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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Charleston Division

KEVIN JOHNSON,

Plaintiff,

v. Case No.: 2:25-cv-12580-BHH-MGB

Defendants.

CHAPWICK DOTSON, et al.,

MOTION FOR CONTEMPT

Plaintiff pro se pursuant to 18 U.S.C. § 401(1) and this Court's inherent power, hereby moves for citations of contempt against defendant Joel Anderson and the non-parties whose names and addresses are given below, as follows:

NON-PARTY CONTEMNORS HEREIN

General Counsel, South Carolina Department Corrections
4444 Broad River Rd.
Columbia, SC 29221

Rachel Cobb, Correctional Officer / Law Library Supervisor
Perry Correctional Institution (PCI)
430 Oaklawn Rd.
Pelzer, SC 29669

STATEMENT OF FACTS

1. Defendant Joel Anderson, has a policy in the South Carolina Department of Corrections (SCDC) governing "Inmate Access to the Courts," GA-01.03, which forbids SCDC officials from providing photocopies of self-generated legal documents for any person in SCDC custody, even if they are willing and able to pay for copies. This policy requires that such persons hand draft all originals and copies of documents related to legal proceedings. See also Complaint ¶¶ 75-77 - plaintiff suffers a writing impediment and injury.
2. As a result of this policy it takes plaintiff weeks to months to prepare filings in court proceedings including the instant case, which will prevent him from making needed filings under required deadlines. Indeed, it took plaintiff several months to hand draft his Complaint and needed copies. It then took over a week for him to draft his Motion for Temporary Restraining Order (TRO) and Preliminary Injunction (PI), see Pk No. 8. It then took him nearly three weeks to draft his Memorandum in Support of his Motion for TRO and PI, see Pk No. 9. This is why he did not file his suit sooner nor his filings at Pk Nos. 8 and 9 at the same

time that he filed his Complaint. Anderson's policy governing legal copies has delayed his filings and will impair his future filings, and cause him extreme pain due to his hand injury that is the result of him being compelled to do extensive hand drafting of documents to be filed in his litigations. General Counsel is fully aware of this policy and upholds as a measure to allow SCDC officials to unfairly sabotage litigations which its office is defending.

3. Plaintiff tried to have Cobb photocopy both OK Nos. 8 and 9 several times, which she refused to do and even wrote him a disciplinary infraction when he was compelled to try and have another person confined at PCI make copies for him. See Exhibit A.

4. While plaintiff seeks relief in his case in chief against the photocopy policy per se, this policy is also hampering his ability to pursue this case which has and will continue to disrupt and delay him from making desired and entitled filings to meet deadlines, and this court's ability to do its job in considering those filings and conduct adversarial proceedings, thus obstructing the administration of justice. See also Exhibit B.

Plaintiff swears to the truth of the foregoing under penalty of perjury.

BRIEF IN SUPPORT

"It is widely recognized that a court has inherent authority to punish contemptuous behavior that obstructs the judicial process." U. S. v. Trudell, 563 F. 3d 889, 891 (8th Cir. 1977). Furthermore, 18 U. S. C. § 401(1) authorizes federal courts to proceed in summary contempt against any misbehavior that is committed in the court's presence or so near thereto that it obstructs the administration of justice. Courts may exercise contempt powers even before service of process on defendants, since service of process is not necessary in a contempt proceeding. Additive Controls v. Flowdata, 154 F. 3d 1345 (Fed. Cir. 1998).

Actions or words which impair or hinder persons involved in litigation as a party, witness, juror, etc., is contemptuous whether the victim was actually impaired or not. Hawkins v. Cox, 190 F. 2d 782 (4th Cir. 1951). In this case plaintiff has been hindered in making his filings for emergency relief for weeks and months by the application and enforcement by the contemptors of Anderson's policy on legal copies. This and future hinderances clearly constitute acts in the court's presence or so near its presence, under 18

U.S.C. § 401(1). For purposes of indirect contempt committed "so near" the presence of the court, this applies to all acts of misbehavior whose natural tendency is to in effect interfere with the administration of justice, no matter where the act may have been committed. U.S. v. Huff, 206 F. 700 (D. Ga. 1913); In re Independent Publishing Co., 228 F. 757 (D. Mo.), aff'd, 240 F. 849 (9th Cir. 1917); Ex Parte McLeod, 120 F. 130 (N.D. Ala. 1903). As for direct contempt, courts such as the S.C. highest courts have recognized that contemptuous acts committed "in the presence of the court extends beyond the mere physical presence of the judge or the courtroom to encompass all elements of the system. A person may be found guilty of direct contempt if his or her conduct interferes with judicial proceedings, ... or hampers the parties or witnesses." State v. Jolly, 405 S.C. 622, 629 (2013). Accordingly, the contemnors are in this case liable for both direct and indirect contempt, and where plaintiff seeks civil contempt citations, their motives are irrelevant. "The absence of willfulness does not relieve from civil contempt...it matters not with what intent the [contemnor] did the prohibited act." McComb v. Jacksonville, 336 U.S. 187, 191 (1949).

It is relevant, however, that the contemnors, especially Anderson and SCOC General Counsel, know the photocopy policy is inherently obstructive and that the state's highest court long ago warned them that it is an unreasonable policy, even where it doesn't cause actual injury or obstruction of a confined person's litigation. See, Hendricks v. South Carolina, 385 S.C. 625, 630 n.5 (2009) ("In this case, there was no actual injury to Appellant due to SCOC policy GA-01-03. However, we take this opportunity to caution SCOC that its policy not allowing inmates to make photocopies where he or she is willing and able to pay is not reasonable."). Accord, Johnson v. Parke, 642 F.2d 377, 380 (10th Cir. 1981) ("[W]hen numerous copies of often lengthy complaints or briefs are required, it is needlessly draconian to force an inmate to hand copy such materials when a photocopy machine is available and the inmate is able and willing to compensate the state for its use."). "Litigation necessarily requires some means of accurate duplication because the court and the parties need to refer to the same documents." Gluth v. Kangas, 951 F.2d 1504, 1510 (9th Cir. 1991). A number of courts have therefore ordered that provisions for copying be made available so that the imprisoned can easily make duplicates of the documents that they prepare and not be required to engage in the "needlessly draconian" efforts that would otherwise be required if inmates

were, like medieval monks, forced to copy all documents by hand. Johnson v. Parke, supra. See, e.g., Gluth v. Kangas, supra (injunction issued ordering prison to provide copies for the court and opposing parties within 48 hours of request of all "[e]ligible legal papers and documents, includ[ing] petitions, complaints, answers, motions, affidavits, exhibits, memoranda and briefs, including attachments and appendices, and materials needed for discovery and investigation, including interrogatories and freedom of information requests," and holding that the documents could not be read by employees who photocopied). Johnson v. Parke, supra. (right of court access includes the right to photocopies); Abdul-Alkbar v. Watson, 901 F. 2d 329 (3d cir. 1990) (even allegations of delay in obtaining photocopies state a claim of constitutional violation); Canell v. Multnomah County, 191 F. Supp. 2d 1096 (D.Or. 2001) (for criminal, habeas corpus, and conditions of confinement cases, prison officials must provide inmates legal research resources as well as photocopying when inmate is obligated to provide copies in connection with prosecution of action). This is in accord with the Standards of the American Bar Association. Thus the General Counsel who is licensed by the bar has no excuse for upholding the photocopy policy. See, ABA Standards for Criminal Justice, Treatment of Prisoners, section 23-9.5(c) (2010).

Anyone may initiate contempt proceedings as a private person by sworn statement giving notice to the court and alleged contemnor. Nye v. U. S., 113 ~~U.S.~~ F. 2d 1006 (4th cir.), rev'd on other grounds, 313 U. S. 33 (1941). Contempt proceedings can be initiated by service upon respondent or their counsel copy of Notice and Petition / Motion stating the basis of alleged violations, and requesting the alleged contemnors be held in contempt of court. U. S. v. Bulowski, 435 F. 2d 1094 (7th cir.) cert den., 401 U. S. 911 (1971).

Where plaintiff / complainant seeks remedial action and that contemnors be compelled to do what they refused to do, the contempt proceeding is civil in nature. In re Stewart, 571 F. 2d 958 (5th cir. 1978); In re Jaques, 761 F. 2d 302 (6th cir. 1985).

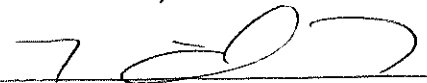
Civil contempt arises out of the main suit and may be maintained by any person as a private party. Ramos v. U. S. Attorney, 576 F. 2d 1 (1st cir. 1978); Parker v. U. S., 153 F. 2d 66 (1st cir. 1946).

Finally, non-parties like Rachel Cobb and General Counsel of the SCDC and who hold no official positions, can be punished in contempt proceeding for acts committed in the presence of the court or so near thereto as to interfere with the administration

of justice. U.S. v. Jose, 63 F. 951 (C.C. Wash. 1894).

THEREFORE, this Court should cite and hold defendant Joel Anderson and non-parties Rachel Cobb and SCPC General Counsel in civil contempt of Court and order them to pay to plaintiff the costs of preparing and filing by hand his former and present pleadings, motions and briefs herein, and to compensate his pain and suffering in doing so as a result of his hand injury, also that they be ordered to provide him with photocopies of his future self-generated ~~documents~~ ^{documents} and means of compiling his original documents on computer and printed means.

Respectfully submitted,



Plaintiff pro se

Reply to: Kevin Johnson, No. 397279
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, SC 29669

1. The photocopy policy under GA-01-03 is calculated to hinder SCPC inmates and detainees in their litigation efforts, and have and will hinder plaintiff. Its application is thus contemptuous per se, as relates to his pursuit of this instant case as a party. Accord, Hawkins v. Cox, supra.