

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

BRYAN HARRIS,)
)
Plaintiff,)
)
v.)
)
SOUTHERN ILLINOIS UNIVERSITY)
EDWARDSVILLE)
)
Defendant.)

Case No. 2019 1 000811

**DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT FOR A CIVIL CASE**

Defendant Board of Trustees of Southern Illinois University, governing Southern Illinois University Edwardsville¹ ("University"), by and through its attorney of record, and pursuant to Section 2-619 of the Illinois Code of Civil Procedure (735 ILCS 5/2-619), moves this Court for an Order dismissing this action in its entirety, with prejudice. In support of this Motion, Defendant states the following, and also submits its Memorandum of Law in Support of Defendant's Motion to Dismiss:

1. On June 13, 2019, Plaintiff filed his Complaint against the Defendant, and such complaint was served on June 24, 2019.
2. Plaintiff's Complaint fails to state a claim for which relief can be granted, and therefore must be dismissed.
3. Plaintiff alleges that the University violated the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; 34 CFR Part 99 (hereinafter "FERPA"), by allegedly releasing his

¹ Plaintiff lists "Southern Illinois University Edwardsville" as the Defendant in this case, however the correct legal name is "Board of Trustees of Southern Illinois University."

private information from within two University departments, “to students who carelessly circulated that information to other students, faculty, and neighboring communities.”

4. The United States Supreme Court has ruled that FERPA does not provide for a personal or private right of action. *See, Gonzaga University v. Doe*, 536 U.S. 273 (S.Ct. 2002).

5. FERPA directs the U.S. Secretary of Education to enforce its nondisclosure provisions, and other spending conditions (§1232g(f)), by establishing an office and review board to investigate, process, review, and adjudicate FERPA violations (§1232g(g)), and to terminate funds only upon determining that a recipient school is failing to comply substantially with any FERPA requirement and that such compliance cannot be secured voluntarily, (§§ 1234c(a), 1232g(f)). *Id.*

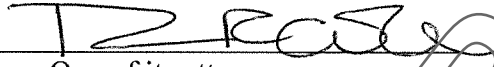
6. Therefore, Plaintiff has no right to pursue a personal or private right of action against the University pursuant to FERPA, and thus this case must be dismissed.

7. In addition to the fact that FERPA provides no personal or private right of action, the instant action must also be dismissed pursuant to 735 ILCS 5/2-619(a)(1) for lack of subject matter jurisdiction. The Illinois Court of Claims has exclusive jurisdiction over the subject matter alleged in Plaintiff’s Complaint, and this Court therefore lacks subject matter jurisdiction over the Plaintiff’s purported claims. 705 ILCS 505/8(d).

WHEREFORE, based on the foregoing reasons, and more fully set out in Defendant’s Memorandum of Law in Support of Defendant’s Motion to Dismiss, Defendant Board of Trustees of Southern Illinois University respectfully requests that this Court dismiss Plaintiff’s Complaint in its entirety, with prejudice, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

BOARD OF TRUSTEES OF
SOUTHERN ILLINOIS UNIVERSITY

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed via First Class U.S. Mail, postage pre-paid, on the 24th day of July, 2019 to the following:

Mr. Bryan Harris
2932 Trendley Ave.
East St. Louis, IL 62207

