Jackson v. Case School Doc. 7

## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

PATRICIA JACKSON,	) CASE NO. 1:12 CV 2987
Plaintiff,	)
	) JUDGE DAN AARON POLSTER
V.	) MEMORANDUM OF OPINION
CASE SCHOOL,	) AND ORDER
Defendant.	)

On December 5, 2012, plaintiff *pro se* Patricia Jackson filed this *in forma pauperis* action against defendant Case School. Plaintiff alleges she was terminated from her position as a special education teacher as a result of unfair treatment, and in particular that she received negative evaluations based on student misbehavior which was out of her control. She further alleges other teachers with similar problems were not terminated. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915(e).

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam), the district court is required to dismiss an action under 28 U.S.C. § 1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. <sup>1</sup> *Neitzke v. Williams*, 490 U.S. 319 (1989); *Hill v. Lappin*, 630 F.3d 468, 470 (6<sup>th</sup> Cir. 2010).

<sup>&</sup>lt;sup>1</sup> An *in forma pauperis* claim may be dismissed *sua sponte*, without prior notice to the plaintiff and without service of process on the defendant, if the court explicitly states that it is invoking section 1915(e) [formerly 28 U.S.C. § 1915(d)] and is dismissing the claim for one of the reasons set forth in the statute. *Chase Manhattan Mortg. Corp. v. Smith*,

A cause of action fails to state a claim upon which relief may be granted when it lacks

"plausibility in the complaint." Bell At. Corp. V. Twombly, 550 U.S. 544, 564 (2007). A pleading

must contain a "short and plain statement of the claim showing that the pleader is entitled to relief."

Ashcroft v. Igbal, 556 U.S. 662, 677-78 (2009). The factual allegations in the pleading must be

sufficient to raise the right to relief above the speculative level on the assumption that all the

allegations in the complaint are true. Twombly, 550 U.S. at 555. The plaintiff is not required to

include detailed factual allegations, but must provide more than "an unadorned,

the-defendant-unlawfully-harmed-me accusation." *Ighal*, 556 U.S. at 678 (2009). A pleading that

offers legal conclusions or a simple recitation of the elements of a cause of action will not meet this

pleading standard. *Id*.

Even construing the complaint liberally in a light most favorable to the plaintiff, Brand v.

Motley, 526 F.3d 921, 924 (6th Cir. 2008), it does not contain allegations reasonably suggesting she

might have a valid federal claim against the named defendant. See, Lillard v. Shelby County Bd. of

Educ, 76 F.3d 716 (6th Cir. 1996) (court not required to accept summary allegations or unwarranted

legal conclusions in determining whether complaint states a claim for relief).

Accordingly, this action is dismissed under section 1915(e). Further, the court certifies,

pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good

faith.

/s/Dan Aaron Polster 12/27/12

DAN AARON POLSTER

UNITED STATES DISTRICT JUDGE

507 F.3d 910, 915 (6th Cir. 2007); Gibson v. R.G. Smith Co., 915 F.2d 260, 261 (6th Cir.

1990); Harris v. Johnson, 784 F.2d 222, 224 (6th Cir. 1986).

-2-