Appendix A

U.S. Appeals Court 2018

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19th day of June, two thousand and eighteen,

Before: Robert D. Sack,
Reena Raggi,
Circuit Judges,
Lewis A. Kaplan,
District Judge.*

Matthew Jones,

Plaintiff - Appellant,

v.

State of Connecticut Superior Court, Laura Lodge, Mental Health, New Haven Superior Court, Yale University, Laura DeLeo, State Attorney, Guilford Police Department,

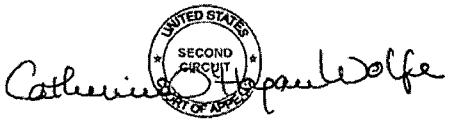
Defendants - Appellees.

ORDER
Docket No. 17-1932

Matthew Jones having filed a petition for panel rehearing and the panel that determined the appeal having considered the request,

IT IS HEREBY ORDERED that the petition is DENIED.

For The Court:
Catherine O'Hagan Wolfe,
Clerk of Court



* Judge Lewis A. Kaplan, of the United States District Court for the Southern District of New York, sitting by designation.

17-1932
Jones v. State of Connecticut Superior Court

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18th day of May, two thousand eighteen.

PRESENT: ROBERT D. SACK,
REENA RAGGI,
Circuit Judges,
LEWIS A. KAPLAN,
District Judge.*

MATTHEW JONES,

Plaintiff-Appellant,

v. No. 17-1932

STATE OF CONNECTICUT SUPERIOR COURT, LAURA LODGE, MENTAL HEALTH, NEW HAVEN SUPERIOR COURT, YALE UNIVERSITY, LAURA DELEO, STATE ATTORNEY, GUILFORD POLICE DEPARTMENT,

Defendants-Appellees.

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* Judge Lewis A. Kaplan, of the United States District Court for the Southern District of New York, sitting by designation.

FOR PLAINTIFF-APPELLANT:	Matthew Jones, *pro se*, Greenwood, Delaware.
FOR DEFENDANTS-APPELLEES:	David C. Yale, Hassett & George, P.C., Simsbury, Connecticut, *for* Guilford Police Department.
	Patrick M. Noonan, Donahue, Durham, & Noonan, P.C., Guilford, Connecticut, *for* Yale University.

Appeal from a judgment of the United States District Court for the District of Connecticut (Michael P. Shea, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment entered on May 25, 2017, is **AFFIRMED**.

Plaintiff Matthew Jones, proceeding *pro se*, appeals from the *sua sponte* dismissal of his consolidated complaint against defendants the State of Connecticut Superior Court, mental health care provider Laura Lodge, Yale University, state prosecutor Laura DeLeo, and the Guilford Police Department, alleging violations of various constitutional rights, *see* 42 U.S.C. § 1983, and federal criminal statutes, as well as state negligence and privacy laws, arising from his arrest and prosecution for stalking, as well as his schizophrenia diagnosis and receipt of involuntary treatment. We review *de novo* a *sua sponte* dismissal under 28 U.S.C. § 1915(e)(2), *see Zaleski v. Burns*, 606 F.3d 51, 52 (2d Cir. 2010), accepting all factual allegations as true and drawing all reasonable inferences in Jones's favor, *see Biro v. Condé Nast*, 807 F.3d 541, 544 (2d Cir. 2015). In applying these principles here, we assume the parties' familiarity with the facts and record of prior

proceedings, which we reference only as necessary to explain our decision to affirm largely for the reasons stated by the district court.

First, the district court correctly determined that both the state court and prosecutor were entitled to immunity. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100–01 (1984) (holding that states are immune from suit in federal court, absent consent); *accord Nat'l R.R. Passenger Corp. v. McDonald*, 779 F.3d 97, 100 (2d Cir. 2015); *see also Simon v. City of New York*, 727 F.3d 167, 171–72 (2d Cir. 2013) (affording prosecutors absolute immunity for initiation and pursuit of criminal prosecution).

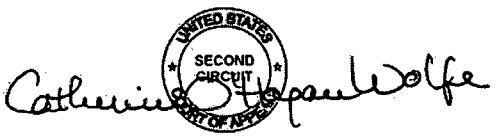
Second, Jones identifies no statutory basis for a private right of action under the alleged criminal statutes. *See Cort v. Ash*, 422 U.S. 66, 79–80 (1975) (holding no private action under criminal statutes absent clear statutory basis for such inference); *accord Alaji Salahuddin v. Alaji*, 232 F.3d 305, 308 (2d Cir. 2000); *see also Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973) ("[A] private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.").

Third, Jones has abandoned any challenge to the remainder of the district court's ruling by not raising those issues in his appellate brief. *See Higazy v. Templeton*, 505 F.3d 161, 168 n.7 (2d Cir. 2007) ("An argument or an issue that is not raised in the appellate brief may be considered abandoned."). In any event, even when read with the "special solicitude" due *pro se* pleadings, *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 475 (2d Cir. 2006) (internal quotation marks omitted), Jones's allegations do not support a

plausible claim for relief, *see Denton v. Hernandez*, 504 U.S. 25, 33 (1992) (approving dismissal of complaint based on "irrational or . . . wholly incredible" allegations).

We have considered Jones's remaining arguments, including his November 2017 motion to strike the state defendants' letter informing this Court that they do not intend to file an appearance in this appeal because they were not served, and did not appear, in the district court, and conclude that they are without merit. Accordingly, we **DENY** Jones's motion to strike the state defendants' letter, and we **AFFIRM** the judgment of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court



Appendix B

U.S. District Court 2017

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MATTHEW JONES,

Plaintiff,

v.

STATE OF CONNECTICUT SUPERIOR COURT, LAURA LODGE, YALE UNIVERSITY, LAURA DELEO, and GUILFORD POLICE DEPARTMENT

Defendants.

No. 3:17-cv-599 (MPS)
No. 3:17-cv-600 (MPS)
No. 3:17-cv-601 (MPS)
No. 3:17-cv-602 (MPS)
No. 3:17-cv-603 (MPS)

RULING AND ORDER

Plaintiff Matthew Jones, proceeding *pro se*, has filed five separate lawsuits in this Court, against the State of Connecticut Superior Court (docket no. 17-cv-599), mental health provider Laura Lodge (docket no. 17-cv-600), Yale University (docket no. 17-cv-601), state prosecutor Laura DeLeo (docket no. 17-cv-602), and the Guilford Police Department (docket no. 17-cv-603). He claims that he was diagnosed with schizophrenia, involuntarily medicated and hospitalized, wrongfully arrested for allegedly stalking two individuals, mistreated in subsequent criminal proceedings, and wrongfully convicted. Against each defendant, in each case, Mr. Jones brings 41 criminal law claims, constitutional claims for violations of the First through Fifteenth Amendments, and state common law claims of "Negligence, Loyalty, Privacy Violations." He seeks monetary damages.

As explained below, the Court orders that the five separate cases be CONSOLIDATED, because they involve common questions of law and fact. The Court DISMISSES with prejudice the case against defendants State of Connecticut Superior Court, Laura DeLeo, and the Guilford Police Department. As for defendants Laura Lodge and Yale University, the Court DISMISSES

with prejudice all criminal law and constitutional law claims against them and DISMISSES without prejudice the state common law claims against them.

I. Consolidation

Federal Rule of Civil Procedure 42(a) provides that "[i]f actions before the court involve a common question of law or fact, the court may... consolidate the actions." "The trial court has broad discretion to determine whether consolidation is appropriate." *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2d Cir. 1990). "In assessing whether consolidation is appropriate in given circumstances, a district court should consider both equity and judicial economy." *Devlin v. Transportation Commc'ns Int'l Union*, 175 F.3d 121, 130 (2d Cir. 1999). "A district court can consolidate related cases under Federal Rule of Civil Procedure 42(a) *sua sponte*." *Id.*

Because the five actions filed by Mr. Jones involve common questions of both law and fact and are at an early stage of proceedings, the Court hereby orders that they be consolidated into a single action. All future filings should be made in docket no. 17-cv-599 only, in accordance with District of Connecticut Local Rule 42.

II. Legal Standard

Under 28 U.S.C. § 1915(e)(2), "the court shall dismiss [a] case at any time if the court determines that... the action... (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." In evaluating whether a plaintiff has stated a claim for relief, "when [a] plaintiff proceeds pro se... a court is obliged to construe his pleadings liberally." *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 191 (2d Cir. 2008) (internal quotation marks and citations omitted) (alterations in original). "[A] pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)

(internal quotation marks and citations omitted). Nevertheless, even a pro se plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). *See also Hogan v. Fischer*, 738 F.3d 509, 515 (2d Cir. 2013).

III. Discussion

A. Defendant State of Connecticut Superior Court

The case against the State of Connecticut Superior Court is dismissed with prejudice because of state sovereign immunity. "Nearly all claims against... the Connecticut Judicial Branch are barred by state sovereign immunity under the Eleventh Amendment to the United States Constitution." *Skipp v. Connecticut Judicial Branch*, 2015 WL 1401989, at *7 (D. Conn. Mar. 26, 2015). Claims against state agencies for violation of federal rights under 42 U.S.C. § 1983 are "clearly barred" by the Eleventh Amendment. *Feingold v. N.Y.*, 366 F.3d 138, 149 (2d Cir. 2004).

B. Defendant Laura DeLeo

The case against state prosecutor Laura DeLeo is dismissed with prejudice because of prosecutorial immunity. Mr. Jones claims that Ms. DeLeo wrongfully prosecuted him for stalking, that he was threatened with additional charges and mental health diagnoses, was denied his right to speak in court, and was forced to travel between Delaware and Connecticut for court. (Docket no. 17-cv-602, ECF No. 1 at 2.) However, "a prosecutor's conduct is subject to absolute immunity 'both in deciding which suits to bring and in conducting them in court.'" *Tabor v. N.Y. City*, 2012 WL 603561, at *4 (E.D.N.Y. Feb. 23, 2012) (quoting *Imbler v. Pachtman*, 424 U.S. 409, 424 (1976)).

C. Guilford Police Department

The case against the Guilford Police Department is dismissed with prejudice because the Police Department lacks capacity to be sued. The "Connecticut General Statutes contain no

provision establishing municipal departments, including police departments, as legal entities separate and apart from the municipality they serve, or providing that they have the capacity to sue or be sued." *Rose v. City of Waterbury*, 2013 WL 1187049, at *9 (D. Conn. 2013) (citation and quotation marks omitted). *See also Petaway v. City of New Haven Police Department*, 541 F. Supp. 2d 504, 510 (D. Conn. 2008) (a municipal police department is not a "person" subject to suit within the meaning of 42 U.S.C. § 1983 because it is "not an independent legal entity"); *Weitz v. Greenwich Police Dep't*, 2005 WL 375302, at *2 (Conn. Super. Ct. Jan. 10, 2005) (a police department in Connecticut "is not a legal entity with the legal capacity to be sued").

D. Defendants Laura Lodge and Yale University

Finally, Mr. Jones brings criminal law, constitutional law, and Connecticut common law claims against Yale University and Laura Lodge. (Docket no.17-cv-600, ECF No. 1 at 2; Docket no. 17-cv-601, ECF No. 1 at 3.)

i. Criminal Law Claims

The 41 criminal law claims are dismissed with prejudice because a private citizen cannot bring criminal claims in a civil action. *See Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973) ("[A] private citizen lacks a judicially cognizable interest in prosecution or nonprosecution of another.")

ii. Constitutional Claims

The alleged violations of the First through Fifteenth Amendments to the U.S. Constitution are dismissed with prejudice for failure to state a claim and lack of state action.

First, construing his pleadings liberally, Mr. Jones has, at most made allegations related to the Fourth and Fourteenth Amendments. He makes no allegation related to any of the other constitutional amendments listed – for example, the right to bear arms and the quartering of

soldiers. Therefore, the other constitutional claims (under the First, Second, Third, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, and Fifteenth Amendments) must be dismissed for failure to state a claim.

Second, under 42 U.S.C. § 1983, an individual may bring a claim against a person who, acting under color of state law, violated their federally protected rights. For a private person to "act under color of state law," their actions must be "fairly attributable to the state." *McGugan v. Aldana-Bernier*, 752 F.3d 224, 229 (2d Cir. 2014) (citation and quotation marks omitted). The Second Circuit has held that "the forcible medication and hospitalization of [an individual] by private health care providers" is not an action taken under color of state law, even if the health care provider receives federal funding. *Id.* In this case, Yale University and Ms. Lodge are private health care providers who allegedly forcibly medicated and hospitalized Mr. Jones. Following *McGugan*, Yale University and Ms. Lodge did not act under color of state law and are not liable for constitutional violations under 42 U.S.C. § 1983.

iii. State Law Claims

Finally, the Connecticut common law claims of "Negligence, Loyalty, Privacy Violations" are dismissed without prejudice under Federal Rule of Civil Procedure 8. Federal Rule of Civil Procedure 8 requires a "short and plain statement of the claim showing that the pleader is entitled to relief." Rule 8 "demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (*quoting Bell Atl. Corp.*, 550 U.S. at 570). "Threadbare recitals of the elements of a cause of action, supported by

mere conclusory statements, do not suffice." *Id.* Here, Mr. Jones alleges that Laura Lodge and Yale diagnosed him with schizophrenia, identified Linda Jones as his birth mother, and participated in a criminal procedure against him; and that he "was medicated involuntarily with life threatening antipsychotics" (presumably by Ms. Lodge, though the complaint does not specify) and "was held against [his] will" (again, presumably by Ms. Lodge). (Docket # 17-cv-600, ECF No. 1 at 2-3; Docket # 17-cv-601, ECF No. 1 at 2-3.) Even construing the complaint liberally, these allegations, on their own, are insufficient to state a recognizable legal claim, for example a claim of medical malpractice, ordinary negligence, or invasion of privacy. *See, e.g., Gold v. Greenwich Hosp. Ass'n*, 262 Conn. 248 (2002); *LaFlamme v. Dallessio*, 261 Conn. 247 (2002); *Foncello v. Amorossi*, 284 Conn. 225 (2007). To plead state law claims against these defendants, Mr. Jones must allege facts showing who violated any duties owed to him and what they did to violate any such duties.

IV. Conclusion

For the reasons explained above, Mr. Jones' five cases, docket nos. 17-cv-599, 17-cv-600, 17-cv-601, 17-cv-602, and 17-cv-603, are hereby CONSOLIDATED. All future filings should be made in docket no. 17-cv-599 only, in accordance with District of Connecticut Local Rule 42.

Mr. Jones meets the requirements of 28 U.S.C. § 1915(a)(1) and is granted leave to proceed *in forma pauperis*. The Court DISMISSES with prejudice the case against Defendants State of Connecticut Superior Court, Laura DeLeo, and the Guilford Police Department. The Court also DISMISSES with prejudice all criminal law and constitutional law claims against Laura Lodge and Yale University. The Court DISMISSES *without* prejudice the state common law claims against Laura Lodge and Yale University.

Because the state law claims against Laura Lodge and Yale University have been dismissed without prejudice, should Mr. Jones wish to do so, he may file a motion to reopen together with an amended complaint that sets forth sufficient facts, accepted as true, that state a claim for relief, within 30 days of this order. The Clerk is directed to close the case.

IT IS SO ORDERED.

/s/
Michael P. Shea, U.S.D.J.

Dated: Hartford, Connecticut
May 25, 2017