

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-12968-C

REBEKAH WERTH,
H.C.,
child,

Plaintiffs - Appellants,

versus

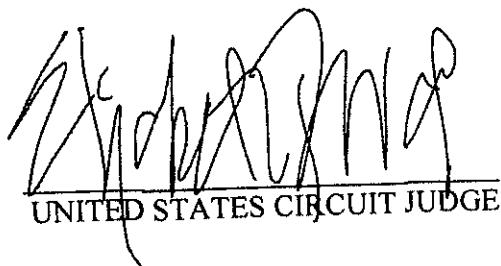
CITY OF STUART POLICE DEPARTMENT,
MATT CERNOTO,
Officer,
RICHARD SHINE,
Lieutenant,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Florida

ORDER:

Rebekah Werth and H.C.'s motion for leave to proceed *in forma pauperis* is DENIED because the appeal is frivolous. *See Pace v. Evans*, 709 F.2d 1428 (11th Cir. 1983). Their motion for appointment of counsel is also DENIED. *See Kilgo v. Ricks*, 983 F.2d 189, 193 (11th Cir. 1993).



UNITED STATES CIRCUIT JUDGE

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
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March 08, 2022

Rebekah Werth
5459 SE CELESTIAL CIR
STUART, FL 34997

Appeal Number: 21-12968-C

Case Style: Rebekah Werth, et al v. City of Stuart Police Department, et al

District Court Docket No: 2:21-cv-14261-AMC

Electronic Filing

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of fourteen (14) days from this date, this appeal will be dismissed by the clerk without further notice unless you pay to the DISTRICT COURT clerk the docketing and filing fees, with notice to this office.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Walter Pollard, C
Phone #: (404) 335-6186

MOT-2 Notice of Court Action

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CITY OF STUART POLICE DEPARTMENT,
MATT CERNOTO,
Officer,
RICHARD SHINE,
Lieutenant,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Florida

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant H.C. and Rebekah Werth has failed to pay the filing and docketing fees to the district court within the time fixed by the rules.

Effective April 21, 2022.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

CASE NO. 21-14261-CIV-CANNON

REBEKAH WERTH
and H.C.,

Plaintiffs,

v.

CITY OF STUART POLICE DEPARTMENT,
MATT CERNOTO and RICHARD SHINE,

Defendants.

ORDER DISMISSING CASE

THIS CAUSE comes before the Court upon Plaintiffs' Motion for Leave to Proceed *In Forma Pauperis* [ECF No. 3]. The Court has carefully considered the record and is otherwise fully advised in the premises.

On June 28, 2021, Plaintiffs, proceeding *pro se*, filed their Complaint and Request for Injunction against Defendants, City of Stuart Police Department and two of its officers, Matt Cernoto and Richard Shine [ECF No. 1]. Plaintiffs allege claims arising under 18 U.S.C. § 242 for the “theft of Plaintiff Rebekah Werth’s dental prosthesis and the Defendants’ refusal to investigate and prosecute the theft” [ECF No. 1, p. 7]. Plaintiffs also assert claims against Defendants for a purported violation of the Fourteenth Amendment for “denying equal protection of single woman and illegitimate child” [ECF No. 1, p. 3]. Plaintiffs seek damages in excess of \$18 million [ECF No. 1, pp. 10-11].

Because Plaintiffs sought leave to proceed *in forma pauperis*, under 28 U.S.C. § 1915(e)(2)(B), the Court is required to screen the complaint. That statute provides, in pertinent part, as follows:

Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

(B) the action or appeal—

- (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.

28 U.S.C. § 1915(e)(2)(B).

The Court first must examine whether the Complaint is frivolous or fails to state a claim before reaching a determination on the merits of Plaintiff's *in forma pauperis* application. *See Herrick v. Collins*, 914 F.2d 228, 229 (11th Cir. 1990). Although courts afford *pro se* litigants leeway in pleadings, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), *pro se* litigants are required to meet certain essential burdens in their pleadings, *see Brown v. Crawford*, 906 F.2d 667, 670 (11th Cir. 1990), and courts do not have license to rewrite an otherwise deficient pleading, *GJR Investments, Inc., v. County of Escambia*, 132 F.3d 1359, 1369 (11 Cir. 1998).

Even affording Plaintiffs the latitude required of a *pro se* pleading, Plaintiffs' Complaint is incomprehensible and fails to state a claim upon which relief can be granted. As such, it is subject to dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiffs' Complaint is **DISMISSED**. The Clerk shall **CLOSE** this case. All pending motions are **DENIED AS MOOT**

DONE AND ORDERED in Chambers at Fort Pierce, Florida, this 6th day of August 2021.



AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: counsel of record