

ELHASSAN v. DIRECTOR OF THE C.I.A., et als.
Docket No. 07-1407

CONCISE STATEMENT OF THE CASE

I. SHORT CAPTION: Elhassan v. Goss, et als., United States District Court for the District of New Jersey, Civil Action No. 06-CV-1000, before the Honorable Peter G. Sherman.

II. PARTIES AND SUBJECT OF APPEAL:

1. **Parties and Nature of the Action:** Plaintiff Khalid Elhassan alleges that he applied for a job with the Central Intelligence Agency's Directorate of Operations, and after being offered the position, was subjected to an induction process marked by improper hazing and other processes that violated his civil, constitutional, and common law rights. When he complained, no corrective was action, and he was subjected instead to further unlawful conduct by way of retaliation. Suit was filed against US Government officials in their official and/or individual capacities plus other individuals, seeking relief under the Federal Tort Claims Act ("FTCA"), relief under 42 USC §§ 1981, 1982, 1983, 1985, 1986, relief for violations of rights under Title VII U.S.C., and redress for invasion of privacy, abuse of process, malicious prosecution, common law fraud, wrongful interference with business opportunities, intentional infliction of emotional distress, negligent hiring and supervision, failure to investigate and/or take corrective action, and violation of Plaintiff's constitutional rights under the Fourth and Fifth Amendments so as to give rise to a *Bivens* action.

2. **Relief Sought:** (a) compensatory damages, (b) punitive damages, (c) injunctive relief, (d) a writ of mandamus, (e) costs, and (f) attorneys' fees.

3. **Judgment From Which Appeal is Taken:** Orders dismissing the Complaint pursuant to Fed. R. Civ. P. 12(b), and denying Plaintiff leave to amend the Complaint.

III. FACTUAL AND PROCEDURAL BACKGROUND:

As part of an induction process in to the CIA's Directorate of Operations, Plaintiff was subjected to improper hazing and other processes ranging from racial discrimination, extortion of monies and solicitation of kickbacks as a condition for advancement or under the threat of adverse official action, quid pro quo sexual harassment. When he balked and complained to officials within the CIA and the Department of Justice, no action was taken, and Plaintiff was instead subjected to retaliation ranging from stalking, invasions of privacy, tortious interference with economic advantage, false arrest, malicious prosecution, and threats of bodily harm and/or death.

Plaintiff brought suit on March 7, 2006, in the United States District Court for the District of New Jersey. Defendants filed a motion to dismiss under Fed. R. Civ. P. 12(b). Oral argument was heard on December 1, 2006. Plaintiff filed a motion for leave to

amend the Complaint, accompanied by the amended Complaint, on January 5, 2007. On January 29, 2007, defense opposed the leave to amend, noting among other things that one of the officials named as a defendant therein has since become a federal judge. On January 30, without hearing oral argument, the Hon. Peter Sherman granted the 12(b) motion to dismiss and denied Plaintiff's motion for leave to amend the Complaint.

IV. ISSUES TO BE RAISED ON APPEAL:

1. Whether the lower Court, under the guise of a 12(b)(1) motion, improperly decided the case's merits and weight of evidence.
2. Whether it was appropriate for the lower Court to decide the merits and weight of evidence in a Fed. R. Civ. P. 12(b) motion.
3. Whether it was appropriate for the lower Court to decide the merits and weight of evidence in a Fed. R. Civ. P. 12(b) motion, before any discovery had been conducted, evidence gathered, or witnesses deposed.
4. The propriety of a District Court judge in a 12(b) motion hearing, before any discovery had been conducted, evidence gathered, or witnesses deposed, asking defense counsel who had no first hand knowledge of the events surrounding the complaint, to describe the factual evidence of events underlying the Complaint.
5. Whether defendant's conduct preserved Plaintiff's claims under the continuing wrong doctrine.
6. Whether Plaintiff's claims were equitably tolled.
7. Whether it was appropriate for the Court below to dismiss Plaintiff's complaint on grounds that suit was not brought within six months of an FTCA notice of claim, without addressing the issues of equitable tolling and continuing wrong doctrine, and their applicability
8. Whether the very egregiousness or "bizarreness" of a defendant's conduct is grounds for dismissal of a Plaintiff's complaint.
9. Whether the extensive and prolonged nature of a defendant's wrongdoing, necessitating a lengthy complaint to describe such wrongdoing, is grounds for dismissal of Plaintiff's complaint.
10. Whether the trial Court's assertion that Plaintiff "declined" to describe the events giving rise to the Complaint can be reconciled with the transcript of hearing that shows the Plaintiff describing the events giving rise to the Complaint; asking the Court whether there was any particular matter it wished Plaintiff to address only to be told that there were none; the Court repeatedly Plaintiff but "two minutes" to address an issue; and the Court concluding the hearing with the assertion that it had read and was familiar with Plaintiff's Statement of Facts.
11. Whether it is appropriate for a defendant to seek to influence a Court's decision with the irrelevant assertion that a named defendant has, since the date of wrongdoing giving rise to liability, been appointed to the federal bench.
12. Whether the decision of the Court below was improperly influenced by the fact that a named defendant has, since the date of wrongdoing giving rise to liability, been appointed to the federal bench.
13. Whether the Court below abused its discretion.

Respectfully submitted,

KHALID ELHASSAN
Plaintiff *Pro Se*

Dated: 3/2/2007

By: 

Khalid A. Elhassan

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