

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

DE JE JENKINS

VERSUS

FLORIDA PARISHES JUVENILE JUSTICE COMMISSION

CIVIL ACTION

NO. 15-1228

SECTION "L"

ORDER & REASONS

Before the Court is Defendant's 12(b)(6) Motion to Dismiss Plaintiff's claims under the Family and Medical Leave Act ("FMLA") for failure to state a claim upon which relief can be granted. (R. Doc. 4). Having considered the parties' briefs and the applicable law, the Court now issues this Order and Reasons.

I. LAW & ANALYSIS

The Federal Rules of Civil Procedure permit a defendant to seek a dismissal of a complaint based on the "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). A district court must construe facts in the light most favorable to the nonmoving party. The court must accept as true all factual allegations contained in the complaint. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "To survive a motion to dismiss, a complaint must contain 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 plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citation omitted). Dismissal is appropriate only if the complaint fails to plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corporation et al. v. William Twombly*, 550 U.S. 544, 570 (2007).

To qualify for protection under the FMLA, an employee must be employed for at least

twelve months. 29 U.S.C. 2611 (2)(A). Conceding that she was not employed for at least twelve months preceding her need for FMLA leave, the Plaintiff has no opposition to the Motion to Dismiss. (R. Doc. 8).

II. CONCLUSION

Accordingly, Defendant's Motion to Dismiss (R. Doc. 4) is **GRANTED** without prejudice.

New Orleans, Louisiana, this 10th day of September, 2015.


UNITED STATES DISTRICT JUDGE