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2 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
3 AT TACOMA

4 MICHAEL S. BENT,

5 Plaintiff,

6 v.

7 PATRICIA LASHWAY, et al.,

8 Defendants.

CASE NO. C16-5916BHS

ORDER DENYING
DEFENDANTS' MOTIONS TO
DISMISS

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10 This matter comes before the Court on the motion to dismiss of Defendant
11 Amanda Barlow, in her capacity as the Acting Assistant Acting Assistant Secretary of the
12 Administration for Children and Families of the United States Department of Health and
13 Human Services ("Secretary") (Dkt. 45)¹ and the motion to dismiss of Defendant Patricia
14 Lashway ("Lashway") (Dkt. 46). The Court has considered the pleadings filed in support
15 of and in opposition to the motions and the remainder of the file and hereby denies the
16 motions for the reasons stated herein.

17 **I. PROCEDURAL HISTORY**

18 On October 31, 2016, Plaintiff Michael Bent ("Bent") filed a complaint against
19 Lashway, individually, and in her official capacity as Acting Secretary of the Washington
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21 ¹ Amanda Barlow is now the Acting Assistant Secretary for the Administration for
22 Children and Families under the U.S. Department of Health and Human Services. As such, she is
automatically substituted as the proper federal defendant under Fed. R. Civ. P. 25.

1 Department of Social and Health Services (“DSHS”); the Secretary; Mark McCauley, in
2 his official capacity as Manager and CEO of Clark County; and Greg Kimsey, in his
3 official capacity as Clark County Auditor. Dkt. 1. Bent asserted numerous claims based
4 on the theory that “Lashway inappropriately steers Federal Incentive grant awards to the
5 County with intention to bias custodial arrangement in fragmented families.” *Id.*, ¶ 25.

6 On January 3, 2017, Lashway filed a motion for a more definite statement (Dkt.
7 24) and the Secretary filed a motion to dismiss (Dkt. 25). On February 22, 2017, the
8 Court granted the Secretary’s motion and dismissed Bent’s claims against the Secretary
9 with prejudice and granted Lashway’s motion giving Bent leave to amend his claims
10 against Lashway only. Dkt. 35. On February 27, 2017, Bent appealed. Dkt. 38.

11 On March 3, 2017, Bent filed an amended complaint asserting claims against four
12 defendants, including the Secretary and Lashway. Dkt. 40.

13 On March 14, 2017, the Ninth Circuit dismissed the appeal for lack of jurisdiction
14 because the Court’s order did not dispose of all claims against all parties. Dkt. 44.

15 On March 17, 2017, both the Secretary and Lashway moved to dismiss the
16 amended complaint. Dkts. 45, 46. On April 13, 2017, Bent responded to both motions.
17 Dkts. 49, 50. On March 14, 2017, the Secretary and Lashway replied. Dkts. 51, 52.²

21 ² Both the Secretary and Lashway move to strike Bent’s responses as untimely. Because
22 neither party is prejudiced by consideration of the responses, the Court denies the motions. Bent,
however, is hereby informed that he must comply with the Local Rules of Procedure.

1 **II. DISCUSSION**

2 Regarding the Secretary’s motion, she argues that Bent improperly reasserted his
3 claims against her even though the Court had dismissed the claims with prejudice. Bent
4 counters that the Ninth Circuit “decided leave to amend was implicitly granted by the
5 District Court.” Dkt. 49 at 2. Contrary to Bent’s position, the Ninth Circuit dismissed his
6 appeal because the Court’s order did not dispose of all claims against *all parties*. Once
7 the Court disposes of all claims against all parties, Bent may appeal the dismissal of the
8 Secretary. Until then, the Court has dismissed the Secretary with prejudice, and Bent
9 may not add claims against the Secretary without requesting leave to amend. Therefore,
10 the Court strikes Bent’s claims against the Secretary and denies the Secretary’s motion as
11 moot.

12 Regarding Lashway’s motion, she argues that the Court should abstain under
13 either the *Rooker-Feldman* doctrine or under principles of equitable abstention. Lashway
14 contends that Bent’s claims are inextricably intertwined with the state court rulings
15 against Bent in his child custody proceedings. While the Court agrees with Lashway that
16 such claims would be inappropriate in this Court, Bent does not appear to challenge such
17 rulings in this Court. Instead, Bent seems to challenge the entire government system
18 regulating child custody matters and support payments. Based on a liberal reading of the
19 complaint, Bent asserts one claim against Lashway and seeks four specific types of relief
20 as follows:

21 A declaration invalidating 42 U.S.C. § 654(7) and enjoining all
22 agreements made pursuant, as all are violation of Article III of the Federal
Constitution for permitting and requiring provisions for DSHS “entering

1 into cooperative arrangements with appropriate courts” and “entering into
2 of financial arrangements with such courts” whereby Federal Incentive
3 grants are used to bias the judgment of the recipient courts.

4 A declaration clarifying the Federal criteria to be classified as a
5 “Noncustodial Parent” (ie, FNCP) within the meaning and purpose of
6 Subchapter IV, Grants to States for Aid and Services to Needy Families
7 With Children and for Child-Welfare Services, 42 U.S.C. §§ 601-679;

8 ***

9 Order instructing Defendant Lashway to remove Bent and his
10 support obligations from the DSHS registry of Federal “Noncustodial
11 Parents”;

12 Order instructing public disclosure by Defendant Lashway revealing
13 all State Courts, Federal Courts and political subdivisions with which she
14 has active cooperative financial agreements and details of those
15 agreements.

16 Dkt. 40, ¶ 128 A, B, D, E.

17 Although Bent’s claim and requested relief may fail for numerous reasons, the
18 Court is not persuaded that abstention is one of those reasons. For example, Bent alleges
19 that there is “no State Court judgment finding Bent to be a ‘Noncustodial Parent’ of any
20 variety and thus no State Court decision available to challenge on appeal in State Court.”
21 *Id.* ¶ 68. If this allegation is true, then Bent would have no forum to challenge this
22 government designation. In sum, the Court does not conclude that Bent’s claims against
Lashway are valid, the Court is simply concluding that it does not appear from the face of
the complaint that abstention is appropriate under the *Rooker-Feldman* doctrine or under
principles of equitable abstention. Therefore, the Court denies Lashway’s motion to
dismiss Bent’s claims for lack of jurisdiction.

23 Finally, Lashway argues that Bent lacks standing to challenge Title IV-D by
24 incorporating the Secretary’s arguments on this issue. Dkt. 46 at 10. In her reply,
25 Lashway appears to drop this argument. *See* Dkt. 52 at 5. Regardless, the Secretary’s

1 arguments relate to a lack of injury fairly traceable to a federal defendant and, in the
2 alternative, the acts complained of are not subject to review under the federal
3 Administrative Procedures Act. Dkt. 45 at 4–5. Lashway fails to show how these
4 arguments apply to her. Therefore, the Court denies the motion on this issue as well.

5 **III. ORDER**

6 Therefore, it is hereby **ORDERED** that the Secretary’s motion to dismiss (Dkt.
7 45) is **DENIED as moot** and Lashway’s motion for to dismiss (Dkt. 46) is **DENIED**.
8 The Clerk shall terminate Secretary Barlow.

9 Dated this 23rd day of May, 2017.

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BENJAMIN H. SETTLE
12 United States District Judge
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