

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MARK KEATON,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:12-CV-00641-SEB-MJD
)	
DAVE HANNUM, LESLIE SLONE,)	
CHRISTINE ZOOK, REBA GARDNER,)	
and JACKIE DAKICH,)	
)	
Defendants.)	

DEFENDANT DAKICH’S MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS

Defendant Jackie Dakich by counsel, Kate Shelby, Deputy Attorney General, hereby respectfully moves the Court to award her Judgment on the Pleadings on Plaintiff’s First Amended Complaint for the following reasons:

1. Plaintiff does not have standing to enforce criminal laws or to ask for criminal penalties against Dakich.
2. Dakich is absolutely immune from suit for performing prosecutorial functions.
3. Plaintiff has failed to state a claim against Dakich in Counts V and VI because his allegations are insufficient under the federal pleading standard.
4. Plaintiff has failed to state a claim against Dakich in Count VI because he does not have a legitimate expectation of privacy in telephone records and related information maintained by third-party service providers and because he does not allege that Dakich searched or seized anything.

5. Plaintiff has failed to state a claim against Dakich in Count V because he does not allege that Dakich intentionally accessed anything governed by the SCA without authorization and without a complete defense afforded by the SCA.

6. Plaintiff has failed to state a claim against Dakich in Count V because Plaintiff does not have a privacy interest in the information allegedly sought.

7. Plaintiff has failed to state a claim against Dakich in Counts V and VI because Dakich was not required to provide notice to Plaintiff before allegedly requesting search warrants.

8. Finally, to the extent Plaintiff asserts Counts I through IV against Dakich, those claims fail under the federal pleading standard and are barred by the statute of limitations.

9. This Court should award Judgment on the Pleadings to Dakich on all Counts in the First Amended Complaint.

WHEREFORE, Deputy Prosecutor Dakich respectfully moves this Court for Judgment on the Pleadings on Plaintiff's First Amended Complaint and all other just and proper relief.

Respectfully Submitted,

GREGORY F. ZOELLER
Attorney General of Indiana

Dated: January 15, 2013

By: /s/ Kate Shelby
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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was sent to the following on January 15, 2013, by U.S. mail and email:

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