IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

CIVIL DIVISION

Aaron Sloan

Plaintiff

vs.

Brian V Coleman, et al

Defendant

NO. 41 of 2013, G.D.

NOTICE OF ORDER, JUDGMENT OR DECREE

☒ Plaintiff GH-2977 SCI Somerset
1600 Walters Mill Rd Somerset PA

☒ Defendant Debra Sue Rand

You are hereby notified that the following Order, Judgment or Decree has been entered against you on the

21 day of February, 20 14

in the above case.

☐ Judgment in the amount of _____ Plus costs.

☐ Decree in Divorce

☐ Decree Nisi in Equity

☐ Final Decree in Equity

☐ Justice of the Peace Transcript of Judgment in Trespass in the amount of _____ Plus costs.

☐ If not satisfied within sixty (60) days, your motor vehicle operator's license will be suspended by the Department of Transportation, Bureau of Traffic Safety, Harrisburg, PA

☐ Entry of Judgment of
- ☐ Non-Suit or
- ☐ Non-Pros
- ☐ Default
- ☐ Verdict
- ☐ Arbitration Award

☐ Justice of the Peace Transcript in Assumpsit in the amount of _____ Plus costs.

☐ Order

Prothonotary of Fayette County

by Deanna L Craft
Divorce Acct Clerk ~~Clerk/Deputy~~

(Applicable blocks have been checked)

-THIS NOTICE IS NOT A DEMAND FOR PAYMENT-

If you have any questions concerting the above please contact:

MAILED 2/21/14

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

AARON SLOAN, PLAINTIFF	:	
vs.	:	NO. 41 OF 2013, G.D
BRIAN V. COLEMAN, et al., DEFENDANTS	:	

FILED
2014 FEB 21 A 11:55
FAYETTE COUNTY
PROTHONOTARY

OPINION AND ORDER

Wagner, P.J.

Before the Court are the preliminary objections filed by Defendants[1] to Plaintiff's Complaint, wherein Plaintiff, an inmate at SCI-Fayette, Fayette County, Pennsylvania, alleges that Defendants, supervisors and correctional officers employed by the Commonwealth, failed to comply with his dietary restrictions necessitated by allergies to seafood and beans, and destroyed and/or confiscated his personal property which consisted of numerous Islamic and secular books and magazines. The preliminary objections, in the form of a demurrer to Plaintiff's Complaint, assert that Plaintiff has failed to state a cause of action in that the Statute of Limitations has run on his tort claim alleging injury because he received food he is allergic to, and also claim that all named Defendants are entitled to sovereign immunity under 42 Pa.C.S. § 8521 because they are, or were, employees of the Commonwealth at the time the complained-of conduct occurred.

Plaintiff's pleading is a ten-page, single-spaced, hand-written Complaint containing no titled causes of action, but eighty paragraphs, some of which are in narrative form. Some of the paragraphs, numbers 18 through 23, allege that Plaintiff was incarcerated at SCI-Somerset, and

[1] Brian Coleman, Superintendent of SCI-Fayette; Unit Manager Stephen Buzas, Captain Richard Workman, and Corrections Officers Joseph Skrobacz, Chad Yauger, John Anderson, and James Zueger.

officials there had verified his allergies with other prison authorities and doctors, but in April 2009, prison officials and medical personnel at SCI-Somerset altered Plaintiff's medical records, causing him to be given beans and seafood in his diet which resulted in pain and suffering for him. Complaint, Paragraphs 18-23. In light of Plaintiff's own judicial admissions set forth in said paragraphs in his pleading, clearly the two-year Statute of Limitations has run on any harm that has resulted from the allegedly tortious alteration of his records. See 42 Pa.C.S. § 5524; XXXMoreover, the alleged alteration occurred at SCI-Somerset, an institution which is not located in Fayette County, and thus this Court is not the proper venue in which to seek redress for civil torts arising there. See Kring v. University of Pittsburgh, 829 A.2d 673 (Pa.Super. 2003).

A careful, objective reading of the entirety of the Complaint reveals that, in addition to complaining of the alleged intentional alteration of his medical and dietary records, Plaintiff alleges in his many paragraphs that Defendants breached their professional duty to secure and protect the said personal property by intentionally improperly handling the same and not securing it. Plaintiff also asserts that Defendants intentionally made false remarks concerning his property and intentionally misrepresented the steps they took to find it and/or care for it, when they knew the property was not being taken care of, but had been lost and destroyed. A fair reading of these averments as a whole leads to the conclusion that Plaintiff is claiming that Defendants, acting with intent in the scope of their employment, have deprived him of his personal property, i.e. his books, magazines, and notebooks, under the color of state law maliciously and intentionally, thereby causing him legal harm.

When a Commonwealth employee or high-ranking official, such as every Defendant herein, is acting within the scope of his duties, he is immune from liability for intentional torts.

LaFrankie v. Miklich, 618 A.2d 1145 (Pa.Cmwlth. 1992); see also Faust v. Department of Revenue, 592 A.2d 835, 839–40 (1991), appeal denied, 530 Pa. 647, 607 A.2d 257 (1992). As succinctly stated by the legislature in its reaffirmation of sovereign immunity, 1 Pa.C.S. § 2310, employees of the Commonwealth "acting within the scope of their duties [ ] shall continue to enjoy sovereign and official immunity and remain immune from suit except as the General Assembly shall specifically waive the immunity." Sovereign immunity has been waived only for negligent conduct that fits within one of the nine exceptions to sovereign immunity as set forth in 42 Pa.C.S. § 8522.

After considering Plaintiff's Complaint in its entirety, the preliminary objections and Plaintiff's response thereto[2], this Court is constrained to conclude that Plaintiff has alleged only intentional conduct. Such conduct does not constitute a *negligent* act within the personal property exception. In light thereof, the Court finds that Defendants are entitled to the protection of sovereign immunity as employees of a Commonwealth agency, and are thus immune from imposition of liability arising from their alleged tortious conduct. 42 Pa.C.S. §§ 8521, 8522; Williams v. Stickman, 917 A.2d 915 (Pa.Cmwlth. 2007).

Accordingly, the Court enters the following:

[2]Plaintiff's objection to Defendants raising their affirmative immunity defense by preliminary objection, rather than as an affirmative defense, is lacking in merit. Sovereign immunity may be raised in the manner it has been raised herein where, as here, the defense is apparent on the face of the pleading. Wurth v. City of Philadelphia, 584 A.2d 403 (Pa.Cmwlth. 1990).

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ORDER

Wagner, P.J.

AND NOW, February 21 2014, the within Preliminary Objections of Defendants are SUSTAINED on the basis of sovereign immunity and/or the time limitations of the Statute of Limitations, and the Complaint filed at this number is hereby DISMISSED.

BY THE COURT:

Wagner, P.J.

ATTEST: Nina Caruzzi Frankhouser

Prothonotary