

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DARNETTA M. NICHOLS,

Plaintiff,

v.

FULTON COUNTY LIBRARY,

Defendant.

CIVIL ACTION

NO. 1:11-cv-3046-ECS

O R D E R

The above-styled case is presently before the Court on Plaintiff's request to proceed in forma pauperis with an action under Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12111, et seq. ("ADA"). After consideration by the Court of Plaintiff's affidavit of indigency, her motion to proceed in forma pauperis **IS HEREBY GRANTED**; however, service **SHALL NOT ISSUE** at this time.

Pursuant to 28 U.S.C. § 1915(e)(2), a federal court may dismiss a *pro se* in forma pauperis complaint if the court determines that the allegation of poverty is untrue, or that the action (1) is frivolous or malicious, (2) fails to state a claim on which relief may be granted, or (3) seeks monetary relief against a defendant who is immune from such relief. A claim is frivolous "where it lacks an arguable basis either in law or in fact." Nietzke v. Williams, 490 U.S. 319, 325 (1989).

Although a document filed *pro se* is to be construed liberally by courts and held to less stringent standards than formal pleadings drafted by lawyers, Erickson v. Pardus, 551 U.S. 89 (2007), a complaint must nevertheless contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). The purpose of this requirement is to "'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007) (internal citations omitted). To provide adequate notice of the claim and its grounds, a complaint must therefore contain more than just "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements." Ashcroft v. Iqbal, 556 U.S. ___, 129 S.Ct. 1937, 1949 (2009). Rather, it must show "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Id.

Applied here, Plaintiff fails to state a claim upon which relief may be granted. As an initial matter, Plaintiff's complaint is submitted on the *pro se* complaint form for Title VII claims (Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.), and Title VII does not prohibit discrimination on

the basis of disability. Moreover, Plaintiff's factual allegations [Doc. 1-1, at 3-4] are scant and fail to state a claim under the ADA because the statements are irrelevant, incoherent, and, at best, conclusory. For example, Plaintiff alleges that Andrea Akiti, one of the persons she says discriminated against her, engaged in "unprofessional behavior that took place in the children's room office were [sic] she took her hand and p [sic] directly in my face, and continued embarrass me throughout the library." She also alleges that Sylvia Culver-Aldridge, the "H.R. Manager," has been "harrassing [sic] me with Personnel Claims - no light duty restrictions." [Doc. 1-1, at 3]. The complaint does not allege the basis for her claim of disability, or any specifics that would suggest that she was the object of any discrimination based on disability. Even construed liberally, these statements, like all the details of discrimination provided by Plaintiff, fail to allege factual material sufficient to state a claim with facial plausibility under the ADA. Iqbal, 129 S.Ct. at 1949.

The leniency given to *pro se* litigants "does not permit the district court to act as counsel for a party or to rewrite deficient pleadings." Lampkin-Asam v. Volusia County School Board, 261 Fed.Appx. 274, 277 (11th Cir. 2008); see also McNeil v. U.S., 508 U.S. 106, 113 (1993). However, this Court, in the exercise of its inherent power, may intervene sua sponte and

order a repleader where a plaintiff has "failed to connect their cause[] of action to the facts alleged." Wagner v. First Horizon Pharmaceutical Corp., 464 F.3d 1273, 1280 (11th Cir. 2006).

In light of the foregoing, the undersigned concludes that Plaintiff's complaint fails to state any discernible legally cognizable claim for relief, and that it is this Court's supervisory obligation sua sponte to direct the Plaintiffs to re-plead their complaint in a manner that complies with the Federal Rules. See Wagner, 464 F.3d at 1275. Therefore, this Court **STRIKES** Plaintiff's complaint. Plaintiffs will be permitted to file, within **fourteen (14) days** of the entry of this order, an amended complaint that complies with Rule 8(a) and 10(b) by presenting each claim for relief with such clarity as to permit the Defendants to discern Plaintiff's legal claims and the factual bases therefor, and to frame a responsive pleading or motion. Failure to re-plead will result in the termination of this action against Plaintiff and in favor of Defendant, with prejudice.

The Clerk is **DIRECTED** to resubmit this matter to the undersigned fifteen days after the entry of this order.

SO ORDERED, this 21st day of September, 2011.

/s/ E. Clayton Scofield
E. Clayton Scofield III
United States Magistrate Judge

