

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 13-80783-CIV-MARRA/MATTHEWMAN

CHRISTINA L. SIGLER,

Plaintiff,

vs.

FLORIDA PALM BEACH SHERIFF,
RIC BRADSHAW, in his official capacity,
FLORIDA PALM BEACH DEPUTY SHERIFF,
DARRIN FORMAN, in his official capacity,
DARRIN FORMAN, individually, TIMOTHY B.
SIGLER, individually, FLORIDA PALM BEACH
DEPUTY SHERIFF, MARK CAIN, in his official
capacity, MARK CAIN, individually, STATE OF
FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES
DIRECTOR PERRY BORMAN, in his official capacity,
STATE OF FLORIDA DEPARTMENT OF CHILDREN AND
FAMILIES CHILD PROTECTIVE INVESTIGATOR, SHANA
M. FRAZIER, in her official capacity, SHANA M.
FRAZIER, individually, and CITIES OF LAKE PART AND
JUPITER IN THE COUNTY OF PALM BEACH, FLORIDA;
municipal corporations,

Defendants.

ORDER AND OPINION DISMISSING DEFENDANT SIGLER

THIS CAUSE is before the Court upon *sua sponte*. The only remaining defendant in this case is Plaintiff's ex-husband, Timothy B. Sigler.

To successfully assert a claim pursuant to § 1983, a plaintiff must establish that she suffered a deprivation of rights, privileges, or immunities secured by the Constitution and laws of the United States and that the act or omission causing the deprivation was committed by a person acting under color of state law. *Parratt v.*

Taylor, 451 U.S. 527, 535 (1981); *Beaulieu v. City of Alabaster*, 338 F. Supp. 2d 1268, 1272-73 (N.D. Ala. 2004) *aff'd*, 454 F.3d 1219 (11th Cir. 2006); *Griffin v. City of Opa-Locka*, 261 F.3d 1295, 1303 (11th Cir. 2001); *Nail v. Cmty. Action Agency of Calhoun County*, 805 F.2d 1500, 1501 (11th Cir. 1986). A person acts under color of state law when he acts with authority possessed by virtue of his employment with the state. *Almand v. DeKalb County, Georgia*, 103 F.3d 1510, 1513 (11th Cir.), *cert. denied*, 522 U.S. 966 (1997).

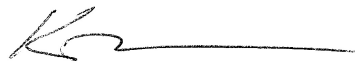
Plaintiff must show that “the conduct complained of was committed by a person acting under color of state law” in order for her claims against her ex-husband, Defendant Sigler, to succeed. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981). Defendant Sigler is alleged to be a former employee of Wal-Mart, and no employment with the state is alleged. Only in rare circumstances can a private citizen be viewed as a “state actor” for § 1983 purposes. The Eleventh Circuit recognizes three tests for establishing state action by what is otherwise a private person or entity: the public function test, the state compulsion test, and the nexus/joint action test. *Harvey v. Harvey*, 949 F.2d 1127, 1130 (11th Cir.1992). The public function test limits state action to instances where private actors are performing functions traditionally the exclusive prerogative of the state. The state compulsion test limits state action to instances where the government has coerced or at least significantly encouraged the action alleged to violate the Constitution. The nexus/joint action test applies where the state has so far insinuated itself into a position of interdependence with

the private party that it was a joint participant in the enterprise. *Willis v. University Health Services, Inc.*, 993 F.2d 837, 840 (11th Cir. 1993).

The facts alleged in Plaintiff's Amended Complaint against Defendant Sigler do not satisfy any of the three tests recognized by the Eleventh Circuit. Defendant Sigler is a private citizen enmeshed in a bitter child custody dispute with his former wife. Accordingly, all claims against Defendant Sigler must be dismissed with prejudice. *Davis v. Self*, 960 F. Supp. 2d 1276, 1308 (N.D. Ala.) *aff'd*, 547 F. App'x 927 (11th Cir. 2013). Therefore, it is hereby

ORDERED AND ADJUDGED that the claim brought against Defendant Timothy B. Sigler pursuant to 42 U.S.C. § 1983 is dismissed from this action with prejudice. This Order is not intended to be a bar of any other viable claims that Plaintiff may have against Timothy B. Sigler.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 10th day of March, 2015.



KENNETH A. MARRA
United States District Judge