

United States District Court
Southern District of Texas

ENTERED

July 21, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JASMA McCULLOUGH,

Plaintiff,

v.

TEXAS DEPARTMENT OF FAMILY
AND PROTECTIVE SERVICES,
SHAYLONDA HERRON, SONYA WHITE,
DEIDRA FORD, HERBERT CANADA,
and FREDRICK JONES,

Defendants.

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CIVIL ACTION NO. H-17-0083

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Plaintiff filed this civil rights action against several employees of the Texas Department of Family and Protective Services complaining that they violated her due process rights in connection with a legal proceeding in which she temporarily lost custody of her children. The Magistrate Judge found that Plaintiff's Original Petition for Family Civil Rights Violation (Docket Entry No. 1) ("Complaint") was, in essence, a collateral attack on a state court judgment and that the court lacked jurisdiction under the Rooker-Feldman doctrine to hear such a Complaint.

Having reviewed de novo the Magistrate Judge's Memorandum and Recommendation dated May 31, 2017, and the responses filed thereto,

the court concludes that the Memorandum and Recommendation should be adopted by the court.

Plaintiff also seeks leave to amend her Complaint, adding her children as plaintiffs and supplementing the factual assertions. Specifically, plaintiff seeks to bring new claims on behalf of her children that defendants violated (1) the children's Fourth Amendment rights by removing them from her custody; (2) their substantive due process rights by using perjured testimony, fabricated evidence, threats, and harassment in the state court proceeding and the investigation that prompted the state court proceeding; (3) their procedural due process rights to familial association by removing them from plaintiff's custody; and (4) their First Amendment rights to association with plaintiff based on the state court proceeding.

After review of plaintiff's proposed amended complaint, the court concludes that it lacks jurisdiction under the Rooker-Feldman doctrine to hear these allegations. Plaintiff's proposed amendments would therefore be futile.

It is, therefore, **ORDERED** that the Memorandum and Recommendation is hereby **ADOPTED** by the court. Plaintiff's Motion for Leave to File Sixth Amended Complaint and Motion to Extend Time to File Objections to M & R and Respond to Defendants' Motion to Dismiss (Docket Entry No. 49) is **DENIED**. Defendants' Motion to Strike Plaintiff's Response to Defendants' Motion to Dismiss [Dkt.58] (Docket Entry No. 60) is **DENIED**.

Since this action will be dismissed, plaintiff's Summons in a Civil Action (Docket Entry No. 61) is **STRICKEN**.

SIGNED at Houston, Texas, on this the 21st day of July, 2017.

A handwritten signature in black ink, appearing to read 'S. Lake', written in a cursive style.

SIM LAKE
UNITED STATES DISTRICT JUDGE