15-1198-pr
Justice v. King, et al.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 13th day of January, two thousand sixteen.

PRESENT:

CHESTER J. STRAUB,
DEBRA ANN LIVINGSTON,
DENNY CHIN,
Circuit Judges.

JOHN D. JUSTICE, AND ON BEHALF OF ALL PAROLEES SIMILARLY SITUATED,

Plaintiff-Appellant,

v. 15-1198-pr

TERRY KING, SAVING GRACE MINISTRIES, INC., EUGENIO RUSSI, TOM TORTORA, RICHARD MIRAGLIA, MICHAEL HOGAN,

Defendants-Appellees.

For Plaintiff-Appellant: John D. Justice, *pro se*, Comstock, N.Y.

For Defendants-Appellees King and Saving Grace Ministries, Inc.: Timothy W. Hoover, Daniel R. Maguire, Philips Lytle, LLP, Buffalo, N.Y.

For Defendants-Appellees Russi, Tortora, Miraglia, and Hogan: Jeffrey W. Lang, Assistant Solicitor General, Barbara D. Underwood, Solicitor General, Andrea Oser, Deputy Solicitor General, *for* Eric T. Schneiderman, Attorney General for the State of New York, Albany, N.Y.

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED**.

Plaintiff-Appellant John D. Justice ("Justice"), proceeding *pro se*, appeals from a judgment of the United States District Court for the Western District of New York (Geraci, *C.J.*), entered March 27, 2015, denying his motion for class certification as untimely filed, and also dismissing under Fed. R. Civ. P. 12(b)(6) his Second Amended Complaint, which asserted claims under 42 U.S.C. § 1983, and the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1962(b) and (c). We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

"We review *de novo* a district court's dismissal of a complaint pursuant to Rule 12(b)(6), construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor." *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152 (2d Cir. 2002). A complaint must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Although factual allegations are assumed to be true, this tenet is "inapplicable to legal conclusions." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim has "facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id*.

Here, an independent review of the record and relevant case law reveals that the district court properly dismissed Justice's claims. We affirm for substantially the reasons stated by the

district court in its March 27, 2015 decision. *See Justice v. King*, No. 08-CV-6417-FPG, 2015 WL 1433303 (W.D.N.Y. Mar. 27, 2015).

We have considered all of Justice's arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgment of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk