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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SARAH COSTELLO,  
  
Plaintiff,  
  
v.  
  
EDMUND G. BROWN, JR., Governor  
of the State of California; WILL  
LIGHTBOURNE, Director of  
California Department of Social  
Services; RHONDA SJOSTROM, Human  
Resources Director of Tulare  
County Health and Human Services  
Agency, a political subdivision  
of the State of California;  
TULARE COUNTY SUPERIOR COURT;  
ALICIA ZAYAS; EVANGELINE  
SIONGCO; KAREN WHITED; MANDI  
LEWIS; and DOES I through X,  
inclusive,  
  
Defendants.

Case No. 1:15-CV-00252 JAM-SKO

**ORDER GRANTING DEFENDANTS'  
MOTIONS TO DISMISS**

Defendants filed three separate but similar motions to dismiss plaintiff Sarah Costello's ("Costello") complaint. First, defendants Edmund G. Brown, Jr. and Will Lightbourne (collectively "State Defendants") moved to dismiss pursuant to Federal Rule of Civil Procedure ("FRCP") 12(b)(1) and 12(b)(6) (Doc. #11). Second, defendants Rhonda Sjostrom, Karen Whited, and Alicia Zayas

1 (collectively "Individual Defendants") moved to dismiss pursuant to  
2 FRCP 12(b)(1) and 12(b)(6) (Doc. #12). Finally, defendant Tulare  
3 County Superior Court moved to dismiss pursuant to FRCP 12(b)(6)  
4 (Doc. #13). As discussed below, the Court grants all three of the  
5 motions to dismiss.<sup>1</sup>

6  
7 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

8 Between October 2012 and August 2013, several hearings were  
9 held to determine whether Costello should maintain jurisdiction  
10 over her minor children, R.M. and J.C. On October 12, 2012, a  
11 petition to place R.M. and J.C. into the custody of the Juvenile  
12 Dependency Court was filed in Riverside County, California. Compl.  
13 ¶ 15. The case was then transferred to Tulare County Superior  
14 Court for final determination of Costello's parental rights.  
15 Compl. ¶ 16. The investigation culminated in an August 8, 2013  
16 hearing, held pursuant to California Welfare and Institutions Code  
17 ("WIC") section 366.26, at which the Tulare County Superior Court  
18 permanently terminated Costello's parental rights. Compl. ¶18.  
19 The decision was affirmed on appeal by the Fifth Appellate District  
20 Court of Appeal. Sjostrom, Whited, and Zayas's Request for  
21 Judicial Notice ("RJN"), Exh. A. The California Supreme Court  
22 denied Costello's petition for review on June 11, 2014. RJN, Exh.  
23 B.

24 Costello subsequently filed this complaint on February 18,  
25 2015 (Doc. #1). Costello alleges four counts of "Violation of  
26 Civil Rights-Denial of Due Process" and one count of "Violation of

27  
28 <sup>1</sup> These motions were determined to be suitable for decision without  
oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled  
for November 4, 2015.

1 Civil Rights." In count one, Costello alleges that all defendants  
2 violated her constitutional right to not be separated from her  
3 children without due process. Compl. ¶ 27. She also alleges that  
4 all defendants intruded upon her privacy in violation of her "due  
5 process, liberty and property interests." Compl. ¶ 28. In count  
6 two, Costello alleges that all defendants violated her procedural  
7 and substantive due process rights by unreasonably and arbitrarily  
8 applying WIC section 366 et seq., thereby violating 42 U.S.C.  
9 section 1983. Compl. ¶ 31. Costello repeats these allegations in  
10 count three, but broadens her claim to allege that WIC section 366,  
11 et seq. is facially unconstitutional. Compl. ¶ 33. Count four,  
12 which is only against DOES I-VIII, repeats the allegations of  
13 counts one through three. Compl. ¶¶ 35-36. Finally, count five  
14 alleges that "Tulare County Health and Human Services Agency and  
15 DOES IX through X" were deliberately indifferent to the training of  
16 its agents and officers and "fed a culture of misconduct." Compl.  
17 ¶ 39. Costello requests general and special damages, preliminary  
18 and permanent injunctions to prevent termination of her parental  
19 rights and reunification services and to bar the implementation of  
20 adoption, and a declaration that the WIC is unconstitutional  
21 facially and as applied to Costello. Compl. at 16-17.

22 All of the defendants filed timely motions to dismiss (Doc. ##  
23 11, 12, 13). Costello did not oppose the motions. (See Doc. #35  
24 striking Costello's untimely opposition.)

## 25 26 II. OPINION

### 27 A. Judicial Notice

28 Individual Defendants seek judicial notice pursuant to

1 Federal Rule of Evidence 201 of the following two documents:

2 (1) the opinion in In re J.C. et al, Persons Coming Under the  
3 Juvenile Court Law, Tulare County Health and Human Services Agency  
4 v. S.C., F068011, Super. Ct. No. JJV066587A, B (RJN, Exh. A), and  
5 (2) the California Supreme Court Docket (Register for Actions) for  
6 In re J.C., Case No. S218026 (RJN, Exh. B).

7 A court may take judicial notice of a fact that is not  
8 reasonably disputed if it "can be accurately and readily  
9 determined from sources whose accuracy cannot reasonably be  
10 questioned." Fed. R. Evid. 201(b)(2). On a motion to dismiss,  
11 courts are allowed to consider "matters of public record."  
12 Northstar Fin. Advisors Inc. v. Schwab Investments, 779 F.3d 1036,  
13 1042 (9th Cir. 2015) (quoting Coto Settlement v. Eisenberg, 593  
14 F.3d 1031, 1038 (9th Cir. 2010)).

15 The documents submitted by Individual Defendants are in the  
16 public record and are not subject to reasonable dispute. As such,  
17 the Court takes judicial notice of both documents.

18 B. Analysis

19 1. Rooker-Feldman Doctrine

20 State Defendants, Individual Defendants, and Tulare County  
21 Superior Court all argue that the *Rooker-Feldman* doctrine bars the  
22 Court from exercising subject matter jurisdiction over Costello's  
23 claims. Costello did not respond to this argument.

24 The *Rooker-Feldman* doctrine bars lower federal courts from  
25 reviewing state court judgments. Rooker v. Fid. Trust Co., 263  
26 U.S. 413, 415-16 (1923); D.C. Court of Appeals v. Feldman, 460 U.S.  
27 462, 476 (1983). The doctrine applies when the plaintiff "asserts  
28 as her injury legal error . . . by the state and seeks as her

1 remedy relief from the state court judgment." Kougasian v. TMSL,  
2 Inc., 359 F.3d 1136, 1140 (9th Cir. 2004). It also applies to  
3 issues that are "inextricably intertwined" with a state court  
4 judgment. Cooper v. Ramos, 704 F.3d 772, 778-79 (9th Cir. 2012).  
5 A "federal claim is inextricably intertwined with the state-court  
6 judgment . . . [w]here federal relief can only be predicated upon a  
7 conviction that the state court was wrong." Id. at 779 (quoting  
8 Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 25 (1987)). As such, a  
9 federal district court must refuse to hear the de facto appeal of a  
10 state court judgment, as well as "any issue raised in the suit that  
11 is inextricably intertwined with an issue resolved by the state  
12 court." Noel v. Hall, 341 F.3d 1148, 1154 (9th Cir. 2003). The  
13 doctrine applies even when a party raises constitutional challenges  
14 to the state court proceeding. Worldwide Church of God v. McNair,  
15 805 F.2d 888, 891 (9th Cir. 1986); De Rosier v. Longaker, No. 2:11-  
16 CV-01617-MCE, 2012 WL 2160965, at \*4 (E.D. Cal. June 13, 2012).

17 Here, Costello is seeking a de facto appeal of the state court  
18 judgment terminating her parental rights. In count one, Costello  
19 directly asks the Court to issue an injunction that would  
20 essentially overturn the decision by the Tulare County Superior  
21 Court to terminate her reunification services and parental rights  
22 and to implement adoption services. Compl. ¶ 28. Costello argues  
23 that the court denied her due process by holding the final WIC  
24 section 366.26 hearing without her present. Compl. ¶¶ 18, 28.  
25 Under the factors discussed by Kougasian, this claim for relief is  
26 clearly a de facto appeal of the state court's decision. Costello  
27 alleges a legal error by the state - the violation of her due  
28 process - and Costello is seeking relief from the state court

1 judgment by requesting permanent injunctions overturning the state  
2 court's decisions.

3 Costello's remaining counts are inextricably intertwined to  
4 her de facto appeal. In counts two and three, Costello argues that  
5 the state court decisions were arbitrary and unreasonable because  
6 they relied upon unconstitutional California law. Compl. ¶¶ 31,  
7 33. Costello seeks damages in counts four and five, arguing that  
8 the defendants violated 42 U.S.C. section 1983. Compl. ¶¶ 36, 39.  
9 On each of these four counts, the Court could not afford federal  
10 relief without ruling that "the state court was wrong." Cooper,  
11 704 F.3d at 779.

12 As pointed out by Individual Defendants and State Defendants,  
13 several cases directly support the Court's conclusion that *Rooker-*  
14 *Feldman* bars the Court from exercising jurisdiction over Costello's  
15 complaint. In Sareen v. Sareen, 356 F. App'x 977 (9th Cir. 2009),  
16 the Ninth Circuit ruled that the federal district court could not  
17 exercise jurisdiction over the plaintiff's claim that a state court  
18 child custody proceeding violated his constitutional rights. The  
19 court concluded that plaintiff's 42 U.S.C. section 1983 claim was  
20 barred under the *Rooker-Feldman* doctrine because it was a  
21 "forbidden de facto appeal of a state court decision." Id.

22 In Thompson v. Santa Cruz Cnty. Human Servs. Dep't, No. 12-  
23 CV-03894-LHK, 2013 WL 1750960, at \*2 (N.D. Cal. Apr. 23, 2013)  
24 plaintiffs alleged that a Juvenile Court judge committed various  
25 procedural errors that denied them a fair trial. Plaintiffs also  
26 alleged that the county health services agency and the adopting  
27 parents engaged in misconduct in connection with the custody  
28 proceedings. Id. The Thompson court concluded that the *Rooker-*

1 *Feldman* doctrine barred it from exercising jurisdiction over all of  
2 the claims. It found that plaintiffs' claim against the Juvenile  
3 Court judge was a de facto appeal because plaintiffs were asserting  
4 that the judge committed legal errors and were seeking relief from  
5 the state court judgment. Id. at \*5-6. Moreover, the claims  
6 against the health agency and the adoptive parents were  
7 inextricably intertwined because "the issues raised and conduct  
8 alleged in these claims was considered" by the judge. Id. at \*6.

9 Just as the plaintiffs did in Sareen and Thompson, Costello is  
10 attempting to have a federal district court review the final  
11 determinations of a state court. Count one in Costello's complaint  
12 is a de facto appeal from a final state court judgment. And the  
13 remaining claims contained in the complaint are at minimum  
14 inextricably linked to the de facto appeal. In such cases, the  
15 *Rooker-Feldman* doctrine is clear: federal district courts must  
16 refuse to exercise subject matter jurisdiction.

17  
18 III. ORDER

19 For the reasons set forth above, the Court GRANTS WITH PREJUDICE  
20 Defendants' Motions to Dismiss.

21 IT IS SO ORDERED.

22 Dated: December 10, 2015

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24   
25 JOHN A. MENDEZ,  
26 UNITED STATES DISTRICT JUDGE  
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