

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DOROTHY ANN NIETO,

Plaintiff,

v.

No. 1:23-cv-00705-JCH-GJF

DIANE B.,
SHERRIE B.,
JERRALYN B.,
“MINNIE,” and
DIANE GALLEGOS,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff, who is proceeding *pro se*, filed her Complaint using the form “Civil Rights Complaint Pursuant to 42 U.S.C. § 1983.” Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Doc. 1, filed August 22, 2023 (“Complaint”). The Complaint contains allegations regarding: (i) Plaintiff’s medical records are “not mine;” (ii) human trafficking; (iii) the justice system and other persons are “paid off;” (iv) Plaintiff’s son was “killed electronically;” (v) there are “many mic[rophones] in my studios;” (vi) identity theft; (vii) “Many elect. harr. weapons inserted into my body w/out my consent;” (viii) insurance and credit card fraud; (ix) “inserting weapons into my head to forget who I am and forget their crimes;” (x) “my 8 mo. old granddaughter has weapons inserted into her head also;” and (xi) “women missing, killed by Dave, Manny, Pete.” Complaint at 4-6.

United States Magistrate Judge Gregory J. Fouratt notified Plaintiff:

The Complaint generally fails to state a claim upon which relief can be granted because it does not allege, among other things, when Defendants did the various alleged acts to Plaintiff. *See Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center*, 492 F.3d 1158, 1163 (10th Cir. 2007) (“[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what

specific legal right the plaintiff believes the defendant violated.”). Although “a complaint need not provide ‘detailed factual allegations,’ it must give just enough factual detail to provide ‘fair notice of what the ... claim is and the grounds upon which it rests.’” *Warnick v. Cooley*, 895 F.3d 746, 751 (10th Cir. 2018) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)).


The Complaint fails to state a civil rights claim pursuant to 42 U.S.C. § 1983. "The two elements of a Section 1983 claim are (1) deprivation of a federally protected right by (2) an actor acting under color of state law." *Schaffer v. Salt Lake City Corp.*, 814 F.3d 1151, 1155 (10th Cir. 2016). The Complaint does not contain any factual allegations showing that Defendants were acting under color of state law. The Complaint also does not explain which specific legal rights Plaintiff believes each Defendant violated. *See Nasious*, 492 F.3d at 1163.

It also appears that Plaintiff may be asserting claims on behalf of other persons. *See* Complaint at 3, 6 (referring to “All family members,” “every person who rented at four hills studios past 2 ½ years,” “alleged acts on Plaintiff’s son, her granddaughter and missing women). "A litigant may bring his own claims to federal court without counsel, but not the claims of others." *Fymbo v. State Farm Fire & Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000); *see also Kanth v. Lubeck*, 123 Fed.Appx. 921, 923 n.1 (10th Cir. 2005) (stating “as a non-lawyer parent, appearing pro se, [plaintiff] may not represent his minor children in federal court”) (citing *Meeker v. Kercher*, 782 F.2d 153, 154 (10th Cir. 1986).

Order for Amended Complaint at 3-4, Doc. 4, filed August 23, 2023 (notifying Plaintiff that the Complaint can be dismissed for failure to state a claim). Judge Fouratt ordered Plaintiff to file an amended complaint and notified Plaintiff that failure to timely file an amended complaint may result in dismissal of this case. Plaintiff did not file an amended complaint by the September 13, 2023, deadline.

The Court dismisses this case because the Complaint fails to state a claim and Plaintiff did not file an amended complaint as ordered by Judge Fouratt.

IT IS ORDERED that this case is **DISMISSED without prejudice**.



SENIOR UNITED STATES DISTRICT JUDGE