

United States Court of Appeals For the First Circuit

No. 18-1581

JOHN T. HIGGINS,

Plaintiff, Appellant,

v.

COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TRANSITIONAL
ASSISTANCE,

Defendant, Appellee.

Before

Howard, Chief Judge,
Kayatta and Barron, Circuit Judges.

JUDGMENT

Entered: January 18, 2019

Appellant John T. Higgins appeals the district court's order dismissing his complaint at the screening stage. See 28 U.S.C. § 1915(e)(2)(B)(ii) (allowing district court to dismiss an in forma pauperis action at any time if it determines that the action fails to state a claim on which relief may be granted). Appellant recently filed a "motion for judgment/compensation," which we construe as a motion for summary disposition. With his minimal filings on appeal, Appellant has failed to sufficiently develop any challenge to the substance of the district court's ruling. See United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990) (insufficiently developed claims waived). In any event, on de novo review, we conclude that affirmance is in order, essentially for the reasons set forth in the district court's decision. See Bradshaw v. Corr. Med. Servs., Inc., 6 F. App'x 45, 46 (1st Cir. 2001) (unpublished per curiam) (standard of review); DeWalt v. Carter, 224 F.3d 607, 611-12 (7th Cir. 2000) (collecting cases re standard of review). Appellant's motion for summary disposition is DENIED.

Affirmed.

By the Court:

Maria R. Hamilton, Clerk

cc: John T. Higgins, Maura T. Healey

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN T. HIGGINS,)
Plaintiff,)
v.)
COMMONWEALTH OF)
MASSACHUSETTS DEPARTMENT)
OF TRANSITIONAL ASSISTANCE,)
Defendant.)

)

Civil Action No.
18-10601-FDS

ORDER OF DISMISSAL

SAYLOR, J.

For the reasons stated in the Order dated June 8, 2018, this action is dismissed pursuant to
28 U.S.C. § 1915(e)(2)(ii).

ROBERT M. FARRELL
CLERK OF COURT

Dated: 06/08/18

By /s/ Lisa Pezzarossi
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN T. HIGGINS,)
Plaintiff,)
v.)
COMMONWEALTH OF)
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OF TRANSITIONAL ASSISTANCE,)
Defendant.)

Civil Action No.
18-10601-FDS

ORDER

SAYLOR, J.

On May 14, 2018, the Court issued a memorandum and order permitting plaintiff John T. Higgins to proceed *in forma pauperis* and directing him to show cause why this action against the Massachusetts Department of Transitional Assistance should not be dismissed.

The memorandum and order explained that Higgins cannot relitigate the state claim against the Department of Transitional Assistance and that this Court is without subject matter jurisdiction to review the lawfulness of rulings and judgments entered by the Middlesex Superior Court. Finally, Higgins was advised that he cannot bring a claim for damages against a state agency pursuant to 42 U.S.C. § 1983.

Higgins has filed a one-page, handwritten response. He states that his case should be heard by “a standing court” and contends that dismissal would be “a blatant infringement of [his] constitutional rights by not allowing due process, as previously stated.”

After review of Higgins’ response, the Court finds that he has failed to show good cause

why this action should not be dismissed.

Accordingly, for the reasons set forth above, and in accordance with this Court's memorandum and order dated May 14, 2018, it is ORDERED that this action is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(ii).

So Ordered.

/s/ F. Dennis Saylor IV
F. Dennis Saylor IV
United States District Judge

Dated: June 8, 2018

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN T. HIGGINS,)
Plaintiff,)
v.)
COMMONWEALTH OF)
MASSACHUSETTS DEPARTMENT)
OF TRANSITIONAL ASSISTANCE,)
Defendant.)

Civil Action No.
18-10601-FDS

MEMORANDUM AND ORDER

SAYLOR, J.

On March 27, 2018, plaintiff John T. Higgins filed a complaint accompanied by an application to proceed without prepayment of fees and affidavit. For the reasons set forth below, the Court will grant plaintiff's application to proceed without prepayment of the filing fee and order him to show cause why this action should not be dismissed.

I. Background

John T. Higgins, who has a mailing address in Stoneham, Massachusetts, has filed a complaint in this court arising from the denial of a welfare benefits application and subsequent litigation in the Middlesex Superior Court for the Commonwealth of Massachusetts. *See* Docket No. 1. He previously filed a complaint in the Middlesex Superior Court that was dismissed for failure to appear and failure to comprehend any basis for his pending motions. *See* Docket No. 1-1, pages 2-3. Two weeks later, he filed the present action.

In the present action, Higgins brings suit against the Massachusetts Department of

Transitional Assistance seeking \$100,000 for the violation of his “constitutional rights.” *See* Docket No. 1, at ¶ II(B)(3). The complaint was filed on a pre-printed complaint form. He checked a box indicating “federal question” jurisdiction. *Id.* at ¶ II (basis for jurisdiction). Rather than specify the specific federal statutes and/or provisions of the United States Constitution that he contends are at issue in this case, he wrote “see civil cover sheet [899¹].” *Id.* at ¶ II (basis for jurisdiction). As his statement of claim, he wrote: “violation of my due process. (see attached documents) I believe I am not receiving fair treatment from state court.” *Id.* at ¶ III (statement of claim). For relief, he wrote “same as above.” *Id.* at ¶ IV (relief).

The exhibits attached to the complaint consist of copies of documents from two separate actions that Higgins filed in the Middlesex Superior Court. Those actions concerned the DTA’s determination that he was financially ineligible for Emergency Aid to Families with Dependent Children (EAEDC) benefits. *See* Docket No. 1-1. From *Higgins v. Mass. Dept. of DTA*, No. 1681-cv-02466 (Middlesex Superior Court), he has submitted a copy of the November 9, 2016 judgment affirming the DTA decision and denying his motion for judgment on the pleadings. From *Higgins v. Commonwealth*, No. 1781-cv-02193 (Middlesex Superior Court), he has submitted the following eight documents: (1) his July 27, 2017 complaint challenging adequacy of state procedure; (2) his September 11, 2017 motion for judgment on the pleadings; (3) his November 27, 2017 motion for sanctions; (4) Assistant General Counsel Ciccolo’s January 8, 2018 cover letter to Superior Court Clerk accompanying a notice of withdrawal; (5) Defendant’s January 31, 2018 opposition to his motion for judgment on the pleadings and seeking dismissal of complaint as barred by *res judicata*; (6) his February 12, 2018 opposition to defendant’s

¹ In two separate sections of the Civil Cover Sheet, Higgins indicates the cause of action as 899 [Administrative Procedure Act/Review or Appeal of Agency Decision]. *See* Docket No. 1-2 at § IV (nature of suit), § VI (cause of action).

motion for dismissal of case; (7) an order of dismissal dated March 8, 2018 (for failure to appear at hearing and failure to state basis for his motions); and (8) a judgment of dismissal dated March 12, 2018, for failure to prosecute and appear.

With his complaint, Higgins filed an application to proceed without prepayment of fees and an affidavit. *See* Docket No. 2. Accompanying his application are copies of documents indicating that he was deemed indigent in his 2016 state court action. *Id.* at 2-1.

II. Motion to Proceed *In Forma Pauperis*

A party filing a civil action must either pay a \$350 filing fee and \$50 administrative fee or file an application to proceed *in forma pauperis*. *See* 28 U.S.C. § 1914(a) (\$350 filing fee for civil actions); 28 U.S.C. § 1915 (proceedings *in forma pauperis*). Upon review of the application, the Court concludes that Higgins has shown that he is without assets to pay the filing fee. Accordingly, he will be permitted to proceed *in forma pauperis*.

III. Screening of the Complaint

Because Higgins is proceeding *in forma pauperis*, his complaint is subject to screening under 28 U.S.C. § 1915(e)(2). That statute authorizes federal courts to dismiss actions in which a plaintiff seeks to proceed without prepayment of fees if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2).

Fed. R. Civ. P. 8(d)(1) imposes the additional pleading requirement that “[e]ach allegation must be simple, concise and direct.” Fed. R. Civ. P. 8(d)(1). “The purpose of a clear and distinct pleading is to give defendants fair notice of the claims and their basis as well as to provide an opportunity for a cogent answer and defense.” *See Belanger v. BNY Mellon Asset Management*, No. 15-cv-10198-ADB, 2015 WL 3407827 (D. Mass. May 27, 2015). In

conducting this review of the complaint, a *pro se* plaintiff is entitled to a liberal reading of his allegations, even when such allegations are inartfully pleaded. *See Haines v. Kerner*, 404 U.S. 519, 520–21 (1972); *Rodi v. New Eng. Sch. of Law*, 389 F.3d 5, 13 (1st Cir. 2004).

A. Rooker-Feldman Doctrine

As an initial matter, this court is without subject-matter jurisdiction to entertain what would be the functional equivalent of an appeal from a state judgment. Higgins appears to seek to challenge the validity and lawfulness of rulings and judgments entered by the Middlesex Superior Court. This court lacks subject-matter jurisdiction over such claims because, under the *Rooker-Feldman* doctrine, a federal district court does not have jurisdiction over claims that seek, in essence, to overturn state court judgments. *See Geiger v. Foley Hoag LLP Retirement Plan*, 521 F.3d 60, 65 (1st Cir. 2008); *see also D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).²

B. Section 1983

Although the complaint does not invoke 42 U.S.C. § 1983, the court will liberally construe it as asserting a claim under that statute. Section 1983 creates a private right of action through which a plaintiff may recover against state actors for constitutional violations. *Goldstein v. Galvin*, 719 F.3d 16, 24 (1st Cir. 2013) (citing *Rehberg v. Paulk*, 566 U.S. 356, 360 (2012)).

Here, the Department of Transitional Assistance is a state agency, and therefore the claims against it are claims against the Commonwealth of Massachusetts. The Commonwealth is not a “person” within the meaning of Section 1983 and therefore state agencies and state officials

² The *Rooker-Feldman* doctrine “means in a nutshell that a federal court below the United States Supreme Court does not have jurisdiction over a claim that seeks in essence to overturn a state court judgment. Instead, the proper avenue for such a challenge is to the state’s highest court and from there to the United States Supreme Court.” *Bradbury v. GMAC Mortg., LLC*, 780 F.Supp.2d 108, 113 (D. Me. 2011); *see Davison v. Gov’t of Puerto Rico–Puerto Rico Firefighters Corps.*, 471 F.3d 220, 223 (1st Cir. 2006) (“[T]he proper forum for challenging an unlawful state court ruling is the United States Supreme Court, on appeal of the highest state court’s final judgment.”).

sued in their official capacities are not “persons.” *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 70 n. 10 (1989). “Under the Eleventh Amendment, ‘states are immune ... from private suit in federal courts, absent their consent’ for claims seeking money damages.” *Tierney v. Town of Framingham*, 292 F.Supp.3d 534, 541–42 (D. Mass. 2018) (citing *Greenless v. Almond*, 277 F.3d 601, 606 (1st Cir. 2002)). That immunity extends to any entity that is an “arm of the state.” *Wojcik v. Massachusetts State Lottery Comm'n*, 300 F.3d 92, 99 (1st Cir. 2002); see also *Wilmot v. Tracey*, 938 F. Supp. 2d 116, 141 (D. Mass. 2013) (it is well-settled that the Commissioner of DCF cannot be sued in his or her official capacity for damages in an action alleging a violation of § 1983). Here, the complaint fails to state a Section 1983 claim against the Massachusetts Department of Transitional Assistance.

C. Res Judicata

To the extent Higgins seeks to relitigate the state claim against the Department of Transitional Assistance, such a claim appears to be barred by the doctrine of *res judicata*.

In Massachusetts, *res judicata* encompasses both claim preclusion and issue preclusion. Claim preclusion prevents the relitigation of all claims that a litigant had the opportunity and incentive to fully litigate in an earlier action. Massachusetts evaluates three elements under the doctrine of claim preclusion: (1) the identity or privity of the parties to the present and prior actions; (2) identity of the cause[s] of action; and (3) a prior final judgment on the merits. When assessing the second element of claim preclusion, Massachusetts courts find [c]auses of action [to be] identical if they derive [] from the same transaction or series of connected transactions.

Giragosian v. Ryan, 547 F.3d 59, 63 (1st Cir. 2008) (citing *TLT Const. Corp. v. A. Anthony Tappe & Assoc.*, 48 Mass. App. Ct. 1, 4–6 (1999)). Here, all three requirements are met; the parties are the same, the allegations are identical, and a final judgment was entered. A plaintiff cannot relitigate the claims in federal court simply because he is displeased with the outcome of the state-court proceeding.

IV. Conclusion

For the reasons set forth above, plaintiff's application to proceed in district court without prepaying fees or costs is GRANTED. If plaintiff wishes to proceed with this action, he shall, within 21 days of the date of this order, show cause in writing why this action should not be dismissed. Failure to comply with this directive will result in the dismissal of this action.

So Ordered.

/s/ F. Dennis Saylor IV
F. Dennis Saylor IV
United States District Judge

Dated: May 14, 2018