

with the Report and Recommendation at his listed address and advised that written objections were due by January 26, 2024.

On January 12, 2024, the Court received a document from Mr. Hoye entitled, "Amendment." (ECF No. 6). On January 16, 2024, the Magistrate Judge filed an Order advising Mr. Hoye that the Amendment had been reviewed and the Magistrate Judge had concluded that it did not alter the recommendation in the Report and Recommendation. Mr. Hoye was reminded any objections to the Report and Recommendation were due by January 26, 2024. (ECF No. 7). To date, no objections have been filed by Mr. Hoye nor has he sought an extension of time in which to do so.

The Court has reviewed the matter and concludes that the Report and Recommendation correctly analyzes the issues and makes a sound recommendation that the claims in the instant complaint are barred by Eleventh Amendment immunity. The Allegheny County Family Court, a division of the Allegheny County Court of Common Pleas, is an arm of the Commonwealth of Pennsylvania and therefore shares in the Commonwealth's immunity. *Benn v. First Judicial Dist. of Pa.*, 426 F.3d 233, 241 (3d Cir. 2005) (state courts in Pennsylvania share in the Commonwealth's Eleventh Amendment immunity); *see also Green v. Domestic Rel. Section Ct. of Common Pleas Compliance Unit Montgomery Cnty.*, 649 F. App'x 178, 180 (3d Cir. 2016) (per curiam) ("[A]ll claims against the Domestic Relations Section of the Montgomery County Court of Common Pleas were properly dismissed pursuant to its Eleventh Amendment immunity."). Pennsylvania has not waived immunity for civil rights claims, nor did Congress abrogate its immunity by passing § 1983. *See* 42 Pa. Cons. Stat. § 8521(b) ("Nothing contained in this subchapter shall be construed to waive the immunity of the Commonwealth from suit in Federal Courts guaranteed by the Eleventh Amendment to the Constitution of the United States).

Moreover, Pennsylvania courts and their divisions are not considered “persons” subject to liability under § 1983. *See Karns v. Shanahan*, 879 F.3d 504, 519 (3d Cir. 2018) (noting that “[s]tates or governmental entities that are considered ‘arms of the State’ for Eleventh Amendment purposes’ are not ‘persons’ under § 1983”) (quoting *Will*, 491 U.S. at 70)). Accordingly, there is no legal basis for Mr. Hoye’s claims against the “Family Court.”

Upon consideration of the Complaint, together with the Report and Recommendation (ECF No. 5), and after undertaking a de novo review of the record,

IT IS ORDERED that the Complaint is **DISMISSED** with prejudice for failure to state a claim pursuant to the screening provisions of 28 U.S.C. § 1915(e)(2) and leave to amend is **DENIED** as futile.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 5) dated January 5, 2024, is **ADOPTED** as the Opinion of the District Court.

The Clerk of Court is **ORDERED** to mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Mr. Hoye has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

SO ORDERED this 5th day of February, 2024.

BY THE COURT:

s/Nora Barry Fischer

Nora Barry Fischer
Senior United States District Judge

cc: NATHAN HOYE
2949 North Charles Street
Apartment 303
Pittsburgh, PA 15214
(via U.S. First Class Mail)