

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

11-22-84

TERRIE PATTERSON	)	
and other persons similarly	)	
situated	)	
	)	
Plaintiffs,	)	
v.	)	
DISTRICT OF COLUMBIA, et al.,	)	C.A. No. 5726-87
	)	
Defendants	)	
_____	)	Consolidated with
DISTRICT OF COLUMBIA	)	
	)	
Libellant	)	
	)	
v.	)	
	)	C.A. No. 6212-87
ONE 1986 CHEVROLET SPRINT	)	
4-DOOR V.I.N. JG1MR685XGK819776	)	
(TERRIE PATTERSON)	)	
	)	
Respondent	)	
_____	)	Consolidated with
DISTRICT OF COLUMBIA	)	
	)	
Libellant	)	
	)	
v.	)	C.A. No. 6086-87
	)	
\$748.00 IN UNITED STATES CURRENCY	)	
(STEVE BALTON)	)	
	)	
Respondent	)	
_____	)	Consolidated with
DISTRICT OF COLUMBIA	)	
	)	
Libellant	)	
	)	
v.	)	C.A. No. 3256-87
	)	
ONE 1980 BLUE JAGUAR	)	
SERIES XJ53 Ser. No. JBALW4BC110539	)	
(MICHEL A. SMITH)	)	
	)	
Respondent	)	Consolidated With

DISTRICT OF COLUMBIA	)	
	)	
Libellant	)	
	)	
v.	)	C.A. No. 4145-87
	)	
ONE 1980 2-DOOR CHEVROLET	)	
CAMARO, Ser. No. 1S87KAN525871	)	
(SHELIA K. CARTER)	)	
	)	
Respondent	)	

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION
TO MOTION FOR SUMMARY JUDGMENT ON BEHALF OF PLAINTIFFS
MORRIS HINTON AND LENNOX LAYNE AND PROSPECTIVE INTERVENORS
CANDY CHANDLER AND SHIRLEY LYONS

Plaintiffs Hinton and Layne and non-parties Chandler and Lyons move for summary judgment on the grounds that they have been deprived of their property without due process.

Defendants oppose their request on the grounds it is premature in that:

(1) The complaint of Messrs. Hinton and Layne is vague and ambiguous, and defendants' consequential motion for more definite statement remains unresolved; and

(2) Ms. Chandler and Ms. Lyons are not parties to this action.

Procedural Background

On July 7, 1987, Terrie Patterson filed a complaint in civil action no. 5726-87 against the District of Columbia, Marion Barry and Maurice Turner.

On or about August 14, 1987, an amended complaint was filed adding eight (8) plaintiffs and one (1) defendant, Roanld D.

Gibson.

The primary focus of plaintiffs' complaint appeared to be the forfeiture provisions of D.C. Code §22-1505 and §33-552 (1988 Supp.) and the related rules although D.C. Code §4-153 et seq., was also mentioned. On September 28, 1987, defendants filed a motion for a more definite statement pursuant to SCR-Civil Rule 12(e) as the amended complaint related to D.C. Code §4-153 et seq. That portion of the Code relates to all property coming into the custody of the Metropolitan Police Department and its Property Clerk, such as lost or abandoned property, evidence, property of deceased persons, and dangerous items. The motion remains outstanding. Subsequently, motions to dismiss and/or for summary judgment have been filed which remain under advisement. These last-mentioned motions have related only to the forfeiture aspects of plaintiffs' complaint.

On or about October 23, 1987, a second amended complaint was filed, adding six (6) additional plaintiffs, including Lennox Layne and Morris Hinton. Mr. Lane and Mr. Hinton complain of the disposal of their automobiles without prior judicial intervention. The cars were seized as abandoned and for safekeeping, respectively, and their claims do not appear to relate to civil forfeiture proceedings.

On November 16, 1988, defendants again filed a motion for more definite statement regarding §4-153 and specifically noting plaintiffs Layne and Hinton; a copy is attached as Exhibit "A".¹

¹ By this time, the Patterson, action had also been consolidated with five (5) civil forfeiture actions: no. 6212-87, no. 6086-83, no. 3256-87, no. 3435-87 and no. 4145-87

The motion remains outstanding.

On or about February 8, 1988, a motion to intervene as plaintiffs in Patterson was filed by four (4) individuals, including Candy Chandler.² This motion remains outstanding, and discovery as to these individuals (including Ms. Chandler) has not been conducted.

Most recently, on or about October 20, 1988, Ms. Shirley Lyons filed a motion to intervene in Patterson as yet another plaintiff. The motion is outstanding, and no discovery has been conducted.

Argument

1. Plaintiffs' second amended complaint related to Messrs. Layne and Hinton solely in the context of §4-153. The complaint, as it related to §4-153 was so vague and unfocused that defendants were unable to formulate a responsive pleading. A motion for a more definite statement was filed and remains unresolved. Defendants are not therefore, required to interpose a responsive pleading. Sup. Ct. Civ. R. 12(e). A motion for summary judgment presupposes that issue has been joined by a complaint and a response. Until this action is in that posture, as it relates to Messrs. Hinton and Layne and §4-153, a motion for summary judgment is totally inappropriate and premature.

2. Ms. Chandler and Ms. Lyons are not yet parties to this action. Only parties to an action may move for judgment on a

² Two (2) of these individuals and four (4) of the plaintiffs in Patterson also sought leave to consolidate the forfeiture actions related to their claims. This request has not been ruled on. On July 22, 1988, one (1) individual withdrew her motion to intervene and for consolidation.

claim. Sup. Ct. R. 56(a). Additionally, defendants have not had occasion to answer or respond to their allegations, nor have they had the opportunity of discovery. The motion for summary judgment is clearly premature as to these persons as well.

Conclusion

The instant motion is premature, since it has been filed while a motion for more definite statement remains pending as to Messrs. Hinton and Layne and, as to Ms. Chandler and Lyons, before they have been granted leave to intervene as parties. The motion must, then, be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum of Points and Authorities In Support of Opposition to Motion For Summary Judgment on Behalf of Plaintiffs and Order were mailed, postage prepaid, to Landon D. Dowdey, Esquire, 25 E Street, N.W., Seventh Floor, Washington, D.C. 20001, Brenda Grantland, Esquire, 419 Seventh Street, N.W., #401, Washington, D.C. 20004 and Thomas Heslep, Esquire, 419 Seventh Street, N.W., #401, Washington, D.C. 20004 on this 22^d day of NOV., 1988.

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NANCY SMITH, #
Assistant Corporation Counsel, D.C.