

APPENDIX

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted March 16, 2018*

Decided March 19, 2018

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DANIEL A. MANION, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 17-2923

ELOUISE BRADLEY,
Plaintiff-Appellant,

v.

WISCONSIN DEPARTMENT OF CHILDREN
AND FAMILIES, *et al.,*
Defendants-Appellees.

} Appeal from the United
States District Court for the
Eastern District of Wisconsin.

} No. 17-CV-509-JPS
J.P. Stadtmueller, *Judge.*

Order

As in other suits that she has already lost, Elouise Bradley asserts in this suit under 42 U.S.C. §1983 that the Wisconsin Department of Children and Families and three of its employees improperly revoked her license to operate a childcare center. She also sues the civil litigation division of the Wisconsin Department of Justice and three other par-

* Defendants were not served with process and are not participating in this appeal, which we decide without oral argument because it is frivolous. Fed. R. App. P. 34(a)(2)(A).

ties. Bradley challenges the dismissal of her lawsuit, which the district court ruled was frivolous. We agree with that ruling, affirm the judgment, and enter a sanction.

In the past five years Bradley has lost three appeals in suits accusing some or all of the defendants in this case of violating her constitutional rights by revoking her daycare license. *Bradley v. Sabree*, 842 F.3d 1291 (7th Cir. 2016) (*Bradley III*); *Bradley v. Sabree*, 594 F. App'x 881 (7th Cir. 2015) (*Bradley II*); *Bradley v. Wisconsin Department of Children & Families*, 528 F. App'x 680 (7th Cir. 2013) (*Bradley I*). In her first appeal, we affirmed the dismissal of her suit against the Wisconsin Department of Children and Families because it is not a "person" under §1983. *Bradley I*, 528 F. App'x at 681. In her second appeal, a suit against the same employees she names in this suit, we affirmed the district court's dismissal for failure to state a claim and for lack of jurisdiction. *Bradley II*, 594 F. App'x at 883. Her third go-around was a repeat of the first suit, and we affirmed the dismissal because the suit was barred by claim preclusion. *Bradley III*, 842 F.3d at 1293.

In this fourth appeal we again confront a district court's order dismissing Bradley's claims against the same defendants for the same alleged wrongs. Although we construe Bradley's brief liberally, *Anderson v. Hardman*, 241 F.3d 544 (7th Cir. 2001), we cannot glean a meaningful argument challenging the district court's resolution of the suit. Claim preclusion bars most of Bradley's theories because they involve the same parties and the same core of operative facts as her prior suits, which ended with a final judgment on the merits in the defendants' favor. See *Bernstein v. Bankert*, 733 F.3d 190, 226 (7th Cir. 2013); *Ross v. Board of Education of Township High School District 211*, 486 F.3d 279, 283 (7th Cir. 2007). As for the new defendants, Bradley does not assert any coherent claim against them.

Bradley contends that the district judge is biased against her and should not have decided the case. The adverse decisions are the only reason she thinks the judge biased, but the best explanation of the decisions is that the judge sincerely thinks the claims unavailing. Prior adverse decisions do not disqualify a judge. See *Liteky v. United States*, 510 U.S. 540 (1994).

We have warned Bradley that further frivolous appeals may result in penalties. *Bradley III*, 842 F.3d at 1293. She disregarded our warning. Two penalties are appropriate. First, by pursuing a frivolous course of litigation Bradley has forfeited her privilege of litigating without prepayment of fees (that is, suing *in forma pauperis*) under 28 U.S.C. §1915. See *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992). Second, we fine her \$1,000 and enter an order under *Support Systems International, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995). Until she pays that fine she is barred from filing papers in any federal court within this circuit except for the defense of criminal cases or applications for writs of habeas corpus. Bradley may submit to this court, no earlier than two

years from the date of this order, a motion to modify or rescind this order. And even if she pays the \$1,000 fine, she must pay all required filing fees in her future cases. (That is to say, these two penalties are cumulative, not alternative.)

The district court's judgment is affirmed. The sanctions we have mentioned will be entered as separate orders.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ELOUISE BRADLEY,

Plaintiff,

v.

Case No. 17-CV-509-JPS

WISCONSIN DEPARTMENT OF
CHILDREN AND FAMILIES,
WISCONSIN DEPARTMENT OF
JUSTICE, JENNIFER SABREE, JANE
ABSHIRE, REBECCA MCFADDEN,
MEGAN MCDERMOTT,
MILWAUKEE COUNTY, and
BUREAU OF MILWAUKEE CHILD
WELFARE,

Defendants.

ORDER

Plaintiff filed a *pro se* complaint taking issue with various actions of Defendants. (Docket #1). This matter comes before the court on Plaintiff's motion to proceed *in forma pauperis*. (Docket #2). Notwithstanding the payment of any filing fee, the Court must dismiss a complaint if it raises claims that are "frivolous or malicious," that is, fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Hutchinson ex rel. Baker v. Spink*, 126 F.3d 895, 900 (7th Cir. 1997). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327. "Malicious,"

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although sometimes treated as a synonym for “frivolous,” “is more usefully construed as intended to harass.” *Lindell v. McCallum*, 352 F.3d 1107, 1109-10 (7th Cir. 2003) (citations omitted).

Plaintiff’s complaint is largely incoherent. The Court gathers that Plaintiff’s concerns center on Defendants’ role in shutting down her daycare facility. (Docket #1 at 2-3). Despite her difficult-to-follow allegations, Plaintiff herself is no stranger to this Court. In fact, she has filed a complaint in this District alleging similar underlying facts three prior times in the previous five years. *Bradley v. Division of Children and Family* [*Bradley I*], 12-CV-1244-RTR; *Bradley v. Sabree et al.* [*Bradley II*], 14-CV-429-JPS; *Bradley v. Sabree et al.* [*Bradley III*], 15-CV-1384-PP. In each prior case, Plaintiff’s complaint was dismissed with prejudice. *Bradley I*, (Docket #17); *Bradley II*, (Docket #23); *Bradley III*, (Docket #21). Plaintiff appealed each dismissal and the Court of Appeals affirmed in each instance. *Bradley I*, (Docket #25); *Bradley II*, (Docket #35); *Bradley III*, (Docket #35).

All of the prior complaints were rejected upon a considered analysis of numerous grounds for dismissal, including the court’s jurisdiction, application of preclusion doctrines, failure to exhaust administrative remedies, and the failure to state viable claims. The Court will not allow Plaintiff to continue to waste scarce taxpayer resources occupying its time with repeated filings concerning the same subject matter which warrant dismissal for the same reasons. This is the definition of frivolity and Plaintiff’s complaint will be dismissed on that ground.

Plaintiff’s motion for leave to proceed *in forma pauperis* must be denied, in any event. (Docket #2). The privilege to proceed without payment of costs and fees “is reserved to the many truly impoverished litigants who...would remain without legal remedy if such privilege were

not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). Plaintiff's motion reveals that her monthly income exceeds her expenses by over \$500.00. (Docket #2 at 2). Plaintiff also has substantial equity in her home. *Id.* at 3. Plaintiff's only explanation for not wanting to pay the filing fee is that her previous cases have been dismissed. *Id.* at 4. Because it is not clear that Plaintiff would be unable "to provide [her]self...with the necessities of life," if required to pay the filing fee, the Court cannot find her indigent. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

Plaintiff filed a number of nonsensical motions subsequent to submitting her complaint and motion to proceed *in forma pauperis*. (Docket #5, #6, #7, and #8). Each will be denied as moot. Finally, the Court of Appeals has warned Plaintiff that her continued frivolous appeals may result in sanctions. *Bradley III*, (Docket #35 at 4). This Court now provides the same warning. If Plaintiff continues to submit frivolous filings, she may be subject to sanctions, including monetary penalties or a general prohibition on filing in this District. *See Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995).

Accordingly,

IT IS ORDERED that Plaintiff's motion to *proceed in forma pauperis* (Docket #2) be and the same is hereby **DENIED**;

IT IS FURTHER ORDERED that Plaintiff's miscellaneous motions (Docket #5, #6, #7, and #8) be and the same are hereby **DENIED as moot**;

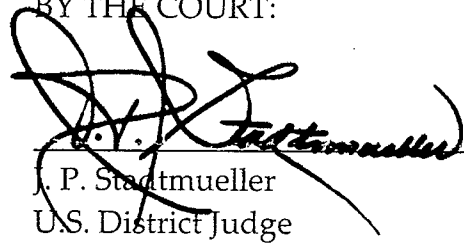
IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED with prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B) as frivolous; and

THE COURT FURTHER CERTIFIES that any appeal from this matter would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) unless Plaintiff offers bonafide arguments supporting her appeal.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 14th day of September, 2017.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ELOUISE BRADLEY,

Plaintiff,

v.

Case No. 17-CV-509-JPS

WISCONSIN DEPARTMENT OF
CHILDREN AND FAMILIES,
WISCONSIN DEPARTMENT OF
JUSTICE, JENNIFER SABREE, JANE
ABSHIRE, REBECCA MCFADDEN,
MEGAN MCDERMOTT,
MILWAUKEE COUNTY, and
BUREAU OF MILWAUKEE CHILD
WELFARE,

Defendants.

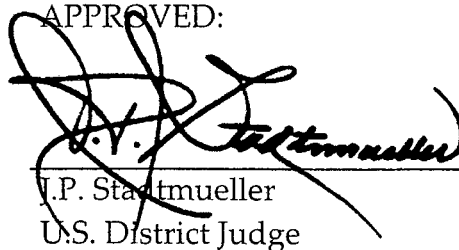
JUDGMENT

Decision by Court. This action came on for consideration before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that this action be and the same is hereby **DISMISSED with prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B) as frivolous; and

IT IS FURTHER CERTIFIED that any appeal from this matter would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) unless Plaintiff offers bonafide arguments supporting her appeal.

APPROVED:


J.P. Statmueller
U.S. District Judge

STEPHEN C. DRIES
Clerk of Court

s/ Jodi L. Malek

By: Deputy Clerk

September 14, 2017

Date

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UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



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FINAL JUDGMENT

March 19, 2018

Before: FRANK H. EASTERBROOK, Circuit Judge
DANIEL A. MANION, Circuit Judge
DIANE S. SYKES, Circuit Judge

No. 17-2923	ELOUISE BRADLEY, Plaintiff - Appellant v. WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 2:17-cv-00509-JPS Eastern District of Wisconsin District Judge J. P. Stadtmueller	

We have warned Bradley that further frivolous appeals may result in penalties. *Bradley III*, 842 F.3d at 1293. She disregarded our warning. Two penalties are appropriate. First, by pursuing a frivolous course of litigation Bradley has forfeited her privilege of litigating without prepayment of fees (that is, suing *in forma pauperis*) under 28 U.S.C. §1915. See *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992). Second, we fine her \$1,000 and enter an order under *Support Systems International, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995). Until she pays that fine she is barred from filing papers in any federal court within this circuit except for the defense of criminal cases or applications for writs of habeas corpus. Bradley may submit to this court, no earlier than two years from the date of this order, a motion to modify or rescind this order. And even if she pays the \$1,000 fine, she must pay all required filing fees in her future cases. (That is to say, these two penalties are cumulative, not alternative.) The district court's judgment is **AFFIRMED**. The sanctions we have mentioned will be entered as separate orders. The above is in accordance with the decision of this court entered on this date.

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United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

April 11, 2018

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DANIEL A. MANION, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 17-2923

ELOUISE BRADLEY,
Plaintiff-Appellant,

v.

WISCONSIN DEPARTMENT OF CHILDREN
AND FAMILIES, *et al.*,
Defendants-Appellees.

} Appeal from the United
States District Court for the
Eastern District of Wisconsin.

} No. 17-CV-509-JPS
J.P. Stadtmueller, *Judge.*

Order

Plaintiff-appellant filed a petition for rehearing and rehearing en banc on March 27, 2018. No judge in regular active service has requested a vote on the petition for rehearing en banc, and all of the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

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