

United States Court of Appeals For the First Circuit

No. 22-1557

SHARON CAMMILLE RIDDICK,

Plaintiff - Appellant,

v.

BOSTON HOUSING AUTHORITY; VINCENT WRIGHT, Residential Custodian; ANGEL SANTOS, Property Manager; JAY KOPLOVE, Senior Attorney; COLLEEN LEAVER, Employee Relations Coordinator,

Defendants - Appellees.

Before

Kayatta, Howard and Gelpí,
Circuit Judges.

JUDGMENT

Entered: June 20, 2023

Plaintiff-Appellant Sharon Cammille Riddick challenges the district court's dismissal of the Amended Complaint for failure to comply with the pleading requirements of Fed. R. Civ. P. 8(a). We review for abuse of discretion, see Kuehl v. F.D.I.C., 8 F.3d 905, 908 (1st Cir. 1993), and none is apparent here.

"Dismissal [for noncompliance with Rule 8] is usually reserved for those cases in which the complaint is so confused, ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised." Sayied v. White, 89 F. App'x 284, 2004 WL 489060, at *1 (1st Cir. Mar. 12, 2004) (alteration in original) (quoting Salahuddin v. Cuomo, 861 F.2d 40, 42 (2d Cir. 1988)). The district court did not abuse its Rule 8 discretion in this case. The Amended Complaint is rambling, repetitious, and disorganized, includes irrelevant details about many non-defendants, and at the same time omits facts necessary to make sense of the claims Plaintiff-Appellant attempted to state.

While this court holds "pro se pleadings to less demanding standards than those drafted by lawyers," accommodation of defects must be "within reasonable limits." Dutil v. Murphy, 550 F.3d

154, 158 (1st Cir. 2008). Here, it would have been unreasonable to expect Defendants-Appellees to frame a response to the Amended Complaint. Accordingly, we discern no abuse of discretion in the district court's Rule 8 determination and resulting dismissal.

All pending motions, to the extent not mooted by the foregoing, are denied. See United States v. Muriel-Cruz, 412 F.3d 9, 12 (1st Cir. 2005) (absent extraordinary circumstances, circuit court consults the record only as it existed at the time the district court rendered its decision).

The following filings will be held under seal:

- 1) "Exh. 5" to the brief filed November 1, 2022;
- 2) the "addendum" filed March 14, 2023, and the exhibits thereto;
- 3) the first "addendum" filed on March 18, 2023, and the exhibits thereto;
- 4) the first "addendum" filed March 27, 2023, and the exhibits thereto;
- 5) the second "addendum" filed March 27, 2023, and the exhibits thereto;
- 6) the "addendum" filed May 5, 2023, and the exhibits thereto;
- 7) the "addendum" filed May 8, 2023, and the exhibits thereto;
- 8) the "addendum" filed May 29, 2023, and the exhibits thereto.

The judgment of the district court is affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Sharon Cammille Riddick

David Frye

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action
No: 21-11349-NMG

Sharon Riddick
Petitioner

v.

Boston Housing Authority, et al.
Respondent

ORDER OF DISMISSAL

GORTON, D.J.

In accordance with this Court's adoption on 7/6/2022, of the Magistrates Judge's Report and Recommendation of dismissal, it is hereby ORDERED that the above-entitled action be and hereby is dismissed.

By the Court,

/s/Douglas Warnock
Deputy Clerk

July 7, 2022

To: All Counsel

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHARON CAMMILLE RIDDICK,

Plaintiff,

v.

BOSTON HOUSING AUTHORITY, et al.,

Defendants.

Civil Action No. 21-11349-NMG

REPORT AND RECOMMENDATION ON DEFENDANT'S MOTION TO
STRIKE PLAINTIFF'S STATEMENT OF CLAIM AND TO DISMISS ACTION

[Docket No. 60]

May 26, 2022

Boal, M.J.

Defendants Boston Housing Authority ("BHA"), Jay Koplove, Angel Santos, and Vincent Wright (collectively, the "Defendants")¹ have moved to strike plaintiff Sharon Cammille Riddick's complaint and to dismiss this action pursuant to Rules 8, 9, and 12 of the Federal Rules of Civil Procedure. Docket No. 60.² For the following reasons, I recommend that Judge Gorton grant the Defendants' motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

On August 18, 2021, Riddick filed this action against the Defendants using a model form

¹ The complaint also named Colleen Leaver as a defendant. See Docket No. 1 at 1. She is listed in the docket as being represented by the same counsel as the Defendants. However, she is not listed as a movant in Defendants' motion to strike. See Docket No. 60 at 1. In any event, the claims against Leaver are dismissable for the same reasons set forth in this report and recommendation.

² On May 4, 2022, Judge Gorton referred the motion to the undersigned. Docket No. 61.

for pro se litigants. Docket No. 1. In the section asking her to identify the basis for the Court's jurisdiction, she checked the box for federal question jurisdiction. Id. at 3. In the section asking her to identify the applicable federal laws, Riddick listed "TITLE VIII, VI, AND THE (ADA) AMERICAN DISABILITY ACT." Id. She also attached a "Statement of Claim," containing 618 paragraphs of allegations. See Docket No. 1-1. In addition, Riddick filed a motion to proceed in forma pauperis and a motion for appointment of counsel. Docket Nos. 2, 3.

On October 12, 2021, Judge Gorton granted Riddick's motion to proceed in forma pauperis. Docket No. 5. He denied her motion for appointment of counsel without prejudice to filing a renewed motion for counsel when the named defendants had been served with and responded to the complaint. Id.

On October 19, 2021, Judge Gorton granted Riddick's motion to amend the complaint. Docket No. 10. She filed her amended complaint titled "Statement of Claim" on the same day. Docket No. 25. Riddick's subsequent motions to amend were denied. Docket Nos. 28, 36.

On December 15, 2021, the Clerk entered a default against the Defendants and Leaver. Docket No. 37. Riddick filed two motions for default judgment and a supporting affidavit. Docket Nos. 46-48. On February 22, 2022, the Defendants and Leaver moved to set aside the default. Docket No. 52. Judge Gorton granted the Defendants and Leaver's motion to set aside the default and denied Riddick's motions for default judgment on April 14, 2022. Docket No. 55.

The operative complaint is Riddick's amended Statement of Claim at Docket No. 25 (the "Amended Complaint"). The Amended Complaint is 135 pages long and contains 644 paragraphs, consisting of a stream-of-consciousness narrative of events spanning from 2018 to the present, at times unintelligible, and containing multiple, often unrelated incidents involving

individuals having no discernible connection to the Defendants in this case. For example, the Amended Complaint begins with the following paragraph:

1. October 5, 2018 at 11:12 AM – 11:30 AM, I caught an Uber from the Market Basket to my residence of 1875 Dorchester Avenue. I placed my bags in the lobby area adjacent to the security desk while I went to my apartment to retrieve my shopping cart. I came back downstairs and was informed by the African woman security guard that “she stopped Timothy Stewart from taking/stealing my groceries.” According to the security guard “Timothy Stewart was coming into the building with two women and walked over to your groceries and picked up your bags and was going to walk away with them,” “I told him to put those back they are not yours, he did and left.”

Amended Complaint at ¶ 1. The Amended Complaint itself contains no causes of action and no request for relief.

II. ANALYSIS

Defendants argue that the Amended Complaint should be stricken pursuant to Rules 12(f) and 8 of the Federal Rules of Civil Procedure. Docket No. 60 at 3. Under Rule 12(f), a district court “may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f).

Courts have “considerable discretion” to strike material under Rule 12(f). Alvarado-Morales v. Digital Equip. Corp., 843 F.2d 613, 618 (1st Cir. 1988). Rule 12(f) motions, however, “are narrow in scope, disfavored in practice, and not calculated readily to invoke the court’s discretion.” Manning v. Boston Medical Center, 725 F.3d 34, 59 (1st Cir. 2013) (quoting Boreri v. Fiat S.p.A., 763 F.2d 17, 23 (1st Cir. 1985)). That is because “striking a portion of a pleading is a drastic remedy and it is often sought by the movant simply as a dilatory or harassing tactic.” Id. As the moving party, the Defendants bear the burden of showing that the allegations should be struck under Rule 12(f). Alston v. Town of Brookline, Massachusetts, 321 F.R.D. 41, 43 (D. Mass. 2017) (citations omitted).

Here, Defendants appear to move to dismiss the entire Amended Complaint pursuant to Rule 12(f). Rule 12(f), however, “is neither an authorized nor a proper way to procure the dismissal of all or part of a complaint.” Bryan Corp. v. ChemWerth, Inc., 911 F.Supp.2d 103, 105 n.1 (D. Mass. 2012) (citing 5C Wright & Miller, *FEDERAL PRACTICE AND PROCEDURE: Civil* 3d § 1380 at 391 (1994)). Nevertheless, Rule 12(f) is “designed to reinforce the requirement in [Rule 8(d)(1)] that pleadings be simple, concise, and direct.” Hayes v. McGee, No. 10-40095-FDS, 2011 WL 39341, at *1 (D. Mass. Jan. 6, 2011) (quoting 5C Charles A. Wright, et al., *FEDERAL PRACTICE AND PROCEDURE* § 1380 at 391 (2004)). Therefore, “a pleading that violates the principles of Rule 8 may be struck ‘within the sound discretion of the court.’” Id.; see also Barth v. United States, No. 2:18-cv-00201-JAW, 2018 WL 5793845, at *2-3 (D. Me. Nov. 5, 2018) (granting defendant’s motion to strike the plaintiff’s complaint in its entirety under Rule 12(f) for failure to comply with Rule 8).³

Rule 8(a)(2) requires that a pleading contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This requirement is meant to “give the defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests.” Calvi v. Knox Cty., 470 F.3d 422, 430 (1st Cir. 2006) (quoting Educadores Puertorriqueños en Acción v. Hernández, 367 F.3d 61, 66 (1st Cir. 2004)). While Rule 8 does not require detailed factual allegations, at a minimum a complaint must allege enough specific facts to provide “fair notice” of both the particular claim being asserted and “the grounds upon which [that claim] rests.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 n. 3 (2007)

³ In addition, where appropriate, courts have converted motions to strike pursuant to Rule 12(f) to motions to dismiss based on the sufficiency of the complaint. See, e.g., State Farm Gen. Ins. Co. v. ABC Fulfillment Servs., LLC, No. 1:15-cv-00421-KJM-JLT, 2016 WL 159229, at *2 (E.D. Cal. Jan. 13, 2016) (converting motion to strike under Rule 12(f) to motion to dismiss pursuant to Rule 12(b)(6)).

(citation and quotation marks omitted).

Although the Amended Complaint is very long and describes numerous events that took place over a span of many years, Riddick has failed to plead basic facts necessary for the Defendants to understand and respond to the charges levied against them. Among other things, she has failed to identify any legal claims and it is very difficult to ascertain exactly what she claims each of them did to give rise to any actionable claims.⁴ See Ateek v. Massachusetts, No. 11-11566-DPW, 2011 WL 4529393, at *3 n.7 (D. Mass. Sept. 27, 2011) (citation omitted) (“District courts are not required to conjure up questions never squarely presented to them or to construct full blown claims from sentence fragments.”). In addition, the Amended Complaint makes lengthy, disjointed, and repetitive allegations regarding incidents and individuals that appear to be wholly unrelated to the named Defendants. For example, Riddick includes factual allegations regarding a complaint she made against a state judge (Amended Complaint at ¶¶ 229-234) and about notices from the Internal Revenue Service regarding past due taxes and other matters (id. at ¶¶ 469-498).

“While the ‘First Circuit holds a pro se litigant to a standard of pleading less stringent than that for lawyers,’ ‘this cannot be taken to mean that pro se complaints are held to no standard at all.’” Phelps v. Local 0222, No. 09-11218-JLT, 2010 WL 3342031, at *5 (D. Mass. Aug. 20, 2010) (quoting Green v. Commonwealth of Mass., 108 F.R.D. 217, 218 (D. Mass. 1985)). Riddick’s Amended Complaint falls into the category of pleadings that are “so confused,

⁴ “An amended complaint, once filed, normally supersedes the antecedent complaint” and, therefore, “the earlier complaint is a dead letter and ‘no longer performs any function in the case.’” Connectu LLC v. Zuckerberg, 522 F.3d 82, 91 (1st Cir. 2008) (citations omitted). Even if this Court were to assume that Riddick intended to bring claims under Titles VI and VIII of the Civil Rights Act and the ADA as listed in her original complaint, it is all but impossible to discern precisely which Defendants Riddick intends to sue and on what theory without literally guessing as to which facts could support a potential legal claim against any particular Defendant.

ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised.”

Id. (quoting Black v. UNUM Provident Corp., 245 F.Supp.2d 194, 197 (D. Me. 2003)).

Accordingly, the Amended Complaint is subject to dismissal for failure to comply with Rule 8(a)(2) of the Federal Rules of Civil Procedure.

Ordinarily, this Court would recommend that the District Judge allow a pro se plaintiff an opportunity to amend the complaint to comply with Rule 8. Under the circumstances here, however, this Court finds that granting Riddick further leave to amend is not warranted. Riddick has already been allowed to amend the complaint once. Nothing in the Amended Complaint itself or Riddick’s response to the Defendants’ motion indicates that she is able to allege any different or new facts that could amount to a viable claim. As such, it appears that granting further leave to amend would likely be futile.

III. RECOMMENDATION

For the foregoing reasons, this Court recommends that Judge Gorton dismiss the Amended Complaint.

IV. REVIEW BY DISTRICT JUDGE

The parties are hereby advised that under the provisions of Fed. R. Civ. P. 72(b), any party who objects to these proposed findings and recommendations must file specific written objections thereto with the Clerk of this Court within 14 days of service of this Report and Recommendation. The written objections must specifically identify the portion of the proposed findings, recommendations, or report to which objection is made, and the basis for such objections. See Fed. R. Civ. P. 72. The parties are further advised that the United States Court of Appeals for this Circuit has repeatedly indicated that failure to comply with Fed. R. Civ. P. 72(b) will preclude further appellate review of the District Court’s order based on this Report

and Recommendation. See Phinney v. Wentworth Douglas Hospital, 199 F.3d 1 (1st Cir. 1999); Sunview Condo. Ass'n v. Flexel Int'l, Ltd., 116 F.3d 962 (1st Cir. 1997); Pagano v. Frank, 983 F.2d 343 (1st Cir.1993).

/s/ Jennifer C. Boal
JENNIFER C. BOAL
United States Magistrate Judge

United States Court of Appeals For the First Circuit

No. 22-1557

SHARON CAMMILLE RIDDICK,

Plaintiff - Appellant,

v.

BOSTON HOUSING AUTHORITY; VINCENT WRIGHT, Residential Custodian; ANGEL SANTOS, Property Manager; JAY KOPLOVE, Senior Attorney; COLLEEN LEAVER, Employee Relations Coordinator,

Defendants - Appellees.

Before

Barron, Chief Judge,
Howard, Kayatta, Gelpi,
Montecalvo and Rikelman, Circuit Judges.

ORDER OF COURT

Entered: October 4, 2023

The petition for rehearing having been denied by the panel of judges who decided the case and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied.

Appellant's remaining post-judgment motions are all denied. Mandate shall enter forthwith. See Fed. R. App. P. 41(b). This appeal now has been fully adjudicated and is closed. Therefore, Appellant should refrain from making further filings in the appeal.

By the Court:

Maria R. Hamilton, Clerk

cc:

Sharon Cammille Riddick

David Frye

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