

A

17-2274

Ms. Angel Bartlett
500 N. Edwards Street
Kalamazoo, MI 49007

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: May 09, 2018

Ms. Angel Bartlett
500 N. Edwards Street
Kalamazoo, MI 49007

Re: Case No. 17-2274, *Angel Bartlett v. MI, et al*
Originating Case No. : 1:17-cv-00565

Dear Ms. Bartlett:

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Bryant L. Crutcher
Case Manager
Direct Dial No. 513-564-7013

cc: Mr. Thomas Dorwin

Enclosure

Mandate to issue

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 17-2274

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ANGEL BARTLETT,
Plaintiff-Appellant,
v.
STATE OF MICHIGAN, et al.,
Defendants-Appellees.

FILED
May 09, 2018
DEBORAH S. HUNT, Clerk

) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE WESTERN DISTRICT OF
) MICHIGAN

ORDER

Before: BATCHELDER, GRIFFIN, and LARSEN, Circuit Judges.

Angel Bartlett, a pro se Michigan resident, appeals a district court order dismissing her civil complaint filed under 42 U.S.C. § 1983. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In June 2017, Bartlett sued the Michigan Department of Human Services, Governor Rick Snyder, the Kalamazoo Departments of Human Services and Child Protective Services, various state courts and hospitals, and numerous agency employees and private citizens. Bartlett alleged that she was improperly adjudicated as mentally ill and placed in various mental health facilities, and that her children were removed from her custody. She stated that several private citizens and employees from various state and federal agencies falsely accused her of criminal offenses, including drug smuggling, terrorism, and child molestation. She insisted that the defendants improperly surveilled her and tapped her phone. She also alleged that some of the defendants had “an order placed on [her]” to stop breast-feeding her children and “placed reflux orders on

No. 17-2274

- 2 -

[her] baby," which almost caused her child to die. She claimed that some of the defendants threatened to kill her or ordered her to kill herself, and that she was attacked with forms of unspecified energy and radiation. She stated that she was warned, "in [her] head," that unspecified individuals had killed her sister's fiancé and that he had witnessed the defendants' "war fare" against her. Bartlett sought unspecified monetary damages and to have the defendants charged with various criminal offenses in order to stop them from engaging in the alleged violations of her rights. Bartlett filed several dozen "supplements" to her complaint, raising allegations similar to those in the complaint.

The district court dismissed the complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of jurisdiction and pursuant to 28 U.S.C. § 1915(e)(2) for failure to state a claim upon which relief could be granted. The court concluded that Bartlett failed to state a claim against the defendants because she sought relief pursuant to criminal statutes that do not provide a private right of action, because her allegations failed to set forth a viable legal claim, and because she failed to identify how many of the defendants' actions purportedly violated her rights. The district court concluded that it lacked subject-matter jurisdiction over Bartlett's complaint because her allegations were implausible and frivolous. The district court also denied Bartlett's motion for reconsideration.

On appeal, Bartlett cursorily reasserts her claims and continues to argue that the defendants have subjected her to false charges and fraudulent trials. She has filed several "notifications" setting forth her intent to seek hundreds of millions of dollars in damages and her continued efforts to pursue various claims against numerous defendants and a motion seeking reconsideration of prior "orders" by the state courts.

We review de novo a district court's dismissal of a suit under 28 U.S.C. § 1915(e)(2). *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010). Under § 1915(e)(2)(B), district courts must screen and dismiss any complaint that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *See id.* at 470. A claim is frivolous when it is based on "fantastic or delusional" factual allegations or on legal theories that are indisputably without merit. *Neitzke v. Williams*, 490 U.S.

No. 17-2274

- 3 -

319, 327-28 (1989). “[T]o survive scrutiny under § . . . 1915(e)(2)(B)(ii), ‘a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.’” *Hill*, 630 F.3d at 471 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). “While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations.” *Iqbal*, 556 U.S. at 679. Although a pro se litigant is entitled to a liberal construction of her pleadings and filings, this court’s standard of review requires more than the bare assertion of legal conclusions, and the complaint must contain either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory. *See Mezibov v. Allen*, 411 F.3d 712, 716 (6th Cir. 2005); *Bovee v. Coopers & Lybrand C.P.A.*, 272 F.3d 356, 361 (6th Cir. 2001); *Boswell v. Mayer*, 169 F.3d 384, 387 (6th Cir. 1999). A plaintiff “must allege, with particularity, facts that demonstrate what *each* defendant did to violate the asserted constitutional right.” *Lanman v. Hinson*, 529 F.3d 673, 684 (6th Cir. 2008). Likewise, we review *de novo* a judgment dismissing a complaint for lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). *Colonial Pipeline Co. v. Morgan*, 414 F.3d 211, 217 (6th Cir. 2007).

The district court properly concluded that Bartlett’s allegations failed to state a claim upon which relief could be granted. As the district court accurately noted, Bartlett, in many instances, merely identified the alleged wrong-doers as “they” or “them,” instead of specifying how each named defendant violated her rights under federal law. In addition, most of Bartlett’s allegations concerning the defendants’ attempts to harass and intimidate her are frivolous because they are based on “fantastic or delusional” factual allegations concerning conclusorily pleaded conspiracies and far-fetched threats on her life and attacks using energy and radiation. *See Neitzke*, 490 U.S. at 327-28. The district court properly dismissed Bartlett’s claims under the various criminal statutes because the statutes do not provide for a private cause of action, and because the decision to prosecute is vested in the sound discretion of the Attorney General. *See Wayte v. United States*, 470 U.S. 598, 607 (1985). Finally, although not expressly addressed by the district court, the court lacked jurisdiction over any attempt by Bartlett to regain custody of

No. 17-2274

- 4 -

her children because states have exclusive jurisdiction over child custody litigation. See *Ankenbrandt v. Richards*, 504 U.S. 689, 703 (1992).

Accordingly, we AFFIRM the district court's order and DENY Bartlett's miscellaneous motion and requests for relief.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANGEL BARTLETT,

Plaintiff,

Case No. 1:17-CV-565

v.

HON. GORDON J. QUIST

STATE OF MICHIGAN, et al.,

Defendants.

ORDER

In accordance with the Opinion entered on this date,

IT IS HEREBY ORDERED that Plaintiff's complaint is **DISMISSED** pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of jurisdiction and pursuant to 28 U.S.C. § 1915(e)(2) for the reason that it fails to state a claim upon which relief can be granted.

IT IS FURTHER ORDERED that Plaintiff's Motion to Settle or Sue (ECF No. 28) is **DENIED AS MOOT**.

This case is **concluded**.

Dated: September 13, 2017

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANGEL BARTLETT,

Plaintiff,

v.

Case No. 1:17-CV-565

STATE OF MICHIGAN, et al.,

HON. GORDON J. QUIST

Defendants.

OPINION

Plaintiff, Angel Bartlett, proceeding pro se, has filed a complaint against the State of Michigan, various state agencies and courts, the Kalamazoo Psychiatric Hospital, and at least fifty individuals. In addition, since filing her complaint, Plaintiff has filed at least once per week a so-called "Supplement to Complaint," all of which appear to be unauthorized amendments adding new parties and new allegations. (*See, e.g.*, ECF Nos. 9-27.) Bartlett's complaint is rambling, disjointed, and, frankly, difficult to follow. It appears from Bartlett's allegations that she suffers from mental illness (or at least has been diagnosed with mental illness); has been placed in mental health treatment; has received "medical procedures that were . . . life threatening"; and has been charged with various crimes. (ECF No. 1 at PageID.2-3.) Plaintiff says that she "was wrongfully put in mental health and put in so many places by Court order that it became a terrorist attack on [Plaintiff]." (*Id.* at PageID.3.) She also claims that she was wrongfully accused of being a Muslim and part of a terrorist system. (*Id.* at PageID.4.) Plaintiff claims that Borges "made up false drug screens and called CPS [Child Protective Services] to get a case on me that was fake," and that she "called the police, FBI, CIA and further up and they gave me another drug screen and it was NEGATIVE." (*Id.* at Page ID.6.)

Plaintiff cites various state and federal statutes, many of which are criminal, but does not say exactly who did what that might have resulted in a violation. For example, Plaintiff cites 18 U.S.C. § 1038 and states, "False information and Hoaxes they made up the entire case." (*Id.* at PageID.7.) Similarly, Plaintiff cites the federal anti-torture statute, 18 U.S.C. § 2340, and states, "I am certain they have placed orders of homicide and suicide on me by manipulating my case to put me in a gang system which I don't belong when I have no criminal charges." (*Id.*)

As far as relief, it is difficult to discern what Plaintiff seeks from this Court and against whom she seeks it. The final paragraph of the complaint states:

The State of MI had jurisdiction of me illegally and held me since 2002 and that too must be settled in court to allow me to be free from any State holds. I had signed a piece of paper stating I was going to help my grandmother. This then put the State at will to do what they wanted with me and that was real bad actions to keep me down and keep me at Grandmother Shirley's house for free.

(*Id.* at PageID.20.)

On June 23, 2017, the magistrate judge issued an order granting Plaintiff leave to proceed *in forma pauperis*. (ECF No. 4.) Pursuant to 28 U.S.C. § 1915(e)(2), the Court is required to dismiss any action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. § 1915(e)(2); *see also Benson v. O'Brian*, 179 F.3d 1014, 1016 (6th Cir. 1999) (holding that "§ 1915(e)(2) applies only to in forma pauperis proceedings"). The Court must read a *pro se* plaintiff's complaint indulgently, *see Haines v. Kerner*, 404 U.S. 519, 520, 92 S. Ct. 594, 596 (1972), and accept her allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33, 112 S. Ct. 1728, 1733 (1992). The Court concludes that Plaintiff's complaint must be dismissed as required by § 1915(e)(2).

A complaint may be dismissed for failure to state a claim if ““it fails to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.”” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)). While a complaint need not contain detailed factual allegations, a plaintiff’s allegations must include more than labels and conclusions. *Twombly*, 550 U.S. at 555; *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”). The court must determine whether the complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “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.” *Ashcroft*, 129 S. Ct. at 1949. Although the plausibility standard is not equivalent to a ““probability requirement,’ . . . it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Ashcroft*, 129 S. Ct. at 1949 (quoting *Twombly*, 550 U.S. at 556). “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged – but it has not ‘show[n]’ – that the pleader is entitled to relief.” *Ashcroft*, 129 S. Ct. at 1950 (quoting FED. R. CIV. P. 8(a)(2)).

Plaintiff fails to state a discernable claim. First, as noted, many of the statutes Plaintiff cites are criminal statutes that do not provide a private right of action and may not be enforced by private individuals. *See Renkel v. United States*, 456 F.3d 640, 644–45 (6th Cir. 2006) (noting that 18 U.S.C. §§ 2340 and 2340A “criminalize torture outside the United States; they do not provide civil redress for torture within the United States,” and that a plaintiff must pursue such claims under appropriate domestic law, such as the Eighth Amendment or the Federal Tort Claims Act); *Benton v. Kentucky-Jefferson Cnty. Attorney’s Office*. No. 3:14CV-264-S, 2014 WL 3941571, at *2 (W.D.

Ky. Aug. 12, 2014) (noting that private citizens may not enforce the federal criminal code, including 18 U.S.C. § 1038). Second, although the Court has reviewed Plaintiff's complaint in detail, the Court finds no factual basis for a viable legal claim. Finally, the complaint is replete with references to "people," "they," and "them," but Plaintiff fails to identify any specific person who took an action against her that allegedly violated her rights under the Constitution or a federal statute that provides a private right of action. The Court notes that Plaintiff's allegations in the instant case are similar to those in a *pro se* lawsuit that Plaintiff filed in the Eastern District of Michigan. *See Bartlett v. Allegan Cnty. Courts*, No. 15-13939 (E.D. Mich. Jan. 12, 2016). In that case, the court dismissed Plaintiff's complaint on screening because "[o]ther than a general desire to appeal, expunge, or somehow wipe away some unspecified state court convictions, it is not clear what Plaintiff is attempting to assert. She states no factual or legal basis on which this court could begin to find some arguable basis for relief." *Id.* at *2. The same is true here.

Finally, the Court notes that "[a] complaint may be dismissed *sua sponte* for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion." *Clark v. United States*, 74 F. App'x 561, 562 (6th Cir. 2003) (internal quotation marks omitted). For the reasons stated above, the Court also lacks subject matter jurisdiction over Plaintiff's complaint. Accordingly, Plaintiff's complaint will be dismissed.

An Order consistent with this Opinion will be entered.

Dated: September 13, 2017

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE