

**MICHAEL J. CLEVELAND, SR., and ANGELA I. CLEVELAND,**

## **Plaintiffs,**

VS.

**1:16-CV-1235 (NAM/DJS)**

**SCHENECTADY COUNTY DEPARTMENT OF  
CHILDREN AND FAMILIES, et al.,**

## Defendants.

## APPEARANCES:

MICHAEL J. CLEVELAND, SR.  
73 14<sup>TH</sup> Street  
Troy, New York 12305  
Plaintiff, *Pro Se*

ANGELA I. CLEVELAND  
73 14<sup>TH</sup> Street  
Troy, New York 12305  
Plaintiff, *Pro Se*

**Norman A. Mordue, Senior U.S. District Judge**

## MEMORANDUM-DECISION AND ORDER

Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Daniel J. Stewart issued a Report-Recommendation and Order (Dkt. No. 8) granting plaintiffs' motions to proceed *in forma pauperis* and conducting initial review of their *pro se* complaint. *See* 28 U.S.C. § 1915(e)(2)(B). In his report, Magistrate Judge Stewart recommends that the case proceed against defendant Schenectady County on plaintiffs' claim under *Monell v. Department of Social Servs.*, 436 U.S. 658, 690 (1978); that plaintiffs' claims against defendants

Schenectady County Conflict Defenders Office, and Schenectady County Sheriff's Department be dismissed with prejudice; that plaintiffs' claims against the remaining defendants be dismissed without prejudice; and that plaintiffs be given leave to file an amended complaint. The Court adopts the Report and Recommendation, except for what appear to be clerical errors in the first and second recommended ordering paragraphs.<sup>1</sup> The ordering paragraphs below reflect the Court's corrections.<sup>2</sup>

¶ It is therefore

ORDERED that the Report-Recommendation and Order (Dkt. No. 8) is accepted, with the exception that the recommended ordering paragraphs are corrected to reflect that the claims against James Martain, Alexandera Verrigni, Esq., Phil Ankerman, Tina Cheetham-Colon, and Cheryl Cawley are dismissed without prejudice; and it is further

ORDERED that the claims in the complaint (Dkt. No. 1) against Mark Powers, Michael Godlewski, Schenectady County Department of Children and Families, Schenectady County Conflict Defenders Office, and Schenectady County Sheriff's Department are dismissed with prejudice; and it is further

ORDERED that the claims in the complaint (Dkt. No. 1) against Paul Brady, Tina

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<sup>1</sup> The body of the Report and Recommendation properly recommends that the claims against James Martain, Alexandera Verrigni, Esq., and Phil Ankerman be dismissed without prejudice; however, the first recommended ordering paragraph appears to recommend that the claims against them be dismissed with prejudice. In addition, although the body of the Report and Recommendation properly recommends that the claims against Tina Cheetham-Colon and Cheryl Cawley be dismissed without prejudice, they are not mentioned in the recommended ordering paragraphs.

<sup>2</sup> Plaintiffs have already filed an amended complaint (Dkt. No. 10) in which James Martain, Alexandera Verrigni, Esq., Phil Ankerman, Tina Cheetham-Colon, and Cheryl Cawley are again named as defendants; thus, the clerical errors in the recommended ordering paragraphs did not prevent plaintiffs from pursuing their claims against these defendants.

Cheetham-Colon, Cheryl Cawley, Julie Bailey, Shainna More, Nicole Nelson, Della Ferraro, Mandi Clegg, Gewenthen Jerome, Michael Malone, Tina Tronetti-Hotvet, Steve Borden, Valerie Valente, Page Lerret, James Martain, Alexandera Verrigni, Esq., Northeast Parent and Child Society, Berkshire Farms, Kathie Voisine-Maruska, Det. Sherman, Phil Ankerman, and Randy Debenham are dismissed without prejudice; and it is further

ORDERED that the complaint (Dkt. No. 1) adequately states a *Monell* claim against Schenectady County; and it is further

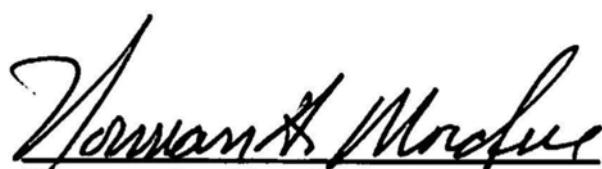
ORDERED that, because plaintiffs have already filed an amended complaint (Dkt. No. 10), the letter motion seeking an extension of time to file an amended complaint (Dkt. No. 9) is denied as moot; and it is further

ORDERED that the Clerk of the Court shall return the matter to Magistrate for further proceedings; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

**IT IS SO ORDERED.**

Dated: February 1, 2017  
Syracuse, New York

  
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Norman A. Mordue  
Senior U.S. District Judge