

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Michael Joseph Rotondo

)
Plaintiff(s))

vs.)

)
Defendant(s))

The State of New York

Civil Case No.:

**CIVIL
RIGHTS
COMPLAINT
PURSUANT TO
42 U.S.C. § 1983**

Plaintiff(s) demand(s) a trial by: JURY COURT (Select only one).

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: Michael Joseph Rotondo
Address: 408 Weatheridge Dr.
Camillus, NY 13031

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: The State of New York
Official Position: _____
Address: 50 East Avenue, Suite 200
Rochester, New York 14604

b. Defendant: _____
Official Position: _____
Address: _____

c. Defendant: _____
Official Position: _____
Address: _____

Additional Defendants may be added on a separate sheet of paper.

4.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).

See annexed page entitled "Facts".

FACTS

4.

(a) The Plaintiff was denied due process when Associate Justice Edward D. Carni of the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department “declined to sign” the Plaintiff’s Motion for Order to Show Cause for a stay of the support order filed and entered in Onondaga County Family Court on June 15, 2017 while, the same motion for Order to Show Cause included substantial evidence that the same support order could not be considered to be supported by law. Associate Justice Edward D. Carni sent notification of this same declination to sign, in a letter to the Plaintiff dated July 6, 2017, annexed hereto.

(a)(1) The Plaintiff was denied due process when the Supreme court of the State of New York Appellate Division, Fourth Judicial Department dismissed his appeal for docket number F-00090-11/17B, which was taken from an intermediary order of the support proceedings which themselves concluded with the support order filed and entered in Onondaga County Family Court on June 15, 2017 and, as described in the Plaintiff’s Motion for Order to Show Cause filed with Associate Justice Edward D. Carni as described in paragraph 4(a), this same support order could not be considered to be supported by law. This occurred on August 23, 2017 and was done by John V. Centra, Patrick H. NeMoyer, Shirley Troutman, Joanne M. Winslow, and Henry J. Scudder, at 50 East Avenue, Suite 200, Rochester, New York 14604. This order is annexed hereto.

(b) The Plaintiff was denied due process when the Supreme court of the State of New York dismissed his appeal for docket numbers V-03531-11/17E, V-03531-11/17C, and V-03531-11/17B. This occurred on September 12, 2017 and was done by Gerald J. Whalen, Nancy E. Smith, Erin M. Peradotto, Stephen K. Lindley, and John M. Curran while, this appeal was taken from proceedings, where it was described that there was a substantial support for the Plaintiff being denied due process, for docket numbers V-03531-11/17E, V-03531-11/17C, V-03531-11/17B in a motion titled “Motion for Transfer of Venue”, that itself was denied on the same day as the dismissal of the Plaintiff’s appeal, by the same judges who dismissed that same appeal, on September 12, 2017. Both the dismissal of the appeal and the denial of the “Motion for Transfer of Venue” are annexed hereto.

5.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

See annexed page entitled "Causes of action".

SECOND CAUSE OF ACTION

THIRD CAUSE OF ACTION

CAUSES OF ACTION

5.

FIRST CAUSE OF ACTION

(a) I believe that Edward D. Carni denied the myself due process when he refused to sign my Order to Show Cause. This was in violation of the U.S. Constitution 14th Amendment Section 1.

SECOND CAUSE OF ACTION

(b) I believe that John V. Centra, Patrick H. NeMoyer, Shirley Troutman, Joanne M. Winslow, and Henry J. Scudder denied myself due process when they dismissed my appeal for docket number F-00090-11/17B. This was in violation of the U.S. Constitution 14th Amendment Section 1.

THIRD CAUSES OF ACTION

(c) I believe that I was denied due process when Gerald J. Whalen, Nancy E. Smith, Erin M. Peradotto, Stephen K. Lindley, and John M. Curran dismissed my appeal for docket numbers V-03531-11/17E, V-03531-11/17C, V-03531-11/17B. This was in violation of the U.S. Constitution 14th Amendment Section 1.

RELIEF

6.

(a) The invocation of the Plaintiff's rights under the U.S. Constitution 14th Amendment Section 1 and;

(b) For these family court matters of the Plaintiff in Onondaga County Family Court, File # 24816 Docket #'s: F-00090-11 and V-03531-11 to be removed from Onondaga County Family Court for hearing by the United States District Court Northern District of New York and;

(c) The family court matter of the Plaintiff on appeal with The Supreme Court of the State of New York Appellate Division, Fourth Judicial Department File # 24816 Docket # V-01110-17, to be removed from The Supreme Court of the State of New York Appellate Division, Fourth Judicial Department for hearing by the United States District Court Northern District of New York.

6. **PRAYER FOR RELIEF**

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

See annexed page entitled "Relief".

I declare under penalty of perjury that the foregoing is true and correct.

DATED: _____

Signature of Plaintiff(s)
(all Plaintiffs must sign)

02/2010



*New York State Supreme Court
Appellate Division, Fourth Department*

*Onondaga County Courthouse
401 Montgomery Street, Room 409
Syracuse, New York 13202*

*Edward D. Carni
Associate Justice*

*315-671-1108
(Fax) 315-671-1177*

July 6, 2017

Mr. Michael Rotondo
408 Weatheridge Drive
Camillus, NY 13031

RE: Gasparini v Rotondo

Dear Mr. Rotondo:

Justice Carni has declined to sign the Order to Show Cause in the above matter.

Enclosed you will find your original Order to Show Cause papers.

Very truly yours,

John E. Short/gaa

John E. Short
Principal Law Clerk

JES/gaa

cc: Robert A. Durr, Onondaga County Attorney
Dana Grillo, Esq.

Enclosures

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

PRESENT: CENTRA, J.P., NEMOYER, TROUTMAN, WINSLOW, AND SCUDDER, JJ.
APPELLATE DIVISION DOCKET NO. CAF 17-01293

MATTER OF ANGELA C. GASPIRINI, PETITIONER-RESPONDENT,

V

MICHAEL J. ROTONDO, RESPONDENT-APPELLANT.

DOCKET NO. F-00090-11/17B

Respondent-appellant having moved for permission to proceed as a poor person on the appeal taken herein from an order of the Family Court, Onondaga County, entered in the Office of the Clerk of said Court on May 1, 2017,

Now, upon reading and filing the affidavit of Michael Rotondo, sworn to June 22, 2017, and the notice of motion with proof of service thereof, and due deliberation having been had thereon,

It is hereby ORDERED that the appeal is dismissed on the ground that the order appealed from is not an order of disposition appealable as of right (see Family Court Act § 1112 [a]), and

It is further ORDERED that the motion is dismissed.

Entered: August 23, 2017

FRANCES E. CAFARELL, Clerk

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

PRESENT: WHALEN, P.J., SMITH, PERADOTTO, LINDLEY, AND CURRAN, JJ.

APPELLATE DIVISION DOCKET NO. CAF 17-01561

MATTER OF MICHAEL J. ROTONDO, PETITIONER-APPELLANT,

V

ANGELA C. GASPARINI, RESPONDENT-RESPONDENT.

DOCKET NOS. V-03531-11/17E, V-03531-11/17C, V-03531-11/17B

An appeal having been taken herein from an order of the Family Court, Onondaga County, entered in the Office of the Clerk of said Court on May 11, 2017, and petitioner-appellant having moved for an order transferring Family Court proceedings to this Court,

Now, upon reading and filing the affidavit of Michael Rotondo, sworn to August 7, 2017, and the notice of motion with proof of service thereof, and due deliberation having been had thereon,

It is hereby ORDERED that the motion is denied.

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

PRESENT: WHALEN, P.J., SMITH, PERADOTTO, LINDLEY, AND CURRAN, JJ.

APPELLATE DIVISION DOCKET NO. CAF 17-01561

MATTER OF MICHAEL J. ROTONDO, PETITIONER-APPELLANT,

v

ANGELA C. GASPARINI, RESPONDENT-RESPONDENT.

DOCKET NOS. V-03531-11/17E, V-03531-11/17C, V-03531-11/17B

Petitioner-appellant having moved for permission to proceed as a poor person on the appeal taken herein from an order of the Family Court, Onondaga County, entered in the Office of the Clerk of said Court on May 11, 2017,

Now, upon reading and filing the affidavit of Michael Rotondo, sworn to August 7, 2017, and the notice of motion with proof of service thereof, and due deliberation having been had thereon,

It is hereby ORDERED that the appeal is dismissed on the ground that the order appealed from is not an order of disposition appealable as of right (see Family Court Act § 1112 [a]), and

It is further ORDERED that the motion is dismissed.