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APPENDIX A

**UNITED STATES COURT OF APPEALS
FOR THE EIGHT CIRCUIT**

No: 21-3353

Maria Herta
Plaintiff- Appellant

v.

John McBride; Douglas B. Meslow; Thaddeus V.
Jude; Ellen L. Mass

Defendants- Appellees

Appeal from U.S. District Court for the District of
Minnesota

(0:21-cv-01956-DSD)

JUDGMENT

Appellant was directed to pay the filing fee by
December 17, 2021, or face dismissal. No fee has
been paid. The appeal is dismissed for failure to
prosecute. See Eight Circuit Rule 3C.

Mandate shall issue forthwith.

January 04, 2022

Order Entered Under Rule 27 A (a);
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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APPENDIX B

**UNITED STATE COURT OF APPEALS
FOR THE EIGHT CIRCUIT**

No; 21-3353

Maria Herta
Appellant
v.

John McBride, et al.
Appellees

Appeal from U.S. District Court for the District of
Minnesota

(0:21-cv-01956-DSD)

MANDATE

In accordance with the judgment of 01/04/2022, and
pursuant to the provisions of Federal Rule of
Appellate Procedure 41(a), the formal mandate is
hereby issued in the above-styled matter.

January 04, 2002

Clerk, U.S. Court of Appeals, Eighth Circuit

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APPENDIX C

**UNITED STATES COURT OF APPEAL
FOR THE EIGHTH CIRCUIT**

No: 21-3353

Maria Herta
Appellant

v.

John McBride, et al.
Appellees

Appeal from U.S. District Court for the District of
Minnesota
(0: 21-cv-01956-DSD)

ORDER

The \$505 appellate filing and docketing fee has not been paid and is due. Appellant is directed to either pay the fee in the district court or file a motion for leave to proceed in forma pauperis in this court within 28 days of the date of this order. If appellant does not pay the fee or move for IFP status by November 16, 2021, this appeal may be dismissed for failure to prosecute without further notice.

October 19, 2021

Order Entered Under Rule 27 A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT
No: 21-3353

Maria Herta
Appellant

v.

John McBride, et al.
Appellees

Appeal from U.S. District Court for the District of
Minnesota
(0: 21-cv-01956-DSD)

ORDER

If the original file of the United States Court is available for review in electronic format, the court will rely on the electronic version of the record in its review. The appendices required by Eighth Circuit Rule 30A shall not be required. In accordance with Eighth Circuit Local Rule 30A(a)(2), the Clerk of the United States District Court is requested to forward to this Court forthwith any portion of the original record which are not available in an electronic format through PACER, including any documents maintained in paper format or field under seal, exhibits, CDs, video, administrative records and

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state court files. These documents should be submitted within 10 days.

October 19, 2021

Order Entered Under Rule 27 A (a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX E
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
CIVIL No; 21-1956 (DSD/ HB)

Maria Herta,
Plaintiff.

v.

ORDER

John McBride, Douglas B. Meslow,
Ted V. Jude, and Ellen L. Mass,
Defendants.

This matter is before the court upon the application to proceed without prepaying of fees on appeal by plaintiff Maria Herta.

A litigant who seeks to be excused from paying the filling fee for an appeal may apply for IFP status under 28 U.S.C. § 1915. See also Fed. R. App. P. 24(a). To qualify for IFP status, the litigant must demonstrate that she cannot afford to pay the full filling fee. 28 U.S.C. § 1915 (a) (1).

The IFP application indicates that plaintiff may not have enough monthly income to pay the full filling fee. ECF No. 7. The IFP application also indicates, however, that she has sufficient savings that could be used to pay the filling fee and costs for the appeal. See

id. at 2. As a result, the court finds that plaintiff is financially ineligible for IFP status.

Even if she were otherwise eligible, IFP status will be denied if the court finds that the litigant's appeal is not taken in "good faith." 28 U.S.C. § 1915 (a) (3). Good faith in this context is judged by an objective standard and not by the subjective beliefs of the appellant. Coppedge v. United States, 369 U.S. 438, 444-45 (1962). To determine whether an appeal is taken in good faith, the court must decide whether the claims to be decided on appeal are factually or legally frivolous. Id. at 445. An appeal is frivolous, and therefore cannot be taken in good faith,

"where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

For the reason stated in the court's order [ECF No. 4], the court finds the plaintiff's appeal is frivolous. As a result, the appeal is not considered to be taken in good faith for purposes of 28 U.S.C. § 1915 (a) (3), and the IFP application will be denied.

Accordingly, based on the above, **IT IS HEREBY ORDERED** that the application to appeal in forma pauperis [ECF No. 7] is denied

Dated: October 18,2021

s /David S. Doty
David S. Doty, judge
United States District Court

APPENDIX F

UNITED STATE DISTRICT COURT
District of Minnesota

Maria Herta,

JUDGMENT IN A CIVIL CASE

Plaintiff,

v. Case Number: 21-cv-1956 DSD/ HB

John McBride, Douglas B. Meslow, Ted V.
Jude, Ellen L. Mass,

Defendants.

Jury Verdict. This action came before the court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

1. The complaint is dismissed as set forth above; and
2. The application to proceed in district court without prepaying fees or costs [ECF No.2] is denied as moot.

Date: 10/1/ 2021 KATE M. FOGARITY, CLERK

APPENDIX G

United States District Court
District of Minnesota
Civil No. 21-1956 (DSD /HB)

Maria Herta,
Plaintiff,

v.

ORDER

John McBride, Douglas B. Mes –
low, Ted V. Jude, and Ellen L.
Defendants.

This action comes before the court upon plaintiff Maria Herta's complaint and application to proceed in district court without paying fees or costs (IFP Applications). Based on the file, record, and proceedings herein and for the following reasons, the complaint is dismissed without prejudice and the IFP application is denied as moot.

BACKGROUND

This dispute arises out of Hert's convictions in Minnesota state court. The complaint names four Minnesota residents as defendants; (1) John McBride, (2) Douglas B. Meslow, (3) Ted V. Jude, and (4) Ellen L. Mass. See Compl. at 1-3. At the relevant times, defendants were judges in the Washington County District Court in Stillwater, Minnesota. See id. at 3-12.

Although the complaint is hard to follow, it seems to allege misconduct by defendants concerning Herta's two convictions in Minnesota state court.

¹. In the first action, State v. Herta, No. 82-VB-16-2859, authorities charged Herta with one count of driving after cancelation of her driving privileges. ² Judge Mass found Herta guilty after a bench trial and imposed a \$200.00 fine plus surcharges and fees. Herta later filed a motion seeking to withdraw her plea and vacate her conviction. After a hearing, judge Mass denied the motion. In relevant part, Judge Mass concluded that the rules cited in Herta's motion did not "provide a basis to vacate a conviction following a trial, " and that Herta "ha [d] not provided the [e] Court with an adequate basis in law to vacate her conviction or demonstrate that she is entitled to a new trial." State v. Herta, No. 82-VB-16- 2859 (Minn. Dist. Ct. July 6, 2018) . The second relevant action is State. v. Herta, No. 82-VB-18-140, in which authorities charged Herta with driving after a license suspension, careless driving, and failing to follow traffic

¹ Herta appended about 100 pages of exhibits to the complaint.

See ECF No. 1-1. To the extent Herta wants the court to review those materials to develop potential theories of liability, the court decline to do so. It is Herta's job -not the courts - to craft her legal theories. See Winters v. Winters, No. 19-cv-3177, 2020 WL 104 9145, at *5 n.5 (D. Minn. Feb. 11, 2020) (citing cases).

² The dockets are publicly accessible online, and the court may take judicial notice of public court records. Graham v U.S. Marshal, No. 20-cv-1204, 2020 WL 4060731, at *1 n.1 (D. Minn. June 29, 2020).

regulations. On the eve of trial, the presiding judge convicted Herta of contempt and sentenced her to five days in jail, thus delaying the trial. The case proceeded to trial on November 6, 2018, before Judge Meslow. The jury convicted Herta on all three counts, and the court sentenced Herta to thirty hours of community service and one year of supervised probation under a stay of adjudication. Herta thereafter successfully completed her probation and the court dismissed her conviction for driving after suspension.

On August 31, 2021, Herta commenced this suit alleging that defendants violated her due process rights in violation of 42 U.S.C. § 1983 and committed treason in violation of 18 U.S.C. §2381. Although not entirely clear, it appears that she wants the court to dismiss the state court convictions and award her 25 million in damages and reimbursement of her costs and fee incurred in the state court actions.

Discussion

Rather than pay this action's filing fee, Herta's submitted an IPF Application. After reviewing the IFP Application, the court is satisfied that Herta is indigent. Under 28.U.S.C. §1915 (e) (2), however, when an action proceeds IPF, "the court shall dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; [or] (ii) fails to state a claim on which relief may be granted." Furthermore, under Rule 12 (h) (3) of the Federal

Rules of Civil Procedure, “[1] the court determines at any time that lacks subject-matter jurisdiction, the court must dismiss the action.”

Jurisdiction is lacking here. First, the Rooker-Feldmen doctrine precluded Herta’s claim. Under the doctrine, “only the United States Supreme Court has been given jurisdiction to review a state- court decision, so federal district courts generally lack subject matter jurisdiction over attempted appeal from a state court judgment.” Robins v. Ritchie, 631 F. 3d 919, 925 (8th Cir. 2011) (citation omitted). The Rooker- Feldmen doctrine thus bars this action to the extent Herta seeks the court’s direct review of her state court convictions.

Second, the court lacks jurisdiction over Herta’s request for monetary damages. As a starting point, Herta brings her damages claim under § 1983, and she names only individuals as defendants. A plaintiff can bring a § 1983 claim against an individual in that person’s individual capacity, official capacity, or both. See Backer v. Chisom, 501 F. 3d 920, 923 (8th Cir. 2007) (discussing capacity distinction). When a plaintiff fails to indicate the capacity in which she is suing an individual under § 1983, the court will assume that plaintiff is bringing the relevant claims against the individual in their official capacity. See id. (citing cases). Because Herta’s complaint is silent as to the capacity in which she is suing any defendant, the court construes her claims as official- capacity claims. “In an official capacity claim, the relief sought is only nominally against the official and in fact is against the official’s office and thus sovereign

itself.” Lewis v. Clarke, 137 S. Ct. 1285, 1291 (2017) (citing cases). The upshot is that Herta’s claims against Minnesota judges are effectively claims against the State of Minnesota, which implicates the Eleventh Amendment. Under the amendment, “the Judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by Citizens of another State . . . “ U.S. Const . amend. XI. This bar plainly applies to Herta’s official capacity claims against Minnesota judges. And the issue is jurisdictional; under the Eleventh Amendment, federal courts generally lack subject matter jurisdiction over claims against an unconsenting state. See Kimel v. Fla . Bd. of Regents, 528 U.S. 62, 73 (2000) (citing cases); Skeleton v. Henry, 390 F. 3d 614, 617 (8th Cir.2004). Minnesota has not waved its immunity from suit in federal court for § 1983 damages claims, and Congress did not abrogate that immunity by enacting § 1983. See Quern v. Jordan, 440 U. S. 332, 345 (1979). The Eleventh Amendment therefore strips the court of jurisdiction over Herta’s § 1983 claims, and the court dismisses those claims without prejudice.³

³ Even if Herta had named defendants in their individual capacities her §1983 claims would almost certainly fail. First, to the extent her claim would, if successful, invalidate her state-court convictions, the claims would be barred under the doctrine of Heck v. Humphrey, 512 U. S. 477 (1994). Second, even if Heck did not apply, the doctrine of judicial immunity would almost certainly preclude her claims. Third, Herta’s claims are nonessential and would likely be dismissed for failure to state a claim.

Herta's remaining claim of treason also fails because private citizens are not authorized to bring a civil claim for treason. See 18 U.S.C. §2381; see also Jones v. Papa, No. 21-cv-1099, 2021 WL 4123056, at *5 n .3 (E.D.N.Y. Sept. 8, 2021) (citing cases). Herta's claim for treason therefore must be dismissed with prejudice.

Because the court dismisses the complaint in its entirely, it must deny Herta's IPP Application as moot.

CONCLUSION

Based on the forgoing, **IT IS HEREBY ORDERED that:**

1. The complaint is dismissed as set forth above; and
2. The application to proceed in district court without prepaying fees or costs [ECF No. 2] is denied as moot.

**LET JUDGMENT BE ENTERED
ACCORDINGLY**

Dated: September 30, 2021

s/David S. Doty

David S. Doty, Judge
United States District Court

IN THE
SUPREME COURT OF THE UNITED STATES

Maria Herta
PETITIONER
v.

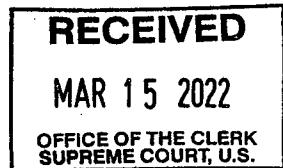
John McBride, Douglas B. Meslow, Ted V. Jude,
Ellen L. Mass
RESPONDENT (S)

I am not 14th Amendment citizen, a contract needs to be provided as well if exist one. I doubt about that!

I am not your property; I am FREE PERSON under the Constitution of the U.S.
"WE THE PEOPLE FOR THE PEOPLE!"

You violated my civil rights; you kidnapped me from, free to travel, harassed me from 2016-2018 and abused me, contempt court 2018 after long journey with you. I challenge you and your jurisdiction over me and you fail to prove it tamely not that was one there.

Conflict exists in between the Constitution of the U.S. and your abusive rules, and policy from your corporation under statutory law that really needs to be addressed.



SUPREME COURT OF THE UNITED STATES
1 First Street, N. E.
Washington, DC 20543
Ph: (202) 479-3011

Statutory law based on what I got from you fiction
judge to follow in your abusive trial it is
REPUGNANT to the Constitution of the U.S.

We did not sign your "STATE "constitution
together, YOU did sign to DEFEND and PROTECT
the Constitution of the U.S with FREE MAN in
bound.

We did not sign your "corporation policy together"
and you by taking an oath to whoever queen and to
defend the constitution of the U.S. there it is
conflict of interest.

I am not part of your political entity. Neither
Associate including federal courts couldn't see the
case because they can only exercise jurisdiction
over their member or associate. I am not fraudulent
or without faith, by telling you that you are not
above law and you can't create laws. Without
delegate authority from Congress you basically
can't see anything.

You need to see Congress to fix the treaty of
friendships.

Congress is in power!

People for the People keep the Constitution of the
U.S. it is alive in 2022 not Jack in the Box
and you need Common Law Courts for the people to
protect them from tyranny and communism
agenda.

By hiding who you are and abusing vulnerable
populations in order to coerce money from them
using tricks to fool people, STATES do not benefit
from it neither Congress. I do consider crime.

Each party received the same letter.

Very truly yours,
Maria Herta

March 10/2022

