

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JEWELL EVETTE JONES, et al.,

Plaintiffs,

vs.

MONTGOMERY COUNTY
DEPARTMENT OF JOB AND
FAMILY SERVICES – CHILDREN
SERVICES DIVISION, et al.,

Defendants.

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: Case No. 3:18cv37

: JUDGE WALTER H. RICE

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DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS (DOC. #29) IN PART AND DECLARING SAME MOOT IN PART; PLAINTIFF’S MOTION TO FILE AMENDED COMPLAINT (DOC. #20) SUSTAINED; PLAINTIFF TO FILE AMENDED COMPLAINT WITHIN TWENTY DAYS FROM DATE; DEFENDANTS’ MOTIONS TO DISMISS, PURSUANT TO FED. R. CIV. P. 12(b)(6) (DOC. #12 AND #13) OVERRULED AS ULTIMATELY MOOT, WITHOUT PREJUDICE TO REILING ONCE PLAINTIFF FILES HER AMENDED COMPLAINT; DEFENDANTS’ MOTIONS AND SUPPLEMENTAL MOTIONS TO STAY DISCOVERY (DOC. #16, #17 AND #21) OVERRULED AS MOOT; DEFENDANTS’ FIRST MOTION FOR SCHEDULING CONFERENCE (DOC. #28) BEFORE MAGISTRATE JUDGE SHARON L. OVINGTON GRANTED

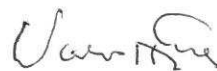
Plaintiff has filed a fifty-six page Complaint, to which Defendants have filed Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), Doc. #12 and #13. In a typically well-reasoned Report and Recommendations, filed December 10, 2018 (Doc. #29), Magistrate Judge Sharon L. Ovington recommended that Plaintiff’s Motion to Amend her Complaint be granted and that the Defendants’ Motions to Dismiss be granted in part and denied in part, with Plaintiff’s claim under 42 U.S.C. 1981(a) dismissed.

Given that Plaintiff has asked to amend her Complaint, Doc. #20, and that Magistrate Judge Ovington has granted her leave to do so, it appears to this Court to be an inefficient use of judicial resources to rule on that part of the Magistrate Judge's Report and Recommendations, dealing with the "merits" of Defendants' Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), when said motions are likely to become moot, in whole or at least in part, once the Amended Complaint is filed. Accordingly, it is the Order of this Court that the Defendants' Motions to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(6), Doc. #12 and #13, be OVERRULED, without prejudice to refile, in whole or in part, once the Plaintiff's Amended Complaint has been filed.

Plaintiff is given leave to file her Amended Complaint, both with Magistrate Judge Ovington's Report and Recommendations and the strictures of Fed. R. Civ. P. 11 in mind.

Defendants' Motions and Supplemental Motions to Stay Discovery (Doc. #16, #17 and #21), are OVERRULED, as moot, this Court leaving it up to Magistrate Judge Ovington to set a new scheduling and discovery order once the Plaintiff's Amended Complaint is filed. Likewise, Defendants' Motion for Scheduling Conference, Doc. #28, is OVERRULED, as moot, subject to a new scheduling conference being set once Plaintiff has filed her Amended Complaint.

March 22, 2019



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record