

AFFIRMED and Opinion Filed July 16, 2020



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-19-00837-CV

**JEFFREY A. LIPSCOMB, Appellant
V.
MAYOR MIKE RAWLINGS, Appellee**

**On Appeal from the County Court at Law No. 5
Dallas County, Texas
Trial Court Cause No. CC-19-02003-E**

MEMORANDUM OPINION

**Before Justices Myers, Partida-Kipness, and Reichel
Opinion by Justice Reichel**

Jeffrey A. Lipscomb appeals the trial court’s dismissal of his claims against Mayor Mike Rawlings under section 101.106(f) of the Texas Tort Claims Act (“TTCA”). Construing appellant’s arguments broadly, he appears to contend the trial court erred in applying section 101.106(f) to his claims because Rawlings was an elected official. We affirm the trial court’s judgment.

Appellant is before this Court pro se. We liberally construe pro se pleadings and briefs. *Washington v. Bank of N.Y.*, 362 S.W.3d 853, 854 (Tex. App.—Dallas 2012, no pet.). However, we hold pro se litigants to the same standards as licensed

attorneys and require them to comply with applicable laws and rules of procedure. *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184–85 (Tex. 1978); *Washington*, 362 S.W.3d at 854. To do otherwise would give a pro se litigant an unfair advantage over a litigant who is represented by counsel. *Shull v. United Parcel Serv.*, 4 S.W.3d 46, 53 (Tex. App.—San Antonio 1999, pet. denied).

In his petition below, appellant asserted claims against Rawlings based on a “history of public corruption at Dallas City Hall.” As his cause of action, appellant stated he was seeking to “recover goods and services stolen or destroyed and cover-up with conspiracy and the difficulty in getting criminal charges unto higher authorities.” Although appellant’s petition included allegations of criminal conduct, his claims in this civil action are classified as torts. *See Donohue v. Dominguez*, 486 S.W.3d 50, 54 (Tex. App.—San Antonio 2016, pet. denied).

Rawlings filed a motion to dismiss the suit against him pursuant to section 101.106(f) of the Texas Tort Claims Act. Section 101.106(f) states:

If suit is filed against an employee of a governmental unit based on conduct within the general scope of that employee’s employment and if it could have been brought under [the Act] against the governmental unit, the suit is considered to be against the employee in the employee’s official capacity only. On the employee’s motion, the suit against the employee shall be dismissed unless the plaintiff files amended pleadings dismissing the employee and naming the governmental unit as defendant on or before the 30th day after the date the motion is filed.

TEX. CIV. PRAC. & REM. CODE ANN. § 101.106(f). Any tort claim against the government is brought under the TTCA for purposes of section 101.106. *Franka v.*

Velasquez, 332 S.W.3d 367, 375 (Tex. 2011). Following the motion, appellant did not amend his pleadings to dismiss Rawlings and name the governmental unit as the defendant. Accordingly, on June 28, 2019, the trial court dismissed appellant's suit.

Appellant does not dispute that the conduct at issue fell within the general scope of Rawlings's duties as mayor. Nor does he present any argument or authority to show that, as mayor, Rawlings did not fall within the Act's definition of "employee." TEX. CIV. PRAC. & REM. CODE ANN. § 101.001(2). Instead, appellant simply asserts that section 101.106(f) does not apply to Rawlings because he was an elected official rather than merely an employee. Rawlings's status as an elected official does not, however, place him outside the Act's definition of "employee." *Tx. Bay Cherry Hill, L.P. v. City of Fort Worth*, 257 S.W.3d 379, 398–99 (Tex. App.—Fort Worth 2008, no pet.) ("elective" and other qualifiers omitted as superfluous when precursor statute was recodified as TTCA).

To the extent appellant contends various parties involved in this case have conspired and engaged in corruption to deny him a trial, he has failed to show that dismissal of his claims was not required by section 101.106(f). *Cf. Lipscomb v. City of Dallas*, No. 05-17-00675-CV, 2018 WL 2773391, at *1–2 (Tex. App.—Dallas June 11, 2018, pet. dismiss'd w.o.j.) (mem. op.).

Accordingly, we affirm the trial court's judgment.

/Amanda L. Reichek/
AMANDA L. REICHEK
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

JEFFREY A. LIPSCOMB, Appellant

No. 05-19-00837-CV V.

MAYOR MIKE RAWLINGS,
Appellee

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E.

Opinion delivered by Justice
Reichek. Justices Myers and Partida-
Kipness participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered July 16, 2020.