

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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MARCIANO PARODI AND		:	
PATRICIA PARODI,		:	
		:	
Plaintiffs,		:	
		:	
v.		:	Civil No. 09-5838 (GEB)
		:	
JANE WIEGARTNER, ET AL.,		:	OPINION AND ORDER
		:	
Defendants.		:	
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BROWN, Chief Judge

On November 16, 2009, the above captioned case was opened in this Court after Plaintiffs Marciano Parodi and Patricia Parodi (“Plaintiffs”) filed a complaint and accompanying application to proceed *in forma pauperis*. (Comp.; IFP Application; Doc. No. 1.) It appears that:

1. The Clerk of the Court will not file the complaint unless the person seeking relief pays the entire applicable filing fee in advance or the person applies for and is granted *in forma pauperis* status pursuant to 28 U.S.C. § 1915. *See* Local Civil R. 5.1(f).
2. The filing fee for commencing a civil action in this court is \$350.00. *See* 28 U.S.C. § 1914(a).
3. Plaintiffs did not prepay \$350.00; rather, they submitted their application to proceed in this matter *in forma pauperis* (“IFP Application”), pursuant to 28 U.S.C. § 1915. (IFP Application; Doc. No. 1.)

4. In considering Plaintiffs' IFP Application, the Court reviewed Plaintiffs' complaint and noted their assertion that Defendants' alleged failure to provide certain documents pursuant to United States Magistrate Judge Bongiovanni's prior order violated their rights under the 4th and 14th Amendments to the United States Constitution. (Compl.; Doc. No. 1.) The Court concludes, however, that after viewing all factual allegations in the complaint as true, and after construing Plaintiffs' claim more liberally due to their *pro se* status, that Plaintiffs have failed to allege a plausible claim that any right protected by either the 4th or 14th Amendments was violated by Defendants' conduct. See *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009), and *Haines v. Kerner*, 404 U.S. 519, 520 (1972). As a result, Plaintiffs' claim for a remedy under 28 U.S.C. Section § 1983 fails as a matter of law pursuant to Federal Rule of Civil Procedure 12(b)(6) and shall be dismissed.

5. In light of the Court's dismissal of Plaintiffs' claim under § 1983, the Court will deny Plaintiffs' application to proceed *in forma pauperis* and order the Clerk of the Court to close this case.

Therefore, for the foregoing reasons;

IT IS THIS 12th day of April, 2010, hereby

ORDERED that Plaintiffs' application to proceed *in forma pauperis* is DENIED without prejudice; (Doc. No. 1.)

ORDERED that the Clerk of the Court mail a copy of this order to Plaintiffs via regular U.S. Mail at their last known address;

ORDERED that the Clerk of the Court CLOSE this case.

/s/ Garrett E. Brown, Jr.
GARRETT E. BROWN, JR., U.S.D.J.