

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

JOHN F. CURRAN, III,

Plaintiff,

v.

No. 1:23-cv-01064-STA-jay

CARL A. FRONABARGER
and
STATE OF TENNESSEE,

Defendants.

REPORT AND RECOMMENDATION

Pending before the Court are Defendant Fronabarger's Motion for Judgment on the Pleadings (D.E. 104) and Motion for Extension of Time to File Response/Reply filed by Plaintiff (D.E. 106). Pursuant to Administrative Order 2013-05, this case has been assigned to the United States magistrate judge for management of all pretrial matters. For the reasons that follow, the Magistrate Judge recommends that Defendant Fronabarger's Motion for Judgment on the Pleadings be GRANTED and Plaintiff's Motion for Extension of Time be DENIED.

John F. Curran alleges that Carl A. Fronabarger owes him for Curran's "voluntary salvor services." Amended Complaint at Claim 1 (D.E. 26, Page ID 127). According to Curran's Complaint, Fronabarger owned the Saltillo Marina, and Fronabarger's negligence resulted in Curran having to salvage the marina and secure its fuel tanks. *Id.* at ¶¶4-5 (Page ID 128). Curran states that he hired Dustin Scott to help him. *Id.* at ¶8¹. When neither Fronabarger nor his agent

¹Curran paid Mr. Scott with a bad check for \$25,000 which he was later convicted for by a jury (Defendant's Exhibit N). Defendant Fronabarger refers to indictments, complaints in other cases, a verdict form, judgments, court orders from other cases, and transcripts from court hearings.

would pay Curran for his “salvage services,” he alleges that he filed a lien on the property. *Id.* at ¶13 (Page ID 129). Defendant Fronabarger states that Plaintiff has lied to this Court about filing a lien on Fronabarger’s property. (D.E. 104-1, Page ID 648).

Standard of Review

A Rule 12(b)(6) motion “tests the legal sufficiency of the complaint.” *Allred v. Rodriguez*, 399 F.Supp.3d 730, 732 (W.D. Tenn. 2019). “To survive the motion, [Curran’s] complaint need not contain ‘detailed factual allegations,’ but it must contain more than ‘labels and conclusions’ or a ‘formulaic recitation of the elements of a cause of action.’” *Id.* The Complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) “A claim has facial plausibility when the plaintiff pleads factual content that allows the court reasonably to infer that the defendant is liable for the misconduct alleged.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). As Defendant notes, “[a] court accepts ‘as true all factual allegations, but the court does not apply this presumption of truth to conclusory or legal assertions.’” *Binno v. ABA*, 826 F.3d 338, 345-46 (6th Cir. 2016). Nor do courts accept as true factual claims that are utterly discredited by the record. *See Chappell v. City of Cleveland*, 585 F. 3d 901, 906 (6th Cir. 2009); *Burnette v. Kennamore*, 606 F. Supp. 2d 827, 836 (W.D. Tenn. 2009) (finding that the medical form signed by plaintiff contradicted the complaint to the extent that no reasonable juror could find for plaintiff). *Huffman v. Dish Network, LLC*, 2016 U.S. Dist. LEXIS 91474 at *9 (W.D. Tenn. July 14, 2016) (phone records contradicted plaintiffs claim of a call)

The Court’s consideration of these documents does not convert this motion into a summary judgment motion. These documents are public records or records that allow this Court to take judicial notice of the documents. *See Ashland, Inc. v. Oppenheimer*, 648 F. 3d 461, 467 (6th Cir. 2001).

Analysis

The elements of Curran’s claim in this case are “(1) a marine peril, (2) service voluntarily rendered when not required as an existing duty or from a special contract, and (3) success in whole or in part.” *Kiesgen v. St. Clair Marine Salvage, Inc.*, 724 F.Supp.2d 721, 728 (E.D. Mich. 2010). If Curran had succeeded in whole or in part in the alleged salvage operation, he could secure payment by placing a lien on Defendant Fronabarger’s property. *Id.* Importantly, Curran must allege facts “that allow the court reasonably to infer that [Fronabarger] is liable” to Curran.

After Curran filed his lien against Fronabarger’s property, the Hardin County, Tennessee Grand Jury indicted him on two counts. *Id.* at ¶24 (Page ID 133). Count 1 of the indictment was the aforementioned bad check to Dustin Scott for \$25,000. Count 2 of the indictment resulted from Curran’s filing the lien on Fronabarger’s property with no reasonable basis or legal cause to do so. Certified Indictment at Count 2. (Defendant’s Exhibit G) The jury convicted Curran on both counts. *See* Defendant’s Exhibit N, Certified Verdict Form.

As Defendant correctly points out, this conviction which found that Curran’s lien on Fronabarger’s property had no legal basis is fatal to the instant case. The jury found that the State proved beyond a reasonable doubt that Curran had “no reasonable or legal basis to place the lien” on Mr. Fronabarger’s property. *State v. Lyons*, 669 S.W.3d 775, 788 (Tenn. 2023). Federal courts “give the same credit to a state court judgment as the state would give the judgment.” *Cuberson v. Doan*, 72 F. Supp. 2d 865, 871 (S.D. Ohio 1999). “Where . . . an issue was considered in a prior criminal proceeding, a plaintiff may be estopped from relitigating that issue in a subsequent civil action.” *Spencer v. City of Huron*, 717 F. App’x 555, 557 (6th Cir. 2019). Here, as Defendant Fronabarger correctly notes, Curran’s conviction for violating Tennessee’s false-lien statute (Tenn. Code Ann. § 39-17- 117 (a)(1)) prevents him from arguing that he had a “reasonable basis or legal

cause” for filing the lien. *See Bowen v. Arnold*, 502 S.W. 3d 102, 115 at n. 11 (Tenn. 2016). For this reason, the Magistrate Judge Recommends that Defendant Fronabarger’s Motion for Judgment on the Pleadings be GRANTED.

Motion for Extension of Time

Plaintiff has filed a motion for a 60-day extension to respond to the Motion for Judgment on the pleadings. The basis of this need for time to respond is that he is “being detained by the Tennessee Department of Corrections and does not have the law library modules for maritime law and the supplemental maritime rules available.” (D.E. 106, Page ID 773). However, no such materials or response can cure the fatal issue in this case -- that Defendant has been convicted for violating Tennessee’s false-lien statute, and with no reasonable basis for filing the lien, Curran cannot establish the elements of his claim. Accordingly, the Magistrate Judge recommends this motion for an extension of time be DENIED as futile.

Respectfully submitted this the 30th day of June, 2025.

s/Jon A. York

UNITED STATES MAGISTRATE JUDGE

NOTICE

WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THIS REPORT AND RECOMMENDATION DISPOSITION, A PARTY MAY SERVE AND FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS. A PARTY MAY RESPOND TO ANOTHER PARTY'S OBJECTIONS WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY. FED. R. CIV. P. 72(B)(2). FAILURE TO FILE OBJECTIONS WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE WAIVER AND/OR FORFEITURE OF OBJECTIONS, EXCEPTIONS, AND FURTHER APPEAL.