

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

CARLINE CURRY -----PRO SE PETITIONER

V.S.

CITY OF MANSFIELD, et, al --- RESPONDENTS(S)

ON PETITION FOR A WRIT OF CERTIORARI

SIXTH CIRCUIT COURT OF APPEALS (22-3624)

(NAME OF COURT THAT LAST RULED ON MERITS OF CASE)

PETITION FOR A WRIT OF CERTIORARI

Carline Curry (Pro Se)

606 Bowman Street

Mansfield, Ohio 44903

567-274-9130 or 567-560-3907

APPENDIX A

Motion for Reversal of Decision

Lower Court Decisions

A1

NOT RECOMMENDED FOR PUBLICATION

No. 22-3624

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Oct 25, 2022

DEBORAH S. HUNT, Clerk

CARLINE M. CURRY,)
v.)
Plaintiff-Appellant,)
CITY OF MANSFIELD, OH, et al.,) ON APPEAL FROM THE UNITED
Defendants-Appellees.) STATES DISTRICT COURT FOR
) THE NORTHERN DISTRICT OF
) OHIO
)
)

O R D E R

Before: GRIFFIN, NALBANDIAN, and READLER, Circuit Judges.

“Every federal appellate court has a special obligation to satisfy itself . . . of its own jurisdiction . . .” *Alston v. Advanced Brands & Importing Co.*, 494 F.3d 562, 564 (6th Cir. 2007) (quoting *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 95 (1998)). Generally, in a civil case where neither the United States, a United States agency, nor a United States officer or employee is a party, a notice of appeal must be filed within 30 days after the judgment or order from which the party appeals is entered. 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A).

Carline M. Curry filed an employment discrimination action against the City of Mansfield and various City officials and employees. On November 22, 2021, the district court dismissed the action for lack of subject-matter jurisdiction. Curry filed a motion in “opposition” to the order in January 2022. The district court construed the motion as seeking relief from judgment under

No. 22-3624

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Federal Rule of Civil Procedure 60(b) and denied it. Three months later, Curry filed a motion for “reversal of decision.” The district court denied that motion on May 17, 2022. Curry filed a notice of appeal on July 15, 2022.

We noted that the notice of appeal appeared to be late and informed Curry that we would be required to dismiss her appeal unless she moved for an extension of time to appeal under Federal Rule of Appellate Procedure 4(a)(5) or for reopening of the appeal under Federal Rule of Appellate Procedure 4(a)(6) and the district court granted her motion. We directed Curry to show cause as to why the appeal should not be dismissed for a late notice of appeal.

In lieu of a response to the show-cause order, Curry explained in her appellant brief that she did not receive the district court’s November 21, 2021, judgment until January 6 or 7, 2022. She stated that, after she received it, she sent in an “objection” and a request for reversal, the latter of which was denied by the district court on May 17, 2022. Curry claimed that, because a government entity was involved, “the court said [she] had 60 days to appeal.”

Curry’s notice of appeal is late. A party has 60 days to appeal only when the United States or one of its agencies, officers, or employees is a party. *See Fed. R. App. P. 4(a)(1)(B)*. Moreover, the statutory provisions permitting the district court to extend or reopen the time to file a notice of appeal do not apply because Curry has not moved the district court for such relief and the time to do so has expired. *See 28 U.S.C. § 2107(c); Fed. R. App. P. 4(a)(5), (6)*.

Curry’s failure to timely file a notice of appeal deprives this court of jurisdiction. The statutory requirement in § 2107(a) that the notice of appeal be filed within 30 days after the entry of a judgment is a mandatory and jurisdictional prerequisite that this court may not waive. *Bowles v. Russell*, 551 U.S. 205, 209 (2007).

No. 22-3624

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It is therefore ordered that the appeal is **DISMISSED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt
Deborah S. Hunt, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Carline Curry,	)	CASE NO. 1:21 CV 1572
)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
City of Mansfield, et al.,	)	<u>ORDER</u>
)	
Defendants.)	
)	

Pro se Plaintiff Carline Curry has filed another post-judgment motion in this case, seeking “reversal” of the Court’s November 11, 2021 decision dismissing her case. (Doc. No. 13.)

Plaintiff contends the Court erred in granting Defendants “summary judgment” (*id.* at 1), but the Court did not grant Defendants summary judgment. The Court dismissed Plaintiff’s action pursuant to the Court’s authority established in *Apple v. Glenn*, 183 F.3d 477 (1999).

The Court also denied a prior post-judgment motion Plaintiff filed, seeking relief from the judgment in the case. Like her prior motion, Plaintiff’s current motion is unclear and consists largely of incomprehensible assertions and rhetoric. It does not alter the Court’s conclusion that her complaint was properly dismissed in accordance with *Apple v. Glenn*.

Accordingly, Plaintiff’s motion (Doc. No. 13) is DENIED. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith. In addition, Plaintiff is notified that no further post-judgment motions will be considered in this case.

IT IS SO ORDERED.

Donald C. Nugent
DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

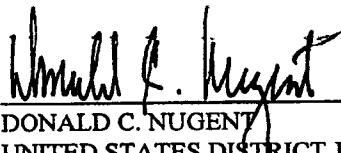
Dated: May 16, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Carline Curry,	)	CASE NO. 1:21 CV 1572
)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
City of Mansfield, <i>et al.</i>,	)	<u>JUDGMENT ENTRY</u>
)	
Defendants.)	
)	

In accordance with the Court's accompanying Memorandum Opinion and Order, this action is dismissed. The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

Dated: November 22, 2021

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Carline Curry,	)	CASE NO. 1:21 CV 1572
)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
City of Mansfield, <i>et al.</i>,	)	<u>MEMORANDUM OPINION</u>
	)	<u>AND ORDER</u>
Defendants.)	
)	

This is another lawsuit filed by *pro se* plaintiff Carline Curry against the City of Mansfield and various City officials and employees alleging unlawful employment discrimination in violation of Title VII and 42 U.S.C. §§ 1981 and 1983. This is a fee-paid action. Plaintiff has been prohibited from proceeding *in forma pauperis* in this district in civil actions alleging employment discrimination against the City and City officials and employees due to the numerous prior lawsuits she filed, repeatedly over many years, which have been summarily dismissed. *See e.g., Curry v. Donald Trump, et al.*, Case No. 1: 19 CV 2984, 2020 WL 1940844 (N.D. Ohio Apr. 22, 2020); *Curry v. City of Mansfield, et al.*, Case No. 12 CV 276, 2012 WL 2367373 (N.D. Ohio June 21, 2012).

In this case, plaintiff again sues the City and City officials and employees alleging unlawful

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Received 1-7-2022

employment discrimination in violation of Title VII and 42 U.S.C. §§ 1981 and 1983. (Doc. No. 1.)¹ This time, in her brief complaint, she alleges she was unlawfully discriminated against because she was not “given a[n] opportunity” or interview for a job opening in February 2020 for which she contends she was qualified “[p]robably because [she had] filed litigation against the City in the Past.” (*Id.* at 1.) In addition to her complaint, she has filed a motion for back pay and the relief requested in the complaint (Doc. No. 5), for summary judgment (Doc. No. 6), and for the Court to schedule court dates (Doc. No. 7).

The Court finds that this action, like plaintiff’s numerous other prior actions, must be summarily dismissed.

Federal courts “may, at any time, *sua sponte* dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of [the] complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999). *Sua sponte* dismissal of an even fee-paid complaint is appropriate without affording the plaintiff an opportunity to amend where the plaintiff’s claims “lack the legal plausibility necessary to invoke federal subject matter jurisdiction.” *Id.* at 480.

As plaintiff has clearly been apprised before, and most recently in *Curry v. City of Mansfield, et al.*, Case No. 1: 21 CV 1455 (N.D. Ohio Nov. 16, 2021), she cannot make out viable federal employment discrimination claims under Title VII and §§ 1981 and 1983 simply on the basis of allegations that the City failed to hire her for certain open jobs. Rather, she must allege specific facts

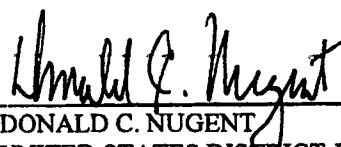
¹She sues the City, Mayer Theaker, Dave Remy, Bob Coker, and Personnel Director Mr. Kuntz “or His Replacement.” (*Id.*)

in the body of her complaint sufficient to give rise to plausible inferences that each defendant engaged in conduct constituting unlawful discrimination under the federal laws under which she seeks relief. *See id.*, slip op. at 6-7. Plaintiff's persistent contention that she was subjected to unlawful discrimination because she was not given an interview or hired for an open position with the City lacks the legal plausibility necessary to invoke federal subject matter jurisdiction. *See Lillard v. Shelby Cty. Bd. of Educ.*, 76 F.3d 716 (6th Cir. 1996) (court is not required to accept summary allegations or unwarranted legal conclusions in determining whether a complaint states a claim for relief).

Accordingly, for the same reasons the district court dismissed her recently-filed case, Case No. 1:21 CV 1455, plaintiff's complaint in this case against the City, Mayer Theaker, Dave Remy, Bob Coker, and Personnel Director Mr. Kuntz is dismissed pursuant to the Court's authority established in *Apple v. Glenn*. The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith. In light of this ruling, plaintiff's remaining pending motions are denied as moot.

Further, in light of plaintiff's demonstrated persistence in seeking to sue the City and City officials and employees regarding employment with the City, she is urged to consult with a lawyer before filing any further lawsuits.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

Dated: November 22, 2021

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

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Filed: November 15, 2022

Carline M. Curry
606 Bowman Street
Mansfield, OH 44903-0000

Ms. Andrea Kaye Ziarko
Baker, Dublikar, Beck, Wiley & Mathews
400 S. Main Street
North Canton, OH 44720

Re: Case No. 22-3624, *Carline Curry v. City Of Mansfield, OH, et al*
Originating Case No. : 1:21-cv-01572

Dear Sir or Madam,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/C. Anthony Milton
Case Manager
Direct Dial No. 513-564-7026

cc: Ms. Sandy Opacich

Enclosure

AL

No. 22-3624
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Nov 15, 2022
DEBORAH S. HUNT, Clerk

CARLINE M. CURRY,)
)
 Plaintiff-Appellant,)
)
 v.) ORDER
)
 CITY OF MANSFIELD, OH, et al.,)
)
 Defendants-Appellees.)
)
)

Before: GRIFFIN, NALBANDIAN, and READLER, Circuit Judges.

Carline M. Curry filed a petition for rehearing of this court's October 25, 2022, order dismissing this appeal for lack of jurisdiction.

Upon careful consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it entered the decision. *See* Fed. R. App. P. 40(a).

The petition for rehearing is **DENIED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk