UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X

PRINCESS JASHODA RAGHUNATH; ABIGAIL BELLA RAGHUNATH; REBECCA RAGHUNATH; JEREMIAH ISHWARDAT RAGHUNATH; ZACHARIAH RAGHUNATH,

Plaintiffs,

-against-

STATE OF NEW YORK; CITY OF NEW YORK; COUNTY OF QUEENS; ADMINISTRATION OF CHILDREN SERVICES; NEW YORK STATE OFFICE OF CHILDREN & FAMILY SERVICES; FAMILY COURT CITY OF NEW YORK; POLICE DEPARTMENT CITY OF NEW YORK; OFFICE OF THE COMPTROLLER; OFFICE OF THE STATE COMPTROLLER; LEGAL AID SOCIETY QUEENS COUNTY JUVENILE RIGHTS DIVISION; MERCY FIRST FOSTER CARE AGENCY; MARY IMMACULATE HOSPITAL; CORPORATION COUNSEL N.Y.C.; FAMILY COURT QUEENS COUNTY; ANGEL GUARDIAN CAMPUS; QUEENS COUNTY ADVOCACY CENT; FELICIA MILLER, CASEWORKER, CPS FOR ACS; NATALIE ARTHUR, CASEWORKER, CPS FOR ACS; EFRIM N, CPS CASEWORKER ACS; SHAWEYA POPE, CASEWORKER, MERCY FIRST FOSTER CARE AGENCY; ALICE BACON, CASEWORKER, MERCY FIRST FOSTER CARE AGENCY; MICHELLE HODGES; CASEWORKER, MERCY FIRST FOSTER CASE AGENCY; DEBORAH SAVOURY, SUPERVISOR, MERCY FIRST FOSTER CARE AGENCY; RADICA PERSAUD, FOSTER MOTHER, MERCY FIRST FOSTER CARE AGENCY; PHYLLIS SEEMONGAL, STEPMOTHER; JANICE BENNETT, PHYSICIAN, MERCY FIRST FOSTER CARE AGENCY; MARGARET CONNERS, PHYSICIAN, MERCY FIRST FOSTER CARE AGENCY; DR. LEW, PHYSICIAN, MERCY FIRST FOSTER CARE AGENCY; MURIEL POLLYCOCK, PHYSICIAN, MERCY FIRST FOSTER CARE AGENCY; JOY WOO, PHYSICIAN, MERCY FIRST FOSTER CARE AGENCY; EMELITA MENDOZA, PHYSICIAN, MERCY FIRST FOSTER CARE AGENCY; LOIS ABRAMHIK, PHYSICIAN, MERCY FIRST CARE AGENCY; MARSHA

NOT FOR PUBLICATION
MEMORANDUM & ORDER
14-CV-4218 (CBA)(LB)

WRIGHT, ATTORNEY, LEGAL AID SOCIETY; MELLENIE SHAPIRO, ATTORNEY AT LAW, LEGAL AID SOCIETY; ANGELA HULL, LEGAL AID ATTORNEY, LEGAL AID SOCIETY; EMILY KAPLAN, LEGAL AID ATTORNEY, LEGAL AID SOCIETY; STEPHEN FORBES, LEGAL AID ATTORNEY, LEGAL AID SOCIETY; ERA ERAS, ATTORNEY AT LAW, WARREN & WARREN LLC; NAOMI CAVANUGH, SOCIALWORKER/ATTORNEY, LEGAL AID SOCIETY; SOMMERVILLE CITY POLICE OFFICER; RODRIGUEZ, NEW YORK CITY POLICE OFFICER, QUEENS COUNTY; ROMPUES, DETECTIVE NEW YORK CITY, QUEENS COUNTY; CRAIG RAMSEUR, JUDGE, FAMILY COURT QUEENS COUNTY; CAROL A. STOKINGER, JUDGE, FAMILY COURT QUEENS COUNTY; EDWINA RICHARDSON-MEDLESON, JUDGE, FAMILY COURT QUEENS COUNTY,

Defendants.

----------X

AMON, Chief United States District Judge.

On July 3, 2014, plaintiff Princess Jashoda Raghunath ("Raghunath") filed this pro se action on her behalf and on behalf of her four minor siblings. Raghunath herself, who was twenty years old when she filed her complaint, is an adult. (See Complaint ("Compl.") at 34.) The complaint alleges a host of civil rights violations, pursuant to 42 U.S.C. § 1983, related to the removal of Raghunath and her siblings from parental custody and their placement in foster care. Raghunath seeks damages and injunctive relief, as well as the reversal of orders by the Family Court in Queens County, New York. Raghunath has requested to proceed in forma pauperis, (Docket Entry ("D.E.") 2), and this request is granted. For the reasons that follow, the complaint is dismissed without prejudice as to the four minor siblings: Abigail Bella Raghunath, Rebecca Raghunath, Jeremiah Ishwardat Raghunath, and Zachariah Raghunath. As to Raghunath herself, the complaint is dismissed as to all defendants except for Felicia Miller, the John Doe police officer involved in the July 2, 2007, incident, Detectives Sommerville and Rodriguez, and "Queens County district attorney[] Goulda," (Compl. at 20). However, as to the

other defendants, the Court grants Raghunath leave to amend her complaint subject to certain limitations set forth below.

BACKGROUND

Raghunath's 130-page complaint seeks damages and injunctive relief based on her removal from her home on July 2, 2007, and her siblings' placement in foster care "given no evidence of wrongdoing on the part of plaintiff(s) parents" (Id. at 7(f)). Raghunath alleges the following facts. On July 2, 2007, Felicia Miller, an employee of the Administration for Children's Services ("ACS"), and Police Officer John Doe, who were responding to an anonymous child abuse complaint, illegally searched her home. (Id. at 13.) While in her home, they forced her to remove her clothing in order to ascertain whether her body bore signs of bruising or physical abuse. (Id. at 13-14.) Thereafter, plaintiff and her siblings were removed, by force and against their will, from their home and taken to Mary Immaculate Hospital to be examined by a physician. (Id. at 17-18.) There, she was "to be interviewed for possible child abuse, sexual abuse, neglect or maltreatment before Queens County district attorney[] Goulda and detectives Sommerville and Rodriguez." (Id. at 20.) Plaintiff then returned to her home, which she shares with her father, her grandmother, and her aunt, but her siblings remained with ACS for further evaluation. (Id.)

Proceedings were held before the New York City Family Court, and Raghunath's siblings were placed with another aunt, Radica Persaud, as a foster parent. (Id. at 22.) In February 2008, Raghunath and her father were allowed supervised visitation with her siblings, but Raghunath alleges that visitation was not administered fairly by Mercy First Foster Care Agency or the foster parent. (Id. at 28-31.) Raghunath's minor siblings remained in foster care until October 10, 2013, when they were returned to their mother, Phyllis Seemongal. (Id. at 35.) Since then,

Raghunath has not been able to see her siblings, in part because Seemongal refuses to allow her to visit them. (Id. at 36.) Raghunath alleges that various investigations and examinations of her and her siblings "reveal[] that [they] suffer[ed] no abuse physically or sexually, or exposed to harm or danger or maltreatment . . . ." (Id. at 8(e).)

STANDARD OF REVIEW

A district court shall dismiss an in forma pauperis action where it is satisfied that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). A complaint fails to state a claim on which relief can be granted if it does not plead enough facts "to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A complaint plausibly states a claim if the facts alleged "allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). While "'detailed factual allegations'" are not required, "[a] pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.'" Id. (quoting Twombly, 550 U.S. at 555). Similarly, a complaint does not state a claim "if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" Id. (quoting Twombly, 550 U.S. at 557).

However, a court must construe a pro se litigant's pleadings liberally and interpret them to raise the strongest arguments they fairly suggest. Chavis v. Chappius, 618 F.3d 162, 170 (2d Cir. 2010) (internal quotation marks omitted). Liberal construction is especially important when a pro se litigant's pleadings allege civil rights violations. Sealed Plaintiff v. Sealed Defendant #1, 537 F.3d 185, 191 (2d Cir. 2008). Lastly, a pro se complaint should not be dismissed without granting a pro se plaintiff leave to amend "at least once when a liberal reading of the complaint

gives any indication that a valid claim might be stated." Gomez v. USAA Fed. Sav. Bank, 171 F.3d 794, 795 (2d Cir. 1999) (internal quotation marks omitted).

DISCUSSION

I. Raghunath Cannot Represent her Siblings

As an initial matter, Raghunath cannot represent her siblings. "[A] pro se litigant cannot represent anyone other than him or herself." S.B. ex rel. J.B. v. Suffolk Cnty., No. 13-cv-446, 2013 WL 1668313, at *2 (E.D.N.Y. Apr. 17, 2013) (citing Berrios v. N.Y.C. Hous. Auth., 564 F.3d 130, 133 (2d Cir. 1999)). Moreover, when, as here, "it is apparent to a court that a lay person is suing on behalf of a minor, the court has a duty to protect the child by enforcing, sua sponte, the prohibition against unauthorized representation." Fayemi v. Bureau of Immigration & Custom Enforcement, No. 04-cv-1935, 2004 WL 1161532, at *1 (E.D.N.Y. May 24, 2004). Accordingly, Raghunath can only represent herself in this action and cannot represent her siblings, whom her complaint identifies as minors. The claims related to Abigail Bella Raghunath, Rebecca Raghunath, Jeremiah Ishwardat Raghunath, and Zachariah Raghunath are dismissed without prejudice. 28 U.S.C. § 1915(e)(2)(B)(ii).

II. Sovereign Immunity

The Court lacks subject matter jurisdiction over Raghunath's claims against the state of New York and its agencies. The Eleventh Amendment provides that "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." U.S. CONST. amend. XI. "It has long been settled that the reference to actions 'against one of the United States'" in the Eleventh Amendment "encompasses not only actions in which a State is actually named as the defendant, but also

certain actions against state agents and state instrumentalities." Regents of the Univ. of California v. Doe, 519 U.S. 425, 429 (1997). Although the text of the Eleventh Amendment speaks only to "Citizens of another State," the Supreme Court has long held that it also covers suits by citizens of the state named as defendant. Nat'l Foods, Inc. v. Rubin, 936 F.2d 656, 659 n.2 (2d Cir. 1991) (citing Hans v. Louisiana, 134 U.S. 1, 10 (1890)).

Congress can abrogate state sovereign immunity by: "(1) unequivocally expressing its intent to do so, and (2) acting pursuant to a valid exercise of power." Kozaczek v. N.Y. Higher Educ. Servs. Corp., 503 F. App'x 60, 61 (2d Cir. 2012) (citing Seminole Tribe of Fla. v. Florida, 517 U.S. 44, 55 (1996)). However, "it is well established that Congress did not abrogate state sovereign immunity in enacting 42 U.S.C. § 1983." Sargent v. Emons, 582 F. App'x 51, 52 (2d Cir. 2014) (citing Quern v. Jordan, 440 U.S. 332, 345 (1979)). It is equally "well[] established that New York has not consented to § 1983 suits in federal court." Mamot v. Bd. of Regents, 367 F. App'x 191, 192 (2d Cir. 2010) (citing Trotman v. Palisades Interstate Park Comm'n, 557 F.2d 35, 38-40 (2d Cir.1977)). With respect to injunctive relief, although the doctrine in Ex parte Young permits "suits against state officers in their official capacity for prospective injunctive relief to prevent a continuing violation of federal law," Henrietta D. v. Bloomberg, 331 F.3d 261, 287 (2d Cir. 2003), that doctrine "has no application in suits against the States and their agencies, which are barred regardless of the relief sought," Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139, 146 (1993).

Accordingly, the Court lacks subject matter jurisdiction over Raghunath's claims against the State of New York, the New York State Office of Children and Family Services ("OCFS"), the Office of the State Comptroller, and the Family Court. 28 U.S.C. 1915(e)(2)(B)(iii); see also McKnight v. Middleton, 699 F. Supp. 2d 507, 521 (E.D.N.Y. 2010) (holding that New York City

Family Court is "a part of the New York State Unified Court system and is, therefore, also protected by the State's sovereign immunity from suit in federal court."), aff'd, 434 F. App'x 32 (2d Cir. 2011).

III. Municipal Liability

Raghunath's complaint likewise cannot sustain its municipal liability claims. As to municipalities themselves, in order to sustain a § 1983 claim against a municipal defendant, a plaintiff must show the existence of an officially adopted policy or custom that caused injury and a direct causal connection between that policy or custom and the deprivation of a constitutional right. Monell v. Dep't of Soc. Servs. of the City of N.Y., 436 U.S. 658, 694 (1978). "The failure to train or supervise city employees may constitute an official policy or custom if the failure amounts to 'deliberate indifference' to the rights of those with whom the city employees interact." Wray v. City of New York, 490 F.3d 189, 195 (2d Cir. 2007) (citing City of Canton v. Harris, 489 U.S. 378 (1989)). However, a mere allegation that a municipality failed to train its employees does not suffice. Plair v. City of New York, 789 F. Supp. 2d 459, 469 (S.D.N.Y. 2011) ("Following Iqbal and Twombly, Monell claims must satisfy the plausibility standard."). "Proof of a single incident of unconstitutional activity is not sufficient to impose liability under Monell, unless proof of the incident includes proof that it was caused by an existing, unconstitutional municipal policy, which policy can be attributed to a municipal policymaker." City of Oklahoma City v. Tuttle, 471 U.S. 808, 823-24 (1985); see also Hartnagel v. City of New York, No. 10-cv-5637, 2012 WL 1514769, at *4 (E.D.N.Y. Apr. 30, 2012) (single incident involving actor below policy-making level cannot give rise to Monell liability).

As to city agencies, they are not amenable to suit. That is because the New York City Charter requires that suit "be brought in the name of the City of New York and not in that of any

agency." N.Y.C. Charter § 396; see also Ximines v. George Wingate High Sch., 516 F.3d 156, 159-60 (2d Cir. 2008) (per curiam) (noting that § 396 "has been construed to mean that New York City departments [and agencies], as distinct from the City itself, lack the capacity to be sued").

As for the municipal defendants, Raghunath does not allege, and nothing in her complaint suggests, that any of the allegedly wrongful acts or omissions on the part of any city employee are attributable to a municipal policy or custom. Additionally, the complaint does not plead facts from which the Court could infer a failure to train that rises to the level of deliberate indifference. As to the city agencies, they are not amenable to suit. See Jenkins v. City of New York, 478 F.3d 76, 93 n.19 (2d Cir. 2007) (NYPD is not a suable entity.); Bloch v. Comptroller, No. 11-cv-469, 2011 WL 607118, at *1 n.2 (E.D.N.Y. Feb. 9, 2011) (City Comptroller's office is not a suable entity.); Preston v. New York, 223 F. Supp. 2d 452, 469 (S.D.N.Y. 2002) (ACS is not a suable entity.), aff'd sub nom. Preston v. Quinn, 87 F. App'x 221 (2d Cir. 2004); Cincotta v. N.Y.C. Human Resources Admin., No. 00-cv-9064, 2001 WL 897176, at *10 (S.D.N.Y. Aug. 9, 2001) (Corporation Counsel's office is not a suable entity.) Raghunath's complaint against the municipal defendants and their agencies must therefore be dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).[1]

IV. Judicial Immunity

Raghunath names as defendants three Family Court judges who have presided over proceedings concerning her and her siblings: Judge Craig Ramseur, Judge Carol A. Stokinger, and Judge Edwina Richardson-Medleson. Her claims against them must be dismissed. Judges "generally have absolute immunity" from suit for judicial acts performed in their judicial

[1] Raghunath also names the "Queens County Advocacy Center." It is unclear if this entity is part of the municipality or the state. In any event, Raghunath does not provide any facts against this defendant to support a claim under § 1983.

capacities. Bliven v. Hunt, 579 F.3d 204, 209 (2d Cir. 2009) (citing Mireles v. Waco, 502 U.S. 9, 11 (1991)). This absolute "judicial immunity is not overcome by allegations of bad faith or malice," nor can a judge "be deprived of immunity because the action he took was in error . . . or was in excess of his authority." Mireles, 502 U.S. at 11, 13. Rather, judicial immunity is overcome in only two instances. The first is "liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity." Bliven, 579 F.3d at 209 (quoting Mireles, 502 U.S. at 11). The second is liability arising from actions taken "'in the complete absence of all jurisdiction.'" Basile v. Connolly, 538 F. App'x 5, 7 (2d Cir. 2013) (emphasis in the original) (quoting Mireles, 502 U.S. 11-12). Section 1983 prohibits injunctive relief "against a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable." 42 U.S.C. § 1983; see also Huminski v. Corsones, 396 F.3d 53, 74 (2d Cir. 2004).

Nothing in Raghunath's complaint alleges facts suggesting the applicability of either of the exceptions to absolute judicial immunity in the damages context. Moreover, she has "allege[d] neither the violation of a declaratory decree, nor the unavailability of declaratory relief." See Montero v. Travis, 171 F.3d 757, 761 (2d Cir. 1999) (per curiam) (affirming dismissal of pro se complaint that failed to allege either exception to the bar on injunctive relief). Accordingly, Raghunath's claims against the judge-defendants are foreclosed by absolute immunity. 28 U.S.C. §§ 1915 (e)(2)(B)(ii)-(iii).

V. Non-State Actor Defendants

Raghunath fails to state a claim as against the non-state actor defendants. To maintain a § 1983 action, plaintiff must allege that the conduct at issue: (1) was "committed by a person acting under color of state law" and (2) "deprived [plaintiff] of rights, privileges, or immunities

secured by the Constitution or laws of the United States." Cornejo v. Bell, 592 F.3d 121, 127 (2d Cir. 2010) (quoting Pitchell v. Callan, 13 F.3d 545, 547 (2d Cir. 1994)) (internal quotation marks omitted). "A plaintiff pressing a claim of violation of his constitutional rights under § 1983 is . . . required to show state action." Tancredi v. Metro. Life Ins. Co., 316 F.3d 308, 312 (2d Cir. 2003) (citing Rendell-Baker v. Kohn, 457 U.S. 830, 838 (1982)). "[A] private actor acts under color of state law when the private actor is a willful participant in joint activity with the State or its agents," but "[a] merely conclusory allegation that a private entity acted in concert with a state actor does not suffice to state a § 1983 claim against the private entity." Ciambriello v. County of Nassau, 292 F.3d 307, 324 (2d Cir. 2002) (internal quotation marks omitted). Alternatively, to support a claim against a private party on a § 1983 conspiracy theory, a plaintiff must show "(1) an agreement between a state actor and a private party; (2) to act in concert to inflict an unconstitutional injury; and (3) an overt act done in furtherance of that goal causing damages." Id. at 324-25. The mere provision of federal subsidies to a defendant does not, by itself, transform otherwise private conduct into state action. See Horvath v. Westport Library Ass'n, 362 F.3d 147, 152 (2d Cir. 2004) (discussing Rendell-Baker, 457 U.S. at 840-41, and noting that "public funding alone" cannot transmute a private actor into a state actor).

In this case, Raghunath has sued a number of individuals and entities that do not appear to be state actors: (1) the Legal Aid Society of Queens County and employees Marsha Wright, Mellenie Shapiro, Angela Hull, Emily Kaplan, Stephen Forbes, and Naomi Cavanugh (the "Legal Aid Defendants"); (2) Mercy First Foster Care Agency, a charitable organization, see http://mercyfirst.org (last visited Feb. 16, 2015), and its Angel Guardian Campus, as well as employees Shaweya Pope, Alice Bacon, Michelle Hodges, Deborah Savoury, Janice Bennett, Margaret Conners, Dr. Lew, Muriel Pollycock, Joy Woo, Emelita Mendoza, and Lois Abramhik

(the "Mercy First Defendants"); (3) Mary Immaculate Hospital, see Richard Perez-Pena, 2 Small Queens Hospitals in a Struggle for Survival, N.Y. Times, May 12, 2006, available at http://www.nytimes.com/2006/05/12/nyregion/12hospital.html (describing Mary Immaculate Hospital as a "Catholic hospital[]"); (4) Radica Persaud, who Raghunath says is her foster mother; (5) Phyllis Seemongal, who Raghunath says is her step-mother; and (6) Era Eras, a private attorney. However, Raghunath has failed to allege facts showing that any of these private defendants acted in concert with or conspired with state actors so as to bring them within the ambit of § 1983.

To the extent that any allegations in Raghunath's complaint allege a nexus between the private defendants and state actors, they are vague and conclusory, and fail to demonstrate that any of these defendants should be treated as state actors. In addition, the fact that the Legal Aid Defendants were acting as court-appointed attorneys did not render them state actors, as "it is well-established that court-appointed attorneys performing a lawyer's traditional functions as counsel . . . do not act 'under color of state law' and therefore are not subject to suit under 42 U.S.C. § 1983." Rodriguez v. Weprin, 116 F.3d 62, 65-66 (2d Cir. 1997) (collecting cases); see also Brown v. Legal Aid Soc., 367 F. App'x 215, 216 (2d Cir. 2010) (affirming dismissal of § 1983 case against Legal Aid Society with citation to Rodriguez). The complaint must therefore be dismissed as to the Legal Aid Defendants, the Mercy First Defendants, Mary Immaculate Hospital, Persaud, Seemongal, and Eras. 28 U.S.C. § 1915(e)(2)(B)(ii).

VI. Personal Involvement

With respect to ACS caseworkers Natalie Arthur and Efrim N. and Detective Rompues, Raghunath's claim is dismissed for failure to allege personal involvement. As a prerequisite to a damage award under § 1983, a plaintiff must allege the defendant's direct or personal

involvement in the alleged constitutional deprivation. "It is well settled in this Circuit that personal involvement of defendants in alleged constitutional deprivations is a prerequisite to an award of damages under § 1983." Farid v. Ellen, 593 F.3d 233, 249 (2d Cir. 2010) (internal quotation marks omitted).

Raghunath has failed to make any allegations that Arthur, Efrim N. or Detective Rompues were personally involved in, had knowledge of, or were responsible for any colorable deprivation of her civil rights. Raghunath has therefore failed to state a claim under § 1983 against those defendants. 28 U.S.C. § 1915(e)(2)(B)(ii).[2]

VII. The Rooker-Feldman Doctrine and Family Court Orders

To the extent Raghunath's complaint asks the Court to reverse Family Court orders, the Court lacks subject matter jurisdiction under the Rooker-Feldman doctrine. "Under the Rooker-Feldman doctrine, inferior federal courts have no subject matter jurisdiction over suits that seek direct review of judgments of state courts, or that seek to resolve issues that are 'inextricably intertwined' with earlier state court determinations." Vargas v. City of New York, 377 F.3d 200, 205 (2d Cir. 2004) "There is no question that Rooker-Feldman bars [a plaintiff's] challenges to the family court's decisions regarding custody, neglect, and visitation." Phifer v. City of New York, 289 F.3d 49, 57 (2d Cir. 2002).

Here, to the extent Raghunath asks the Court to reverse Family Court rulings regarding custody and visitation, the Rooker-Feldman doctrine does not permit the Court to take jurisdiction over those claims.

[2] Similarly, the affidavit Raghunath attached to her complaint does not allege acts committed by any particular defendant or defendants. (D.E. 1-2.) Instead, it asserts a host of federal and state constitutional and statutory violations in conclusory and abstract terms.

VIII. The July 2, 2007, Incident

Although Raghunath's claims must be dismissed as against most of the defendants, they may proceed with respect to the events of July 2, 2007, as against ACS caseworker Felicia Miller, a John Doe police officer, Detectives Sommerville and Rodriguez, and Goulda, who though not named in the caption appears to be a Queens assistant district attorney. Specifically, Raghunath alleges that on July 2, 2007, Miller and the John Doe officer conducted an illegal search of her residence and forced her to remove her clothing to search her body for signs of physical abuse. (Compl. at 13-14.) She further alleges that she was thereafter forcibly removed from her home against her will, taken to a hospital and then to the Queens County Child Abuse Squad based on unsubstantiated charges of child abuse. (Id. at 17-18.) She alleges that Detectives Sommerville and Rodriguez and Goulda, of the Queens County District Attorney's Office, interviewed her after she was taken there. (Id. at 20.) The Court interprets her complaint to allege that she was held for this "interrogation[]" against her will. (Id.) These facts raise several potentially colorable legal claims, which may proceed.

IX. Leave to Amend

The Court grants Raghunath leave to amend her complaint with respect to the dismissed claims, except for the claims brought on behalf of her siblings, her claims against New York state and its agencies, and her claims against the Family Court judges. In the case of the latter claims, the Court need not afford Raghunath an opportunity to amend her complaint because "the court can rule out any possibility . . . that an amended complaint [on those claims] would succeed in stating a claim." Gomez, 171 F.3d at 796. With respect to her other claims, Raghunath must, in amending her complaint, cure the errors identified in the foregoing discussion.

If she amends her complaint, she must also provide any and all additional identifying information she possesses as to the John Doe police officer whom she alleges took part in the July 2, 2007, incident along with Miller. She should also include any and all additional identifying information with respect to Detectives Sommerville and Rodriguez and Goulda. If Raghunath chooses to file an amended complaint, she should do so within thirty (30) days of this Order. She is advised that an amended complaint replaces the complaint currently pending before the Court in its entirety and therefore must include all of her claims and factual allegations against all of the defendants against whom she wishes to proceed. That includes the claims permitted to proceed pursuant to this Order. The amended complaint must be captioned "First Amended Complaint" and bear the same docket number as this Order.

CONCLUSION

To summarize, Raghunath's request to proceed in forma pauperis is granted. For the reasons set forth above, the Court dismisses her claims on behalf of her minor siblings and against all defendants except for Miller, the John Doe police officer, Detective Sommerville, Detective Rodriguez, and Goulda. However, with respect to all her claims except those on behalf of her siblings, those against New York state and its agencies, and those against the Family Court judges, she may file an amended complaint within thirty (30) days of this Order. If Raghunath fails to do so, the Court shall enter judgment as to those claims.

Raghunath's complaint shall proceed against ACS caseworker Felicia Miller, the John Doe police officer involved in the July 2, 2007, incident, Detective Sommerville, Detective Rodriguez, and Goulda, of the Queens County District Attorney's Office. The Clerk of Court shall issue summonses as against them, and the United States Marshals Service is directed to serve the summonses, Raghunath's complaint, and a copy of this Order upon Miller,

Sommerville, Rodriguez, and Goulda without prepayment of fees. The Clerk of Court shall mail a courtesy copy of the same papers to the Corporation Counsel for the City of New York, Special Federal Litigation Division. The case is referred to the Honorable Lois Bloom, United States Magistrate Judge, for pretrial supervision, including the identification of and service of process on the John Doe defendant.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York
July 30, 2015

/S/ Chief Judge Carol Bagley Amon
Carol Bagley Amon
Chief United States District Judge