

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

RALPH ARNOLD SMITH, JR.

PLAINTIFF

V.

CIVIL ACTION NO. 16CV375WLK

ATTORNEY GENERAL JAMES M. HOOD III

DEFENDANT

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

Before this Court is Attorney General Jim Hood's Motion for Summary Judgment and Plaintiff Ralph Arnold Smith's response in opposition to the motion. *See* Motion for Summary Judgment [Docket No. 7, 8]; Response in Opposition [Docket No. 10]; Rebuttal in Support of Summary Judgment [Docket No. 11]. The Court has also heard oral argument from both parties.

Plaintiff Smith's Second Amended Complaint contends that the Mississippi Constitution places the Attorney General in the judicial branch of government. Based on this legal contention, Plaintiff Smith seeks relief in the form of a writ of quo warranto, declaratory judgment, and writ of prohibition from this Court against the Attorney General. The Attorney General's motion for summary judgment responds that no such relief is proper as he is a member of the executive branch of state government.

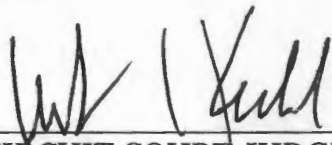
The Court finds that as a matter of law the Office of the Attorney General is within the executive branch of state government. *See, e.g., Dye v. State ex rel. Hale*, 507 So. 2d 332, 346 n.20 (Miss. 1987). Accordingly, there is no genuine issue as to a material fact which would preclude summary judgment in favor of the Attorney General. Plaintiff Smith has failed to establish that postponement of a ruling on the motion will enable him, by discovery or other means, to rebut the Attorney General's showing of the absence of a genuine issue of fact on this question of previously decided constitutional

law. The Attorney General is entitled to a judgment as a matter of law.

The Court further finds that for the reasons set forth in the Attorney General's motion for summary judgment, the rebuttal in support thereof, and the argument of the Attorney General's counsel that Plaintiff Smith's request for a writ of quo warranto, declaratory judgment, and writ of prohibition from this Court is without legal merit.

It is therefore ordered that the Attorney General's motion for summary judgment is GRANTED. The second amended complaint is hereby DISMISSED with prejudice.

This the 4th day of October, 2016.



CIRCUIT COURT JUDGE

Prepared by:
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