

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CRYSTALEAN E. MCKIE

:

CIVIL ACTION

v.

:

:

:

CITY OF PHILADELPHIA

:

NO. 17-821

MEMORANDUM

JONES, II J.

APRIL 5, 2017

Currently before the Court is plaintiff Crystalean E. McKie's amended complaint, which primarily asserts claims based on harm suffered by Ms. McKie's son and husband. For the following reasons, the Court will dismiss the amended complaint.

I. FACTS AND PROCEDURAL HISTORY

Ms. McKie filed her initial complaint against the City of Philadelphia, apparently raising civil rights claims pursuant to 42 U.S.C. § 1983 based on allegations that her son was beaten by correctional officers, her husband was beaten because he is an informant, and City officials had been "bullying" her family. The only allegations that related to her were allegations that: (a) someone tried to run her over on her way to a Narcotics Anonymous meeting; (b) people called her ex to tell him what she shared in a meeting; and (c) drugs are being purchased "in [her] name illegally." (Compl. ¶ III.C.)

The Court dismissed the complaint and explained to Ms. McKie that she lacked standing to bring claims based on harm suffered by her husband, son, or other family members. The Court also explained that the complaint was too vague to state a claim and that, in any event, the City of Philadelphia is not subject to liability under § 1983 unless a municipal policy or custom

caused a violation of Ms. McKie's constitutional rights. The Court also explained that certain claims appeared to be barred by the two-year statute of limitations.

Ms. McKie was given leave to file an amended complaint, which she did. The amended complaint adds James E. Williams as a plaintiff, even though Mr. Williams did not sign the complaint, and names as defendants the City of Philadelphia, "Philadelphia Correction Prison CFCF," Friends Hospital, and "Philadelphia Court System." It alleges that Mr. Williams was beaten by nine correctional officers and that Ms. McKie had a nervous breakdown after seeing her son sexually assaulted at Friends Hospital. The amended complaint also suggests that Ms. McKie's husband was "abused" by the court system. Ms. McKie attached to the amended complaint a copy of a final protection from abuse order she obtained against Carl McKie (who appears to be her husband), a copy of a docket from a criminal proceeding against Mr. McKie, and complaints that Ms. McKie filed with Friends Hospital. Ms. McKie alleges that she has been "in fear for [her] life for years" and that the City has allowed ongoing corruption to destroy her family. (Am. Compl. at 2.)

II. STANDARD OF REVIEW

As Ms. McKie is proceeding *in forma pauperis*, 28 U.S.C. § 1915(e)(2)(B)(ii) applies, which requires the Court to dismiss the amended complaint if it fails to state a claim. To survive dismissal, a complaint "must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quotations omitted). "[M]ere conclusory statements[] do not suffice." *Id.* As plaintiff is proceeding *pro se*, the Court construes her allegations liberally. *Higgs v. Att'y Gen.*, 655 F.3d 333, 339 (3d Cir. 2011).

III. DISCUSSION

The amended complaint fails to state claims for many of the same reasons as the initial complaint. As the Court previously explained to Ms. McKie in its earlier order, “a plaintiff must assert his or her own legal interests rather than those of a third party” to have standing to bring a claim. *Twp. of Lyndhurst, N.J. v. Priceline.com, Inc.*, 657 F.3d 148, 154 (3d Cir. 2011) (quotations omitted)). Accordingly, Ms. McKie cannot bring claims based on harm sustained by her son as a result of having been beaten or harm suffered by her husband as a result of his experiences with the criminal justice system. The Court will therefore dismiss for lack of standing any claims raised by Ms. McKie seeking relief based on injuries sustained by her family members. If Ms. McKie’s husband and son seek to raise claims on their own behalf, they must file their own lawsuits.

To the extent Ms. McKie is raising § 1983 claims based on harm she sustained, the amended complaint does not support a basis for a claim against the named defendants. In order to state a claim under § 1983, a plaintiff must allege that a person acting under color of state law deprived her of her constitutional rights. *West v. Atkins*, 487 U.S. 42, 48 (1988). Here, Ms. McKie has not stated a claim against the City of Philadelphia, because the amended complaint does not identify a specific policy or custom that caused the violation of her constitutional rights. See *Monell v. Dep’t of Soc. Servs. of N.Y.*, 436 U.S. 658, 694 (1978); *McTernan v. City of York*, 564 F.3d 636, 658 (3d Cir. 2009). Furthermore, county prisons are not “persons” subject to liability under § 1983. See *Regan v. Upper Darby Twp.*, No. CIV A 06-1686, 2009 WL 650384, at *4 (E.D. Pa. Mar. 11, 2009) (explaining that a “prison or correctional facility is not a ‘person’ that is subject to suit under federal civil rights laws”), *aff’d*, 363 F. App’x 917 (3d Cir. 2010). Nor are the Philadelphia courts subject to liability under § 1983. See *Will v. Mich. Dep’t of State Police*,

491 U.S. 58, 66 (1989); *Benn v. First Judicial Dist. of Pa.*, 426 F.3d 233, 235 n.1 & 241 (3d Cir. 2005). As Friends Hospital is not a state actor, it is also not subject to liability under § 1983.

In sum, nothing in the amended complaint suggests that Ms. McKie has a plausible basis for a federal claim against the named defendants seeking relief for harm she suffered. Ms. McKie was given an opportunity to correct the defects in her initial complaint, but her amended complaint does not cure those defects. To the contrary, it confirms that the primary basis for Ms. McKie's lawsuit is to recover for harms suffered by her family members. Accordingly, the Court concludes that further attempts at amendment would be futile.

IV. CONCLUSION

For the foregoing reasons, the Court will dismiss the amended complaint. An appropriate Order follows, which shall be docketed separately.