

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-1819

ANTHONY AURIEMMA,
Appellant

v.

BLOOMFIELD MUNICIPAL COURT; BLOOMFIELD POLICE STATION;
ESSEX COUNTY SUPERIOR COURT; APPELLATE COURT;
ESSEX COUNTY LANDLORD/TENANT COURT; ESSEX COUNTY FEE
ARBITRATION;
ESSEX COUNTY ETHICS COMMITTEE; GERALD SALUTI; DR. STEVEN LILIEN;
SEASIDE HEIGHTS MUNICIPAL COURT; SEASIDE HEIGHTS POLICE STATION;
BRICK POLICE; BRICK MUNICIPALITY; OCEAN COUNTY SUPERIOR COURT;
OCEAN COUNTY JAIL; OCEAN COUNTY CHOSEN BOARD OF FREEHOLDERS;
OCEAN COUNTY JUSTICE COMPLEX; OFFICE OF COMMUNICATIONS
AND COMMUNITY RELATIONS ADMINISTRATIVE OFFICES OF THE COURTS;
STATE OF NEW JERSEY

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-20-cv-02612)
District Judge: Honorable Susan D. Wigenton

Submitted Pursuant to Third Circuit LAR 34.1(a)
February 1, 2021

Before: AMBRO, PORTER and SCIRICA, Circuit Judges

(Opinion filed: February 4, 2021)

events nor the specifics of each claim are at all clear.” (Dist. Ct. Mar. 18, 2020 Order at 1-2.) The District Court dismissed the complaint under Rule 12(b)(6) for failure to state a claim but allowed Auriemma to file an amended complaint within 30 days.

Auriemma filed a notice of appeal, arguing that the court must accept his factual allegations as true under Rule 12(b)(6), and that he provided support for his claims in the materials supplementing his complaint. He appended another set of documents, along with his original complaint. Because Auriemma’s notice of appeal was filed within the 30 days allotted for filing an amended complaint, the District Court treated the filing as an amended complaint. The District Court noted that Auriemma raised the same claims against the same defendants concerning “an alleged DUI, a possible eviction or illegal lockout, claims of attorney malpractice and municipal corruption, civil rights violations, vandalism, and assault.” (Dist. Ct. Aug. 3, 2020 Order at 1-2.) Again, citing Rules 8(a)(2) and Rule 12(b)(6), the District Court stated that the amended complaint failed to provide a coherent account of the factual or legal bases of his claims. For that reason, the District Court concluded that “the facts alleged in Plaintiff’s Amended Complaint are insufficient to support a claim entitling Plaintiff to relief.” (*Id.* at 2.) Thus, the District Court sua sponte dismissed the action under Rule 12(b)(6), for failure to state a claim.

We have jurisdiction under 28 U.S.C. § 1291.¹ Our review of the District Court’s sua sponte dismissal of Auriemma’s complaint for failure to state a claim is plenary. *See Allah v. Seiverling*, 229 F.3d 220, 223 (3d Cir. 2000).

¹ Auriemma’s notice of appeal pertained to the District Court’s initial dismissal order, which became final and appealable when Auriemma declared his intent to stand on his

bases for relief, including civil rights violations.² Although we agree with the District Court that Auriemma's complaint was deficient as filed, we cannot conclude on this record that granting Auriemma leave to amend would be inequitable or futile.

Accordingly, we will vacate the District Court's order dismissing the complaint for failure to state a claim. We will remand so that Auriemma may have an opportunity to file an amended complaint that clearly sets forth his allegations in conformity with Rule 8(a)(2) and identifies his specific legal claims that rely on those facts. We take no position on Auriemma's likelihood of submitting a complaint that is sufficient to proceed beyond sua sponte dismissal or on the merits of any potential claims.

² As one example, Auriemma stated that on July 23, 2013, Brick Township police officers handcuffed, harassed, and threatened him while conducting illegal searches of his person and his property. (See Compl. at 7-8; Am. Compl. at 5.)

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANTHONY AURIEMMA,

Plaintiff,

v.

BLOOMFIELD MUNICIPAL COURT, et
al.,

Defendants.

Civil Action No. 20-2612(SDW)(LDW)

ORDER

March 18, 2020

THIS MATTER having come before this Court upon the filing of a Complaint and an Application to Proceed in District Court Without Prepaying Fees Or Costs by *pro se* Plaintiff Anthony Auriemma (“Plaintiff”), and the Court having reviewed the Complaint for sufficiency pursuant to Fed. R. Civ. P. 8(a)(2) and (3) and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 173 L.Ed.2d 868 (2009); and

WHEREAS applications to proceed *in forma pauperis* are available to plaintiffs or petitioners in order to be excused from paying certain fees for district court proceedings, including those required to commence a civil action; and

WHEREAS Plaintiff’s application to proceed without prepayment of fees and costs, indicates that: 1) he was recently released from Ocean County Jail; 2) he is disabled and his income is limited to \$815.00 per month in disability benefits; and 3) he pays approximately \$500.00 a month for housing and relies on a friend to pay all other expenses; and

WHEREAS Plaintiff’s Complaint is an extremely disjointed collection of allegations against nineteen defendants, including his former public defender, landlord, numerous municipal

ORDERED that Plaintiff's Complaint is *sua sponte* **DISMISSED** for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff shall have thirty (30) days to file an amended Complaint that complies with both the Federal Rules of Civil Procedure and this Court's Local Rules.

SO ORDERED.

/s/ Susan D. Wigenton
United States District Judge

Orig: Clerk
cc: Parties
Leda D. Wettre, U.S.M.J.

**Additional material
from this filing is
available in the
Clerk's Office.**