Mathis v. Twin Valley Behavioral Healthcare et al Doc. 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHELLE MATHIS,

Plaintiff,

v.

Civil Action 2:12-cv-358
Judge George C. Smith
Magistrate Judge E.A. Preston Deavers

DOCTOR'S HOSPITAL (WEST), ***et al.,***

Defendants.

ORDER and INITIAL SCREEN REPORT AND RECOMMENDATION

Plaintiff, Michelle Mathis, who is proceeding without the assistance of counsel, brings this action against Doctor's Hospital (West), Riverside Methodist Hospital, Ohio Health Corporation, Twin Valley Behavioral Healthcare, and Franklin Township, asserting federal civil rights and state-law tort claims arising out her involuntary commitment and treatment. This matter is before the Court for consideration of Plaintiff's Motion for Leave to Proceed *In Forma Pauperis*, which is **GRANTED**. (ECF No. 1.) Accordingly, it is **ORDERED** that judicial officers who render services in this action shall do so as if the costs had been prepaid. This matter is also before the Court for the initial screen of Plaintiff's Complaint under 28 U.S.C. § 1915(e)(2) to identify cognizable claims and to recommend dismissal of Plaintiff's Complaint, or any portion of it, which is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Having performed the initial screen, for the reasons that follow, it is **RECOMMENDED** that the Court **DISMISS** Plaintiff's purported federal causes of action for

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failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and **DECLINE** to exercise supplemental jurisdiction over Plaintiff's remaining state-law claims, **DISMISSING** these claims **WITHOUT PREJUDICE**.

I.

Plaintiff filed the instant action on April 23, 2012. (ECF No. 1.) She brought a nearly identical action on February 21, 2012, *Mathis v. Doctor's Hospital West*, Case Number 2:12-cv-156 ("156 Case"). Both actions arise from Plaintiff's involuntary commitment and treatment in January and February 2012.

In the 156 Case, the Magistrate Judge conducted an initial screen and set forth the factual background as follows:

> According to the Complaint, on January 14, 2012, Plaintiff believed that she was having a seizure and asked that emergency transportation services be called. When the emergency medical service team arrived, they restrained Plaintiff to a gurney. They then proceeded to search her property, seizing a gun that Plaintiff had carried in her purse. Plaintiff was transported against her will to Doctor's Hospital. Upon arrival to Doctor's Hospital's emergency room, medical personnel forcefully removed her clothing before restraining her to a hospital bed. Plaintiff alleges that she did not receive proper medical treatment for the symptoms she presented. Doctor's Hospital personnel restrained Plaintiff to the hospital bed for two or three days. Throughout this time, Plaintiff was placed on intravenous therapy and forced to use a catheter. After two or three days, Doctor's Hospital removed the hospital bed restraints.
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> On January 18, 2012, Doctor's West transferred Plaintiff to Riverside Methodist Hospital Behavior Health Center ("Riverside"). Plaintiff met with an intake nurse. On January 19, 2012, a physician informed her that she was being detained for "delusional or subtle signs of paranoia." (Coml. 7, ECF No. 1-2.) Riverside involuntarily committed her. Plaintiff appears to allege that the form utilized to detain her and the affidavit submitted to the state probate court did not comply with Ohio law and thus, her detainment beyond three days was unlawful. (*See id.*) She alleges that she attended a probate court hearing on January 25, 2012, but that the case was continued and that she did not receive notice of the next hearing date. On January 27, 2012, Dr. Kovell, a physician providing services at Doctor's West, informed Plaintiff that a court hearing was in progress and that she did not have the right to attend the hearing. As a result of that hearing, the probate court

> authorized Dr. Kovell to continue to detain and medicate Plaintiff. Riverside released Plaintiff in February 2012.
>
> In addition to asserting various state-law claims, Plaintiff asserts that Defendants are liable under 42 U.S.C. § 1983 because their actions deprived her of her constitutional rights. She seeks declaratory and injunctive relief as well as $20 million in statutory, compensatory, and punitive damages.

(156 Case, Mar. 22, 2012 Report & Rec. 2–3, ECF No. 2.) In the 156 Case, Plaintiff named Doctor's Hospital (West) and Riverside Methodist Hospital as defendants. The Court adopted the Magistrate Judge's recommendation that Plaintiff's purported federal causes of action be dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and that the Court decline to exercise supplemental jurisdiction over her remaining state-law claims, dismissing these claims without prejudice. (156 Case, ECF Nos. 2 and 5.)

In the instant case, Plaintiff makes nearly identical allegations to those she made in the 156 Case. The Court, therefore, adopts the factual background summary set forth above. In addition to naming Doctor's Hospital (West) and Riverside Methodist Hospital as Defendants, Plaintiff also names Ohio Health Corporation, Twin Valley Behavioral Healthcare ("Twin Valley"), and Franklin Township. Plaintiff asserts that Ohio Health Corporation is liable based upon its ownership of Doctor's Hospital (West) and Riverside Methodist Hospital. She alleges that the facilities provided inadequate care to her because "Ohio Health Corporation [is a] world wide stock exchange investor[] into the human trafficking on Plaintiff Michelle Mathis . . . ." (Compl. 10, ECF No. 1-2.) She further alleges that the people committing the human trafficking of her include "Shawn (Jay-Z) Carter and Sean (P. Diddy) Combs."[1] (*Id.* at 2.) Twin Valley is a regional psychiatric hospital administered by the Ohio Department of Mental Health. The only

[1]Shawn Carter and Sean Combs are a well-known American rappers, songwriters, and record producers.

allegation Plaintiff makes concerning this Defendant is that her probate court hearings were held there. (*See id*. at 9.) Finally, Plaintiff asserts that Franklin Township is liable based upon her allegations that its emergency medical squad ("EMS") restrained her to a gurney, searched her property, and seized her gun.

II.

Congress enacted 28 U.S.C. § 1915, the federal *in forma pauperis* statute, seeking to "lower judicial access barriers to the indigent." *Denton v. Hernandez*, 504 U.S. 25, 31 (1992). In doing so, however, "Congress recognized that 'a litigant whose filing fees and court costs are assumed by the public, unlike a paying litigant, lacks an economic incentive to refrain from filing frivolous, malicious, or repetitive lawsuits.'" *Id*. at 31 (quoting *Neitzke v. Williams*, 490 U.S. 319, 324 (1989)). To address this concern, Congress included subsection (e)[2] as part of the statute, which provides in pertinent part:

> (2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that--
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> * * *
>
> (B) the action or appeal--
>
> (i) is frivolous or malicious;
>
> (ii) fails to state a claim on which relief may be granted; or . . . .

28 U.S.C. § 1915(e)(2)(B)(i) & (ii); *Denton*, 504 U.S. at 31. Thus, § 1915(e) requires *sua sponte* dismissal of an action upon the Court's determination that the action is frivolous or malicious, or upon determination that the action fails to state a claim upon which relief may be granted.

To properly state a claim upon which relief may be granted, a plaintiff must satisfy the

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[2]Formerly 28 U.S.C. § 1915(d).

basic federal pleading requirements set forth in Fed. R. Civ. P. 8(a). *See also Hill v. Lappin*, 630 F.3d 468, 470–71 (6th Cir. 2010) (applying Federal Rule of Civil Procedure 12(b)(6) standards to review under 28 U.S.C. §§ 1915A and 1915(e)(2)(B)(ii)). Although this pleading standard does not require "'detailed factual allegations,' . . . [a] pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action,'" is insufficient. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Furthermore, a complaint will not "suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" *Id.* (quoting *Twombly*, 550 U.S. at 557). Instead, to survive a motion to dismiss for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure, "a complaint must contain sufficient factual matter . . . to 'state a claim to relief that is plausible on its face.'" *Id*. (quoting *Twombly*, 550 U.S. at 570). Facial plausibility is established "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.* Further, when considering a *pro se* plaintiff's complaint, a Court "must read [the allegations] with less stringency . . . and accept the *pro se* plaintiff's allegations as true, unless they are clearly irrational or wholly incredible." *Reynosa v. Schultz*, 282 F. App'x 386, 389 (6th Cir. 2008)

(citing *Denton*, 504 U.S. at 33 (internal citation omitted)).

III.

A. Federal Claims

1. Doctor's Hospital (West) and Riverside Methodist Hospital

The undersigned concludes that the doctrine of *res judicata* or claim preclusion operates to bar Plaintiff's federal claims against Doctor's Hospital (West) and Riverside Methodist Hospital. Under the doctrine of *res judicata* or claim preclusion, "a final judgment on the merits bars further claims by parties or their privies based on the same cause of action." *Montana v. U.S.*, 440 U.S. 147, 153 (1979). The United States Court of Appeals for the Sixth Circuit has instructed that *res judicata* requires proof of the following four elements: "(1) a final decision on the merits by a court of competent jurisdiction; (2) a subsequent action between the same parties or their privies; (3) an issue in the subsequent action which was litigated or which should have been litigated in the prior action; and (4) an identity of the causes of action." *Kane v. Magna Mixer Co.*, 71 F.3d 555, 560 (6th Cir. 1995). "The purpose of *res judicata* is to promote the finality of judgments, and thereby increase certainty, discourage multiple litigation, and conserve judicial resources." *Westwood Chemical Co. v. Kulick*, 656 F.2d 1224, 1227 (6th Cir. 1981).

In the instant action, with regard to his claims against Doctor's Hospital (West) and Riverside Methodist Hospital, Plaintiff simply reasserts the same claims, causes of action, and injuries arising out of the same facts that she alleged in the 156 Case. In the 156 Case, the Court dismissed Plaintiff's purported federal claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). A court's dismissal of a "complaint pursuant to the provisions of § 1915(e) . . . constitutes an adjudication on the merits for purposes of *res judicata*." *Burton v. Cleveland Ohio Empowerment Zone*, 102 F. App'x 461, 463 (6th Cir. 2004) (citing *Denton v. Hernandez*, 504

U.S. 25, 34 (1992); *Smith v. Morgan*, 75 F. App'x 505, 507 (6th Cir. 2003)). Thus, the undersigned concludes that the doctrine of *res judicata* operates to bar the federal claims Plaintiff asserts against Doctor's Hospital (West) and Riverside Methodist Hospital in the instant action. Based upon this conclusion, the undersigned recommends dismissal of these claims.

2. Ohio Health Corporation

It appears that Plaintiff is attempting to bring her federal claims pursuant to 42 U.S.C. § 1983 for violation of her constitutional rights. Her Complaint, however, cannot support a cause of action under § 1983 against Ohio Health Corporation, which is a private entity, for the same reasons that her complaint in the 156 Case could not support a cause of action under § 1983 against Doctor's Hospital (West) and Riverside Methodist Hospital. As the Magistrate Judge explained in the 156 Case, "[i]n order to plead a cause of action under § 1983, Plaintiff must plead two elements: '(1) deprivation of a right secured by the Constitution of laws of the United States (2) caused by a person acting under color of state law.'" (156 Case, Mar. 22, 2012 Report & Rec. 5, ECF No. 2 (quoting *Hunt v. Sycamore Cmty. Sch. Dist. Bd. of Educ.*, 542 F.3d 529, 534 (6th Cir. 2008).) In this case, as in the 156 Case, Plaintiff has failed to allege facts upon which this Court could conclude that Ohio Health Corporation acted under the color of state law. In reaching this conclusion, the undersigned incorporates the analysis set forth in March 22, 2012 Report and Recommendation in the 156 case. (*See id*. at 5–7.)

To the extent that Plaintiff seeks to bring claims against Ohio Health Corporation relating to her allegations that it is involved in a "world wide stock exchange investor[] into human trafficking on Plaintiff," in which Jay-Z and P. Diddy are involved, the undersigned likewise recommends dismissal. Plaintiff's allegations are "clearly irrational or wholly incredible." *Reynosa*, 282 F. App'x at 389. Thus, dismissal is appropriate. *See Neitzke v. Williams*, 490 U.S.

319, 325 (1989) (explaining that dismissal of a complaint filed *in forma pauperis* is appropriate where it lacks any arguable basis in law or fact); *Brand v. Motley*, 526 F.3d 921, 923–24 (6th Cir. 2008) (internal quotation marks and citation omitted) (noting that a complaint lacks an arguable basis in fact "when it relies on fantastic or delusional allegations").

Because Plaintiff has failed to state any valid federal claims against Ohio Health Corporation, the undersigned **RECOMMENDS** that the Court **DISMISS** her federal claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

3. Twin Valley

As set forth above, the only allegation Plaintiff makes concerning Twin Valley is that her probate court hearings were held there. The undersigned cannot discern a cognizable claim flowing from this allegation. The undersigned, therefore, recommends dismissal of Plaintiff's claims against this Defendant.

4. Franklin Township

Finally it is recommended that the Court dismiss Plaintiff's § 1983 claims against Franklin Township. "A municipality or other local government may be liable under [§ 1983] if the governmental body itself 'subjects' a person to a deprivation of rights or 'causes' a person 'to be subjected' to such deprivation." *Connick v. Thompson*, 131 S.Ct. 1350, 1358 (2011) (citing *Monell v. New York City Dept. of Soc. Servs.*, 436 U.S. 658, 692 (1978)). Put another way, local governments are only liable for "their own illegal acts"; they are not vicariously liable for their employees' actions. *Pembaur v. Cincinnati*, 475 U.S. 469, 479 (1986) (citing *Monell*, 436 U.S. at 665–683). Thus, to hold a local government liable under § 1983, a plaintiff must demonstrate that "action pursuant to [an] official municipal policy" caused his or her injury. *Monell*, 436 U.S. at 694; *Graham v. County of Washtenaw*, 358 F.3d 377 (6th Cir. 2004) (holding that a

plaintiff asserting a § 1983 claim on the basis of a municipal custom or policy must identify the policy, connect the policy to the municipality itself, and show that the particular injury was incurred because of the execution of that policy). Here, Plaintiff has not alleged that a Franklin Township policy caused her alleged injury. Instead, Plaintiff's claims against Franklin Township rest solely on the doctrine of *respondeat superior*. For these reasons, the undersigned **RECOMMENDS** that the Court **DISMISS** her purported § 1983 claims against Franklin Township.

B. State-Law Claims

Because the undersigned recommends dismissal of all of Plaintiff's federal claims, the undersigned further recommends that the Court decline to exercise supplemental jurisdiction over Plaintiff's state-law tort claims.

"The basic statutory grants of federal court subject-matter jurisdiction are contained in 28 U.S.C. § 1331, which provides for '[f]ederal-question' jurisdiction, and § 1332, which provides for '[d]iversity of citizenship' jurisdiction." *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 501 (2006). Federal-question jurisdiction is invoked when a plaintiff pleads a claim "arising under" the federal laws or the Constitution. *Id.* (citation omitted). For a federal court to have diversity jurisdiction pursuant to Section 1332(a), there must be complete diversity, which means that each plaintiff must be a citizen of a different state than each defendant, and the amount in controversy must exceed $75,000. *Caterpillar, Inc. v. Lewis*, 519 U.S. 61, 68 (1996).

Plaintiff, on her Civil Cover Sheet, identified federal question jurisdiction as the only basis for subject matter jurisdiction. (*See* ECF No. 1-1.) In her Complaint, however, she asserts that jurisdiction is appropriate under both the general federal question jurisdiction statute, 28 U.S.C. § 1331, and the diversity jurisdiction statute, 28 U.S.C. § 1332. Plaintiff cannot invoke

diversity jurisdiction because she indicates on her Civil Cover Sheet that both she and Defendants are citizens of Ohio. (*Id.*) Thus, jurisdiction is only appropriate under § 1331, the federal question jurisdiction statute.

Dismissal of Plaintiff's federal claims would not divest this Court of subject-matter jurisdiction. Instead, when a federal court dismisses "all claims over which it has original jurisdiction," it must then exercise its discretion to determine whether to exercise supplemental jurisdiction. *See* 28 U.S.C. § 1367(c)(3). The United States Court of Appeals for the Sixth Circuit has held that "[i]f the federal claims are dismissed before trial, the state claims generally should be dismissed as well." *Brooks v. Rothe*, 577 F.3d 701, 709 (6th Cir. 2009) (internal quotations marks and citation omitted). Accordingly, it is recommended that the Court decline to exercise supplemental jurisdiction over the remaining state-law claims pursuant to 28 U.S.C. § 1367(c)(3).

IV.

In summary, Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* is **GRANTED**. (ECF No. 1.) Accordingly, it is **ORDERED** that judicial officers who render services in this action shall do so as if the costs had been prepaid. In addition, for the reasons set forth above, it is **RECOMMENDED** that the Court **DISMISS** Plaintiff's purported federal causes of action for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Further, it is **RECOMMENDED** that the Court **DECLINE** to exercise supplemental jurisdiction over Plaintiff's remaining state-law claims and that the Court **DISMISS** these claims **WITHOUT PREJUDICE**.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review of by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g.*, *Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate judge's recommendations constituted a waiver of [th defendant's] ability to appeal the district court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court's denial of pretrial motion by failing to timely object to magistrate judge's report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) ("[A] general objection to a magistrate judge's report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal . . . ." (citation omitted))

IT IS SO ORDERED.

Date: May 15, 2012

/s/ *Elizabeth A. Preston Deavers*
Elizabeth A. Preston Deavers
United States Magistrate Judge