

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ANNIKA EASLEY,)	
)	
Plaintiff,)	
)	
v.)	No. 12-2471-JTF/dkv
)	
STATE OF TENNESSEE,)	
DEPARTMENT of CHILDREN'S)	
SERVICES,)	
)	
Defendant.)	
)	

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

Before the Court is the Defendant's September 11, 2012 Motion to Dismiss the Complaint pursuant Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction and 12(b)(6) for failure to state a claim upon which relief may be granted. The Plaintiff responded in Opposition to Defendant's Motion to Dismiss on October 9, 2012. For the reasons stated herein, the Defendant's Motion to Dismiss under both Rules 12(b)(1) and 12(b)(6) is **GRANTED**.

STATEMENT OF FACTS

While hospitalized to deliver her child, Annika Easley and Rafe Gray, the child's father, disclosed they were weekly residents of the Skyway Inn Hotel. The couple refused offers of hospital staff to find suitable housing and locate family members. They chose instead to remain at the hotel. As a result,

on June 2, 2011, the Department of Children's Services (DCS) filed a dependency and neglect petition on behalf of Annika Easley's son, "R.E."

The dependency and neglect petition alleged "environmental neglect" due to the parents' lack of suitable housing. The petition raised added concerns regarding Ms. Easley's medical conditions - Reactive Attachment Disorder and Arthro-gryposis Multiplex Congentia, a physical condition that has rendered her unable to walk or use her hands. In terms of the infant's father, Rafe Gray, the petition classified him as equally unfit due to his lack of employment, housing and inability to care for the child.

Juvenile Court ordered the infant placed in the protective custody of the Tennessee Department of Children's Services; appointed a Guardian ad Litem and attorney for both parents; ordered the release of any medical and educational records of the parents; and requested any drug, alcohol and sexually transmitted disease findings of the infant. (See Protective Custody Order, Ex. A. Document 5)

"R.E." never left the hospital with his biological parents nor has he ever been placed in their care. The child was temporarily placed, with the parents' consent, in the care of Ms. Easley's maternal aunt and uncle, Jennifer and Timothy Easley, residents of Windsor, New York.

A trial was held before a Juvenile Court Magistrate Judge on September 15, 2011. Present for the hearing were both parents with counsel, the minor, the Tennessee Department of Children Services' attorney, the Child Protective Services Worker, the Guardian ad Litem, and the maternal grandmother and uncle.

The Magistrate sustained the Order of Protection in accordance with Tenn. Code Ann. § 37-1-102(b)(12).¹ The Court ruled that it was in "R.E.'s best interest to leave undisturbed the temporary placement implemented on July 18, 2011. The Tennessee Department of Children Services was ordered to develop a permanency plan for reunification of the child with the maternal relatives."² The Order advised the parties of their right to a rehearing and their right to an appeal.

A rehearing was conducted by the same Juvenile Court Magistrate Judge on November 7, 2011. Present for the rehearing were the child, an Assistant General Counsel for the Department of Children's Services, the DCS Case Manager, and Ms. Easley's appointed counsel, James Sanders. The record indicates the

¹ Tenn. Code Ann. § 37-1-102(b)(12) reads: [A] Dependent and neglected child means a child:
(B) Whose parent ...by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child.

² The Magistrate's ruling dated September 29, 2011 recommended in pertinent part:

¶ 16. That placing the child in the permanent custody of relatives would be harmful and not be in the child's best interests.

¶ 17. That the Tennessee Department of Children's Services develop a permanency plan.

¶ 19. That the Tennessee Department of Children's Services ha[d] made reasonable efforts to prevent removal.

¶ 20. It was reasonable to maintain the child in the home [where he was] due to the parents' lack of a home and refusal to accept services.

parents were properly served but neither appeared. After hearing the proof, reviewing and revising the permanency plan, the Magistrate Judge ordered the child again remain in a DCS approved foster care home with an established permanency plan goal of returning the child to parental or family custody by April 11, 2012.³

Mr. Gray filed an appeal to the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis. A *de novo* hearing was conducted on April 11, 2012. Present for this hearing were both parents, the Assistant General Counsel for the respondent, Ms. Easley's attorney, counsel for Rafe Gray (the Petitioner), and the child's Guardian ad Litem. The Circuit Court found by clear and convincing evidence that the adjudication of dependency and neglect should be sustained.⁴

The Court found: 1) the parents were not in compliance with the permanency plans enacted by Juvenile Court as neither parent had completed the parenting assessment and the father had failed to obtain stable employment; 2) Ms. Easley was unable to care for her child based on her physical disabilities; 3) Mr. Gray could not serve as the mother's full-time caregiver and care for

³ The Findings and Recommendations of the Magistrate Harold W. Horne were that the Permanency Plan established by DCS was reasonable; that Annika Easley had not complied with directives to participate in parenting, submit to mental health assessment, visit and provide financial support; the father had not acquired employment. See Findings of Magistrate, DE 5-3, P. 12.

⁴ See Order Sustaining the Respondent Department of Children's Services' Petition for Dependency and Neglect; DE 5-3; P. 3 of 22

the child at the same time; 4) the parents' financial condition was too unstable; and 5) reasonable efforts had been made by DCS to prevent removal and assist with the family's reunification to no avail.

On June 15, 2012, a Notice of Appeal to the Tennessee Court of Appeals was filed on behalf of Annika Easley. Although the matter is pending, no hearing date has been scheduled before the state appellate court.⁵

Legal Analysis

The State of Tennessee urges this Court to dismiss with prejudice Ms. Easley's complaint under Fed. Rule Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)6) arguing: 1) federal courts are required to abstain from enjoining state agencies during ongoing proceedings under the *Younger* doctrine. (See *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed. 2d 669 (1971)); 2) the District Court lacks subject matter jurisdiction to review state court decisions under the *Rooker-Feldman* doctrine. (See *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923)); 3) Plaintiff failed to demonstrate that the state court proceedings discriminated against her; and 4) Title II of the American with Disabilities Act and Title VI of the Civil Rights Act of 1964 do not permit punitive damages.

⁵ The pending Appellate Court Case is "*In Re Rafe E.*", Case No: W2012-01386-COA-R3-JV; The Court Record was received by the Appeals Court on October 30, 2012. Briefs from parties have not been submitted; See also, Illegible Exhibit #1, D.E. 12-1.

Ms. Easley argues her claims should not be dismissed or barred because the basis of her action is not to challenge the underlying state court proceedings but instead to enjoin the State's violation of her constitutional rights under Title II of the American with Disabilities Act and Title VI of the Civil Rights Act.

The Younger Doctrine Analysis

The State argues this Court lacks subject matter jurisdiction under Rule 12(b)(1) because the *Younger* Doctrine prevents federal district court review of ongoing state court proceedings. The *Younger* doctrine establishes the following three-prong test: 1) the underlying proceeding constitutes an ongoing state judicial proceeding; 2) the proceeding implicates important state interests; and 3) there is an adequate opportunity to raise constitutional challenges in the course of the underlying proceeding. *Younger* at 56-57. The State claims the three-prong test of *Younger* is satisfied.

The United States Supreme Court held in *Younger* that federal courts will not enjoin pending state court criminal prosecutions when the moving party has an adequate remedy at law and will not suffer irreparable harm. The *Younger* case involved a California state criminal prosecution where the defendant sought federal court injunctive relief based on his First and Fourteenth Amendment rights. The Supreme Court reversed the

intervention, forbidding federal courts from intervening by injunction or declaratory judgment while a criminal prosecution is contemporaneously pending in state court. *Id.* at 55.

Subsequent rulings extended the *Younger* doctrine to certain state civil proceedings in aid of or closely related to state criminal statutes, administrative proceedings initiated by a State agency, or situations where the State has held a person in contempt of court. *Ohio v. Dayton Christian Schools*, 477 U.S. 619, 627-628, 91 L.Ed.2d 512, 106 S.Ct. 2718 (1986) and *Middlesex County Ethics Commission v. Garden State Bar Association*, 457 U.S. 423, 102 S.Ct. 2515, 73 L.Ed.2d 116 (1982).

Plaintiff argues the *Younger* doctrine is inapplicable to state civil matters where the right to raise federal claims in federal court is reserved. *Brian A. e rel. Brooks v. Sundquist*, 149 F. Supp. 2d 941 (M.D. Tenn. 2000). In *Brian*, the district court held the plaintiff's First and Ninth Amendment claims were dismissed in error and reversed on the basis the parties were seeking to enjoin DCS, an administrative agency and not state court action. *Id.* at 951, aff'd 83 Fed. Appx. 692(6th Cir. 2003) 2009 U.S. Dist LEXIS 96685 (M.D. Tenn. Oct. 15, 2009).

Due to the ongoing state proceedings, this Court must abstain from ruling on Ms. Easley's constitutional claims. *Middlesex County Ethics Committee v. Garden State Bar Association, et al.* 457 U.S. at 423, 102 S.Ct. 2515, 73 L.Ed.2d

116(1982). Further, the Court concludes Ms. Easley has not established she has not had an adequate opportunity to raise the constitutional challenges in the state court proceedings. Therefore, plaintiff's conclusion that the *Younger* abstention exception extends to this case is misplaced and the State's motion to dismiss is Granted. See *Lance v. Locke*, 2012 WL 4192893 (M.D. Tenn. 2012).

The Rooker-Feldman Doctrine Analysis

The State also maintains that this Court lacks subject matter jurisdiction under the *Rooker-Feldman* doctrine and Fed. Rule Civil P. 12(b)(1).

"[U]nder what has come to be known as the *Rooker-Feldman* doctrine, lower federal courts are precluded from exercising appellate jurisdiction over final state-court judgments." *Exec. Arts Studio v. City of Grand Rapids*, 391 F.3d 783, 793 (6th Cir. 2004) (same), *reh'g en banc denied* (Feb. 25, 2005). The United States Supreme Court is the only federal court with jurisdiction to review any state court decision. *Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476, 482, 103 S. Ct. 1303, 1311, 1315, 75 L. Ed. 2d 206 (1983); *Rooker v. Fid. Trust Co*, 263 U.S. 413, 415-16, 44 S. Ct. 149, 150, 68 L. Ed. 362 (1923).

"Under the *Rooker-Feldman* doctrine, a litigant who loses in state court may not seek 'what in substance would be appellate review of the state judgment in the United States district

court, based on the losing party's claim that the state judgment itself violated the loser's federal rights." *Kafele v. Lerner*, 62 F. App'x 584(6th Cir. 2003); *Turner v. Lerner, Sampson & Rothfuss, L.P.A.*, 161 F. App'x 487, 489 (6th Cir. 2005)(per curiam). In *Kafele*, the Court indicated the proper avenue to redress such grievances is application to the United States Supreme Court for *writ of certiorari* to review a final decision of a state's highest court pursuant to 28 U.S.C. § 1257. *Id.*

Again, Ms. Easley's defends against the State's motion to dismiss by alleging she is not challenging the actions of the state court but defending against discriminatory acts based on her disability and in violation of the American with Disabilities Act.⁶

During the state proceedings, Plaintiff confirmed she suffered from the medical condition at issue, Arthrogyrosis Multiplex Congentia. Ms. Easley stated the condition has rendered her totally incapacitated. She relies exclusively on her son's father for her care. She is unable to walk or lift her arms and fails to receive any regular medical care. Lastly, Ms. Easley receives no continuous medical or physical therapy

⁶ On page 3 of the Memorandum of Law in Support of Plaintiff's Opposition to Motion to Dismiss Complaint Against Department of Children's Services, Ms. Easley references defendant's claim "the finding of dependency and neglect [were] not due to Plaintiff's disability, but due to her homelessness." The record is clear that during the proceedings now on appeal in state court, Ms. Easley conceded many of the issues raised in the dependency petition.

treatments.⁷

The state's dependency adjudication concluded that she and her companion were unable to properly care for the child based on their instability, unemployment, lack of resources and family support. However, the fact remains all defenses and attempts to regain parental reunification with "R.E." could have been and still may be raised during the state court lower and appellate court proceedings where these challenges were raised and have been reserved on the record.⁸

Finally, Ms. Easley asserts two federal interest claims, one pursuant to Title II arising under the Americans with Disabilities Act, 42 U.S.C. § 12117 *et seq.* and another a Title VI claim under the Civil Rights Act of 1964, 42 U.S.C. § 2000 (e). She later withdrew her claim for punitive damages under both Titles II and VI. However, Ms. Easley opposes the State's argument for dismissal under Rule 12(b)(6) asserting the federal district court has exclusive subject matter jurisdiction to address these dominate federal questions. (citing *Clearfield Trust v. U.S.*, 318 U.S. 363 (1943)).

The Court finds Ms. Easley's argument based on the *Clearfield* case without merit. *Clearfield* is inapplicable to the facts underlying the instant case as *Clearfield's* holding

⁷ See Exhibit A - Order Sustaining the Respondent DCS Petition for Dependency and Neglect.

⁸ Docket Entry 5-3, Order Sustaining the Department of Children's Services Petition for Dependency, p.7

pertains to commercial paper transactions. The Court there specifically held that issues concerning commercial transactions are governed by federal rather than local law. *Id.* at 367.

Although, Ms. Easley's claims are premised on Title II, the American with Disabilities Act, and Title VI, The Civil Rights Act of 1964⁹, the facts underlying her case are clearly governed by state law. Thus, *Clearfield* does not help Ms. Easley's cause.

A motion to dismiss is appropriate when a complaint contains insufficient factual matter and fails to "state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). The complaint must raise more than labels, conclusions, or a "formulaic recitation of a cause of action's elements." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007).

In order to survive a Rule 12(b)(6) motion to dismiss for failure to state a claim, the plaintiff's complaint must contain allegations supporting all material elements of the claims. *Bishop v. Lucent Techs., Inc.*, 520 F.3d 516, 519 (6th Cir. 2008). All well-pled allegations must be taken as true and construed most favorably toward the non-movant by the ruling court. See *Trzebuckowski v. City of Cleveland*, 319 F.3d 853, 855 (6th Cir. 2003).

⁹ The analysis of a Title II claim is that the claimant must establish a *prima facie* case of discrimination under the American with Disabilities Act. Similarly, under Title VI, the claimant must prove that she is a member of a protected class who suffered an unlawful equal employment opportunity.

In this case, even though Ms. Easley claims violations of her Title II and Title VI rights, she seeks the Court's intervention for the purpose of setting aside the lower state court's adjudication that her child is dependent and neglected. This case is very similar to challenges raised by *Lance v. Locke, et al.*, 2012 U.S. Dist. LEXIS 134032 (M.D. Tenn. 2012). In *Lance*, plaintiff challenged the termination of his parental rights upon his incarceration based on First and Fourteenth Amendment violations. The district court denied plaintiff's challenge. Similarly, Ms. Easley has petitioned the district court for injunctive relief to have the removal and placement of her child "R.E." with out-of-state relatives overturned. She bases her complaint on the constitutional protections of Title II and Title VI.

The Court finds it lacks jurisdiction under the *Rooker - Feldman* doctrine. The underlying state court proceedings are still pending and a final judgment has not been entered. Ms. Easley's challenges to the dependency adjudication and foster care placement are being considered by the Tennessee Court of Appeals. The state court proceedings implicate important state interests of protecting the child.

This Court is prohibited from providing any relief requested in Ms. Easley's complaint. *Younger* at 746. As such,

the Court GRANTS the State's motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6).

It is so ORDERED on this 14th day of November, 2012.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
United States District Judge