the complaint failed to allege sufficient facts to support plaintiff's claims for libel, slander, defamation of character, perjury, or any civil cause of action. The court also found defendant was immune from liability under the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 through 10-101 (West 2008)). This appeal followed.

II. ANALYSIS

Plaintiff argues the trial court erred in granting summary judgment for defendant. However, no motion for summary judgment was filed. Instead, the court granted defendant's motion to dismiss with prejudice. We review a trial court's ruling on a motion to dismiss *de novo*. *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429, 856 N.E.2d 1048, 1053 (2006).

In his brief on appeal, plaintiff sets forth a two-paragraph argument, claiming his case stated a claim for libel, slander, and defamation of character against "Jinelle [sic] Kirby-McPheron of Professional Regulations and not Peace Officers or States [sic] Attorney."

As argued by defendant, Janelle McPheron is an employee of the Illinois Department of Financial and Professional Regulation. She is not an employee of defendant. "A local public entity is not liable for an injury resulting from an act or omission of its employee where the employee is not liable." 745 ILCS 10/2-109 (West 2008). As plaintiff argues he stated a claim against a state employee, not a city employee, the trial court was correct to dismiss the case with prejudice as to defendant.

III. CONCLUSION

For the reasons stated, we affirm the trial court's judgment.

Affirmed.