

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

TERRY HARDAGE,

Plaintiff,

vs.

THE STATE OF OKLAHOMA, et al.,

Defendants.

No. CIV-11-295-JHP**ORDER**

This matter comes before the Court on Defendants Mary Smith and Michelle Wade's FED. R. CIV. P. 12(b)(6) Motion to Dismiss Plaintiff's Second Amended Complaint (Dkt.# 85). In order to survive a motion to dismiss for failure to state a claim upon which relief can be granted, factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true even if doubtful in fact. *Bell Atlantic Corp. V. Twombly*, 127 S.Ct. 1955, 1964-65 (2007). Yet the Court need not accept as true legal conclusions from the complaint or "'naked assertion[s]' devoid of 'further factual enhancement.'" *Ashcroft v. Iqbal*, \_\_\_ U.S. \_\_\_, 129 S.Ct. 1937 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. at 557) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. at 557). The Court, after careful review of the pleadings, and based upon the reasons as more fully set forth in Defendants' Motion to Dismiss, finds that Plaintiff has failed to meet this standard and Defendants Mary Smith and Michelle Wade's Motion to Dismiss (Dkt # 85) is GRANTED.

**IT IS SO ORDERED** this 2nd day of April, 2012.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma