

Trzuskot v Matthews

2024 NY Slip Op 31802(U)

May 23, 2024

Supreme Court, New York County

Docket Number: Index No. 158620/2023

Judge: Hasa A. Kingo

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. HASA A. KINGO PART 05M

Justice

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MAGDALENA TRZUSKOT,

Plaintiff,

- v -

PAUL W MATTHEWS, SANDRA SPENNATO, MICHAEL SCHERZ, JUDGE TANDRA DAWSON, THE NEW YORK SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN, CHIEF ADMINISTRATIVE JUDGE JOSEPH A ZAYAS, ATTORNEY GENERAL OF NY LETITIA JAMES, CITY OF NEW YORK,

Defendant.

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INDEX NO. 158620/2023
MOTION DATE 02/08/2024
MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 28, 29, 30, 31, 32, 46

were read on this motion to DISMISS.

Defendants Letitia James, Attorney General of the State of New York (“Attorney General James”), Joseph A. Zayas, Chief Administrative Judge of the Supreme Court of the State of New York, and Tandra Dawson, Justice of the Supreme Court of the State of New York, New York County (collectively, the “State Defendants”) move, pursuant to CPLR §§ 3211(a)(2) and 3211(a)(7), to dismiss Plaintiff Magdalena Trzuskot’s (“Plaintiff”) complaint as against them, and for such further relief as this court may deem just and proper. After the filing of the instant motion, defendant City of New York (“the City”) submitted an answer whereby the City contends that the City is immune from suit for its exercise of discretion in the performance of a governmental function and/or its exercise of professional judgment. The instant motion is unopposed.

BACKGROUND AND ARGUMENTS

Plaintiff, representing herself *pro se*, brings claims against the State Defendants and the City in connection with a consolidated proceeding before the Integrated Domestic Violence Court of the Supreme Court of New York, New York County (“IDV Court”). Plaintiff alleges that she was the subject of several constitutional violations during these proceedings and as a result of the IDV Court’s ruling against her on the issues of custody, visitation, relocation, and family offense. Furthermore, Plaintiff alleges that Judge Zayas and Justice Dawson were negligent in their duties and that Attorney General James committed the torts of prosecutorial misconduct and wrongful conviction.

In support of the instant motion, the State Defendants argue that Plaintiff's claims reflect her dissatisfaction with the outcome of the proceedings in IDV Court and her overall disapproval of the New York Courts, and do not present any viable claims. Accordingly, the State Defendants contend that Plaintiff's complaint is subject to dismissal on the following grounds: (1) the Supreme Court lacks subject matter jurisdiction, as required by CPLR § 3211(a)(2), over this action for monetary claims for damages against the State Defendants, which must be brought in the Court of Claims; (2) no private right of action is available under 18 U.S.C. § 2265 ("Section 2265"); (3) Justice Dawson and Judge Zayas are entitled to absolute judicial immunity; and (4) Plaintiff has failed to plead any cause of action against the State Defendants with the particularity required by CPLR § 3211(a)(7).

DISCUSSION

When the Supreme Court of the State of New York lacks subject matter jurisdiction, a motion to dismiss is properly granted pursuant to CPLR § 3211(a)(2). This occurs when exclusive jurisdiction lies in a separate court or when no private right of action exists. For example, in *Ajoku v. New York State Office of Temporary and Disability Assistance*, 198 AD3d 437, 437 (1st Dept 2021), the complaint was dismissed because jurisdiction lay in the Court of Claims. Similarly, in *O'Neil v. City of New York*, 10 Misc.3d 30, 32 (2d Dept 2005), claims were dismissed for lack of subject matter jurisdiction because the statute did not confer a private right of action.

On a motion to dismiss pursuant to CPLR § 3211(a)(7), the court is directed to consider "whether the proponent of the pleading has a cause of action" based on their submission in the pleading document (*see Leon v. Martinez*, 84 NY2d 83, 87 [1994]; *JF Capital Advisors, LLC v Lightstone Group, LLC*, 25 NY3d 759, 764 [2015]). Ordinarily, the court's inquiry is limited to assessing the legal sufficiency of the plaintiff's pleadings; accordingly, the court's only function is to determine whether the facts as alleged fit within a cognizable legal theory (*JF Capital Advisors*, 25 NY3d at 764, *supra*). However, where the complaint consists of bare legal conclusions with no factual specificity (*Godfrey v Spano*, 13 NY3d 358, 373 [2009]) or where the statements in a pleading are not sufficiently particular to give the court and parties notice of the transactions and/or occurrences intended to be proven (CPLR §3013; *Mid-Hudson Val. Fed. Credit Union v Quartararo & Lois, PLLC*, 31 NY3d 1090, 1091 [2018]), the motion to dismiss should be granted. Indeed, "allegations consisting of bare legal conclusions as well as factual claims flatly contradicted by documentary evidence are not entitled to any such consideration" (*Garber v Board of Trustees of State Univ. of NY*, 38 AD3d 833, 834 [2d Dept 2007], quoting *Maas v Cornell Univ.*, 94 NY2d 87, 91 [1999]). CPLR §2013, states that "[s]tatements in a pleading shall be sufficiently particular to give the court and parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved and the material elements of each cause of action or defense." Thus, conclusory allegations will not suffice (*see DiMauro v Metropolitan Suburban Bus Auth.*, 105 AD2d 236, 239 [2d Dept 1984]; *Fowler v American Lawyer Media*, 306 AD2d 113, 113 [1st Dept 2003]; *Sheriff v Murray*, 33 AD3d 688 [2d Dept 2006]). When the allegations in a complaint are vague or conclusory, dismissal for failure to state a cause of action is warranted (*see Schuckman Realty v Marine Midland Bank, N.A.*, 244 AD2d 400, 401 [2d Dept 1997]; *O'Riordan v Suffolk Ch., Local No. 852, Civ. Serv. Empls. Assn.*, 95 AD2d 800, 800 [2d Dept 1983]).

Here, Plaintiff's claims against the State Defendants cannot be properly heard by this court, as the Supreme Court of New York, New York County, lacks jurisdiction to hear claims for damages against New York state officials and cannot consider claims under a statute that provides no private right of action. For instance, Plaintiff is seeking specified costs and damages from the State Defendants for their alleged actions as part of the government of the State of New York (on the part of Attorney General James) and as jurists of the Supreme Court of the State of New York (on the part of Judge Zayas and Justice Dawson)(*see* Compl., "Prayer for Relief" at ¶¶ 2-4). The Supreme Court lacks jurisdiction to entertain such claims, as claims for monetary damages require Plaintiff to bring her application as an action in the Court of Claims, not the Supreme Court (*see* Court of Claims Act § 8; N.Y. Const. art. VI, § 9).

Actions against state agencies or state employees acting in their official capacity in the exercise of governmental functions are essentially claims against the State and can only be brought in the Court of Claims (*Morell v. Balasurbramanian*, 70 NY2d 297, 300 [1987]). This is because the State is the real party in interest when such allegations are raised against State employees for their respective actions and determinations (*see* Court of Claims Act § 9[4]; *Sinhogar v. Parry*, 53 NY2d 424, 431 [1981]).

Here, Plaintiff seeks to recover money from Judge Zayas and Justice Dawson, who are judges of the Supreme Court and therefore part of the New York State Unified Court System (*see* N.Y. Const., art. VI, § 7). She also seeks damages from Attorney General James, the chief law enforcement officer of the State of New York (*see* N.Y. Const., art. V, § 60). These claims against the State Defendants must be brought in the Court of Claims to recover monetary damages from the State or an agency and its employees (*see* Court of Claims Act § 9[2]; *Schaffer v. Evans*, 57 NY2d 992, 993 [1982]; *see also Alliance for Progress Inc. v. New York State Div. of Hous. and Comm. Renew.*, 141 Misc.3d 365, 374 [1988]). Accordingly, this court lacks jurisdiction over the proceeding against the State Defendants where Plaintiff seeks monetary damages, and these claims must be dismissed as a matter of law (*see* CPLR § 3211[a][2]).

Count Twelve of the complaint is brought against Justice Dawson for allegedly failing to follow the criminal statute Section 2265, which gives full faith and credit to protective orders and requires "reasonable notice and opportunity to be heard...given to the person against whom the order is sought." However, criminal laws cannot serve as the basis for a civil cause of action unless the criminal statute includes an express or implied private right of action (*Maston-Ramsey v. Ramsey*, No. 22-cv-1257, 2023 WL 4665795, at *2 [E.D.N.Y. July 20, 2023] [*citing Cort v. Ash*, 422 U.S. 66, 79 [1975]]). Section 2265 does not expressly provide a civil cause of action. As this statute does not provide Plaintiff with a private right of action, Count Twelve is dismissed.

Counts Six, Ten, Eleven, Twelve, Thirteen, and Fourteen (all counts brought against Justice Dawson) and Counts Nine and Fifteen (all counts brought against Judge Zayas) are barred by the doctrine of absolute judicial immunity. Under this doctrine, a judge is not liable for acts done in the exercise of their judicial function. Indeed, "[f]ew doctrines are more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction as [the United States Supreme Court] recognized when it adopted the doctrine in *Bradley v. Fisher*, 13 Wall. 335 (1872)" (*Pierson v. Ray*, 386 U.S. 547, 553-554 [1967]; *Mireles v. Waco*, 502 U.S. 9, 10 [1991]; *Stump v. Sparkman*, 435 U.S. 349, 362-67 [1978]; *see*

also Jacobs v. Guido, 268 A.D.2d 278, 278 [2d Dept 2000] [dismissing the Justices of the Second Department as defendants due to absolute judicial immunity]). Judicial immunity is “an immunity from suit, not just from ultimate assessment of damages...[a]ccordingly, [it] is not overcome by allegations of bad faith or malice...” (*Mireles*, 502 U.S. at 11, *supra*). The only exceptions to judicial immunity are where a judge acts in the “clear absence of all jurisdiction,” or where their actions do not constitute either a judicial act or one which is judicial in nature (*Mireles*, 502 U.S. at 11-12, *supra*; *Stump*, 435 U.S. at 359, 362, *supra*; *Pierson*, 386 U.S. at 553-554, *supra*). These exceptions are not met in this case.

As to Judge Zayas, Plaintiff alleges improper supervision of “Court Administration” concerning the warrants against her (Compl. ¶¶ 503-504). Judge Zayas, as Chief Administrative Judge, is responsible for “supervis[ing] the administration and operation of the unified court system” (N.Y. Jud. L. § 212). He is thus entitled to judicial immunity when alleged to take actions in furtherance of that role, as Plaintiff has claimed. Therefore, the complaint is dismissed against Judge Zayas.

Justice Dawson is also entitled to absolute judicial immunity, as Plaintiff has failed to demonstrate that any exception to the doctrine of immunity applies. First, when presiding over the IDV Proceedings, Justice Dawson was acting within her jurisdiction as a Justice of the IDV Court (22 NYCRR 141.4[a][1]; *see also People v. Correa*, 15 NY3d 213 [2010][holding the Unified Court System had the constitutional authority to create the IDV Court, and that the IDV Court has the authority to hear matters under the Supreme Court's general jurisdiction]). The IDV Court was created to allow one judge to “hear domestic violence matters involving both criminal and family law cases.” The IDV Court has thus been empowered to hear a wide range of domestic proceedings, including both child custody and visitation and matrimonial proceedings through 22 NYCRR 141.1(a)(1). Thus, when serving as a justice of the IDV Court, Justice Dawson had the full jurisdiction and authority to hear, determine, or administer and supervise all matters presented in the action before the IDV Court involving Plaintiff, as evidenced by the Southern District of New York granting her immunity for actions taken through this role (*see Whelan v. New York*, 2018 WL 798744, at *2 [Feb. 9, 2018]).

Second, all actions alleged to have been taken by Justice Dawson are judicial in nature. The factors considered in determining whether an act by a judge is a “judicial” one relate to whether the act itself is a function normally performed by a judge and whether the parties dealt with the judge in a judicial capacity (*Stump*, 435 U.S. at 362, *supra*). Here, both factors have been met because (1) issuing orders and directing court proceedings are acts normally performed by judges, and (2) Plaintiff clearly interacted with Justice Dawson in her judicial officer capacity as she either presided over and heard or rendered determinations in the IDV Proceedings. Even assuming, *arguendo*, that the alleged actions of Justice Dawson are later ruled improper, erroneous, or offensive, Plaintiff will still not be entitled to monetary relief (*Fields v. Soloff*, 920 F.2d 1114, 1119 [2d Cir. 1990][“Liability will not attach where a judge violated state law by an incorrect decision”]; *Tarter v. State*, 68 NY2d 511, 518 [1986]). Therefore, the doctrine of absolute immunity protects Justice Dawson against the claims alleged in this suit, and the complaint is dismissed as against her.

To the extent that Plaintiff's claims against the City are also predicated upon the actions taken by Judge Zayas and Justice Dawson, Plaintiff's claims against the City are also dismissed on account of judicial immunity.

Plaintiff claims through unspecified and conclusory allegations in Count Nine that Judge Zayas and Attorney General James violated the Fifth and Fourteenth Amendments by violating her due process and speedy trial rights (Compl. ¶¶ 395-399). She claims in Count Fourteen that Judge Zayas committed the tort of Negligent Infliction of Emotional Distress, though only alleges actions taken by Justice Dawson (*id.* ¶¶ 456-461). She also claims in Count Sixteen that Attorney General James committed the torts of malicious prosecution, wrongful conviction, and prosecutorial misconduct, though only refers to the actions of the New York County District Attorney (*id.* ¶¶ 506-513). To sufficiently state a claim against Judge Zayas or Attorney General James, Plaintiff must "plead that [they] through [their] own individual actions, violated the Constitution" (*Ashcroft v. Iqbal*, 556 U.S. 662, 676 [2009]). Not only has Plaintiff failed to allege Judge Zayas or Attorney General James violated the Constitution, but she has also failed to identify any action in her complaint that connects them to the harm she allegedly suffered with respect to the IDV Proceedings. She claims that Judge Zayas is liable for his failure to properly administer the court system generally, but she does not plead any facts as to his actions in doing so (Compl. ¶¶ 395-399). Similarly, she names Attorney General James as committing misconduct in connection with her incarceration, but does not allege the Attorney General or her Office had any involvement with the IDV Proceedings or her criminal charges (Compl. ¶¶ 505-513).

Naming Judge Zayas and Attorney General James as defendants "solely because of [their] position[s] of authority," as it appears Plaintiff is doing here, is a conclusory claim of personal involvement (*see* Compl. ¶¶ 395-399; 456-461; 506-516; *Caprice v. Paterson*, No. 9:09-cv-1014, 2012 WL 691532, at *9 [N.D.N.Y. Mar. 2, 2012]). Therefore, Counts Nine, Fourteen, and Sixteen are dismissed as against Judge Zayas and Attorney General James for failure to state a claim.

All counts against State Defendants are dismissed in their entirety because Plaintiff has failed to identify a specific statute creating a private right of action (and for failure to sufficiently plead any allegations against Judge Zayas or Attorney General James) (*see* Compl. ¶¶ 395-399; 456-461; 506-516). Accordingly, the court grants the State Defendants' Motion to Dismiss (*see* CPLR § 3211[a][7]).

Likewise, Plaintiff's causes of action alleged against the State Defendants and the City for violations of the Fourteenth Amendment under 42 U.S.C. § 1983, as well as other claims related to the handling of Plaintiff's case, fail to meet the necessary legal thresholds. For a claim under 42 U.S.C. § 1983, Plaintiff must show that the defendants, acting under color of state law, deprived her of rights secured by the Constitution or federal laws. The complaint does not adequately demonstrate how either the State Defendants or the City's actions constituted such a deprivation. Additionally, many of the allegations are conclusory, lacking specific factual details to substantiate the claims.

Regarding standing, Plaintiff must show that she has suffered a concrete and particularized injury that is fairly traceable to either the State Defendants or the City's actions and is likely to be redressed by a favorable decision. The complaint does not establish a direct connection between

either the State Defendants or City’s conduct and the alleged harm suffered by Plaintiff, which is necessary to proceed with the claims.

Therefore, based on these deficiencies, the complaint against the State Defendants and the City is dismissed for failure to state a cause of action and lack of standing. Notably, Plaintiff also concedes that Plaintiff’s claims against the New York City Police Department (“NYPD”) “have expired and are mentioned to provide a reality check to NYPD.” That, in and of itself does not permit Plaintiff to assert time-barred claims premised on actions that Plaintiff attributes to the NYPD. Notwithstanding, the City is immune from suit for its exercise of discretion in the performance of its governmental functions (see *Miller v State of New York*, 62 NY2d 506, 510 [1984]; see also *Valdez v City of New York*, 18 NY3d 69, 75 [2011]).

Based on the foregoing, it is hereby

ORDERED that the State Defendants’ motion is granted in its entirety, and all claims asserted against the State Defendants are therefore dismissed; and it is further

ORDERED that Plaintiff’s claims against the City are also dismissed in their entirety; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of the State Defendants and the City accordingly; and it is further

ORDERED that as the City of New York is no longer a party to this action, the Clerk of the Court is directed to reassign this matter and the remaining pending motions (Seq. 001, Seq. 003) to the inventory of a non-City Part.

This constitutes the decision and order of the court.

HASA A. KINGO, J.S.C.

5/23/2024
DATE

CHECK ONE:

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APPLICATION:

CHECK IF APPROPRIATE: