

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SHAWNETTA T. GRAHAM,)	
)	
Plaintiff,)	
)	
v.)	No. 10 C 7191
)	
STATE OF ILLINOIS DEPARTMENT)	
OF JUVENILE JUSTICE, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Shawnetta Graham ("Graham") has filed a motion seeking leave to appeal in forma pauperis ("IFP") from this Court's brief August 22, 2011 memorandum order ("Order") that dismissed her attempted Third Amended Complaint ("TAC") in this putative 42 U.S.C. §1983 ("Section 1983") action. Although Graham's accompanying affidavit demonstrates her inability to pay \$455 in appellate filing fees up front,¹ Graham's problem is that she cannot meet the other precondition to IFP status on appeal--the assertion of a claim that is nonfrivolous in the legal sense.

This Court made a number of efforts to assist Graham in fashioning an arguably viable constitutional claim. It issued several brief memorandum orders in that respect, but Graham remained unable to fashion an appropriate Section 1983 complaint.

¹ Graham represents that she is "over her head with debt" and lacks cash to pay the filing fees. Although she describes a group of vintage coins (acquired by her as a hobby over the years) that could perhaps be liquidated to generate enough money to pay the fee, this Court is satisfied that her representations as to her overall financial condition suffice for IFP purposes.

Ultimately this Court issued a May 26, 2011 memorandum order that directed the sole target of the TAC--the Illinois Department of Juvenile Justice--to file a responsive pleading.

That has been done via a motion to dismiss and a supporting memorandum or law, which Graham has been unable to counter. As the Order stated, Department has demonstrated that (1) it is not a "person" suable under Section 1983 because it is an arm of the State of Illinois and (2) it enjoys sovereign immunity for the same reason. Accordingly Graham's motion for IFP treatment is denied, though she is advised that she may present the issue to the Court of Appeals for its determination on that score.



Milton I. Shadur
Senior United States District Judge

Date: September 20, 2011