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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Lorraine Patterson,

10 Plaintiff,

11 v.

12 Arizona Department of Economic Security,
13 et al.,

14 Defendants.

No. CV-15-00321-PHX-NVW

ORDER

15 Before the court is a joint Motion to Dismiss Third Amended Complaint (Doc. 30)
16 filed by the Arizona Department of Economic Security and eight individual defendants
17 (collectively, “Defendants”). Plaintiff Lorraine Patterson seeks damages from
18 Defendants for allegedly depriving her of her First and Fourteenth Amendment rights
19 during state court dependency proceedings that terminated Plaintiff’s custody over her
20 daughter. In their Motion, Defendants urge dismissal of Patterson’s Amended Complaint
21 (Doc. 17) on the grounds that 1) Patterson has failed to state a claim upon which relief
22 can be granted, 2) Defendants are protected by sovereign, qualified, and absolute
23 immunity, and 3) the *Rooker-Feldman* doctrine deprives this court of subject-matter
24 jurisdiction over “this de facto appeal of a state-court ruling.” (Doc. 30 at 2-3, 12-14.)

25 Under *Rooker-Feldman*, when a “losing party in state court file[s] suit in federal
26 court after the state proceedings end[], complaining of an injury caused by the state-court
27 judgment and seeking review and rejection of that judgment,” the federal district court
28 lacks jurisdiction. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 291

1 (2005). *Rooker-Feldman* applies only in these “limited circumstances.” *Id.* at 291. The
2 doctrine bars subject matter jurisdiction only where a “federal plaintiff asserts as a legal
3 wrong an allegedly erroneous decision by a state court, and seeks relief from a state court
4 judgment based on that decision.” *Noel v. Hall*, 341 F.3d 1148, 1164 (9th Cir. 2003).
5 “If, on the other hand, a federal plaintiff asserts as a legal wrong an allegedly illegal act
6 or omission by an adverse party, *Rooker-Feldman* does not bar jurisdiction.” *Id.* And,
7 contrary to Defendants’ suggestion, a finding that prior state litigation is “inextricably
8 intertwined” with subsequent federal litigation does not automatically trigger application
9 of *Rooker-Feldman*:

10 The premise for the operation of the “inextricably intertwined” test in
11 *Feldman* is that the federal plaintiff is seeking to bring a forbidden de facto
12 appeal. The federal suit is not a forbidden de facto appeal because it is
13 “inextricably intertwined” with something. Rather, it is simply a forbidden
14 de facto appeal. Only when there is already a forbidden de facto appeal in
15 federal court does the “inextricably intertwined” test come into play: Once
16 a federal plaintiff seeks to bring a forbidden de facto appeal, as in *Feldman*,
17 that federal plaintiff may not, as part of the suit in which the forbidden
18 appeal is brought, seek to litigate an issue that is “inextricably intertwined”
19 with the state court judicial decision from which the forbidden de facto
20 appeal is brought.

21 *Id.* at 1158.

22 Here, Patterson does not ask this court to “review and reject” the state juvenile
23 court’s judgment or to remedy an “injury” caused by that judgment. Instead, she merely
24 requests damages against Defendants for their alleged violations of her constitutional
25 rights. (Doc. 17-3 at 2.)

26 Defendant Regina Rodriguez works for the Arizona Foster Care Review Board, a
27 “citizen review board created by Arizona statute” and “operated by the Arizona Supreme
28 Court.” (Doc. 30 at 4.) The Board “reviews cases and provides reports to the juvenile
court in dependency proceedings.” (*Id.* at 2.) It is not clear from the pleadings and
Defendants’ Motion whether the Board qualifies as a judicial or quasi-judicial, as
opposed to executive, actor. Even if the Board is judicial in nature, however, Plaintiff
does not aim to “vacate or set aside the judgment” of the Board or the juvenile court to

1 which the Board reports. *Noel*, 341 F.3d at 1156. She simply seeks damages for “an
2 allegedly illegal act or omission by an adverse party,” *id.* at 1164—namely, Rodriguez.
3 *Rooker-Feldman* is thus no obstacle to jurisdiction. As all other Defendants are
4 undoubtedly executive officers, they similarly cannot be responsible for “a legal injury
5 caused by a state court judgment.” *Id.* at 1163. And Plaintiff does not move to set aside
6 any such judgment in any event.

7 Plaintiff’s Amended Complaint does allege that, at various points during the state
8 court proceedings, she was deprived of certain due process protections. For example, she
9 asserts she “was denied the right to witnesses,” was “denied an evidential hearing,” and
10 was “denied a continuance although unprepared to argue her case on July 24th, 2013.”
11 (Doc. 17-2 at 18.) But her Amended Complaint does not attempt to have those
12 procedural rulings vacated or otherwise to disturb the final judgment of the Arizona
13 juvenile court. Defendants cite no authority suggesting *Rooker-Feldman* strips this court
14 of jurisdiction to hear such complaints.

15 Patterson’s claims may be barred by various immunities or come up short under
16 Federal Rule of Civil Procedure 12(b)(6); further briefing is required before the court can
17 decide that issue. But it is clear from the face of the Amended Complaint that Patterson
18 has not filed an appeal—“de facto” or otherwise—of the juvenile court judgment.
19 Accordingly, *Rooker-Feldman* is inapplicable to this case, and the portion of Defendants’
20 Motion that seeks dismissal under that doctrine must be denied. Because the remainder
21 of Defendants’ Motion requests dismissal on non-jurisdictional grounds, Patterson will
22 have seventeen days, rather than thirty-three, in which to file a response.
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24 IT IS THEREFORE ORDERED that Defendants’ joint Motion to Dismiss Third
25 Amended Complaint (Doc. 30) is denied to the extent it seeks dismissal under *Rooker-*
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Feldman. Plaintiff shall file a response to the remainder of the Motion no later than August 4, 2015.

Dated this 21st day of July, 2015.



Neil V. Wake
United States District Judge