

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH M. STROHL

v.

LIFEQUEST NURSING CENTER, et al.

O'NEILL, J.

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CIVIL ACTION
NO. 01-2722

FEBRUARY , 2002

MEMORANDUM

Pro se plaintiff Joseph Strohl is currently serving a life sentence for the murder of Ella Wunderly. In this action Strohl seeks damages for the alleged destruction and/or concealment of exculpatory medical evidence. Defendants have moved to dismiss plaintiff's claim pursuant to Fed. R. Civ. P. 12(b)(6).

BACKGROUND

On December 28, 1986 Ella Wunderly was admitted to a hospital unconscious due to injuries allegedly inflicted by Strohl. Among her injuries were numerous facial contusions as well as a blunt force trauma behind her left ear that was determined to have rendered her unconscious and which left her in a coma. On March 16, 1987 Wunderly was transferred from the hospital to a rehabilitation center. On June 15, 1987 Wunderly was relocated to LifeQuest Nursing Center where she resided for seven years until her death on April 21, 1994. It is unclear from the record before me whether Wunderly ever regained consciousness prior to her death. An autopsy revealed she died of broncho pneumonia caused by "multiple injuries of the head." On

October 15, 1999, Strohl was arrested for Wunderly's murder. He was tried and convicted of murder in the second degree and sentenced to a term of life imprisonment.

On August 8, 2001 Strohl filed an amended complaint against LifeQuest and a number of its employees and administrators.¹ The crux of Strohl's claim is that defendants destroyed medical records that contained information implicating them in the death of Mrs. Wunderly. Specifically, Strohl alleges that these records showed that while under defendants' care Wunderly suffered head injuries that were "intervening and superseding" causes of her death. Strohl further alleges that a number of defendants lied about their knowledge of these injuries and the destruction of the files at his criminal trial. These actions, Strohl asserts, were in violation of Title 28 Pa. Code §§ 211.5, 563.6, 42 C.F.R. § 483,² and "every one" of his rights under the United States Constitution. For such "intentional, willful and wanton conduct" plaintiff seeks compensatory and punitive damages in the amount of \$20,000,000. On November 5, 2001 nearly all named defendants moved to dismiss plaintiff's amended complaint pursuant to Fed. R. Civ. P. 12(b)(6)³ claiming: (1) Strohl's claim is barred under Heck v. Humphrey, 520 U.S. 477 (1994); (2) defendants are not state actors; (3) absolute immunity for any allegedly perjured statements

¹ Named in the amended complaint are LifeQuest Nursing Center, LifeQuest Incorporated, April Delpinto, Joseph Dusky, Lana Snyder, Leslie Spurlin, Kim Mallory, Tammy Boyer, Cindy Becker, Shirley Whitman, Steve Hodgekins, Upper Bucks Nursing Center, Marge B. Markie, Ellen S. Kutzner, Dr. Glenn Elliot, Dr. Harr and various John and Jane Does "not presently known to the plaintiff" who "were at all times relevant and material to [the] complaint and were owners, administrators or employees of either the Upper Bucks Nursing Center or LifeQuest Nursing Center." (Pl. Am. Comp. ¶¶ 4-17).

² These regulations govern the circumstances under which medical records must be preserved and to whom they must be made available.

³ Defendants identified in Strohl's amended complaint as "Dr. Glenn Elliot" and "Dr. Harr" did not join in the motion.

made at Strohl's trial; and (4) Strohl does not have standing to assert violations of the regulations governing medical record keeping.⁴ On December 12, 2001 Strohl filed a motion seeking to add Richard Wunderly, the husband of the decedent, and Pennsylvania state police Corporal Joseph Vazquez as defendants.

STANDARD OF REVIEW

In resolving a motion to dismiss under Fed. R. Civ. P. 12(b)(6) all well-pled factual allegations in the complaint are presumed to be true and all reasonable inferences are to be drawn in favor of plaintiff as the non-moving party. See H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 249-50 (1989). A court should not dismiss a complaint "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). Additionally, pro se complaints are to be liberally construed. See Estelle v. Gamble, 429 U.S. 97 (1976).

DISCUSSION

Strohl maintains that "defendants knowingly, willfully, and wantonly, concealed decedent's medical records in violation of the law." (Pl.'s Am. Comp. ¶ 26). Further, Strohl alleges defendants "committed conspiracy, vicarious liability, willful misconduct, medical malpractice, fraud, perjury, abuse of power, corporate negligence, said of which caused mental anguish, libel, slander, and the defamation of plaintiff's character." Id. ¶ 38. As a result,

⁴ Additionally defendants Tammy Boyer, Marge B. Markie and Ellen Kutzner claim they have not been properly served and therefore also move to dismiss pursuant to Fed. R. Civ. P. 4(c) and 12(b)(5).

according to Strohl, “defendants violated the law by setting up the plaintiff and blatantly disregarding the rights afforded him by the United States Constitution.”⁵ Id.

Defendants respond that such a claim is barred by the Supreme Court’s decision in Heck v. Humphrey. In Heck the Court held that § 1983 does not provide a cause of action to recover monetary damages for an allegedly unconstitutional conviction or imprisonment if recovery would necessarily imply the invalidity of a criminal conviction, unless the conviction has been invalidated “on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court’s issuance of a writ of habeas corpus” 512 U.S. at 487. Addressing the principle in the context of a prisoner’s claim of malicious prosecution, the Court stated:

We think the hoary principle that civil tort actions are not appropriate vehicles for challenging the validity of outstanding criminal judgments applies to § 1983 damages actions that necessarily require the plaintiff to prove the unlawfulness of his conviction or confinement, just as it has always applied to actions for malicious prosecution.

. . .

Thus when a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.

Id., 412 U.S. at 486, 487. Applying this principle to the case before me, granting the relief

⁵ The amended complaint alleges that I have jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343, which grant district courts original jurisdiction over questions of federal law and civil rights cases. Since it is clear that Strohl is seeking monetary damages for the deprivation of his rights under the United States Constitution I will treat this suit as an action filed pursuant to 42 U.S.C. § 1983. Section 1983 provides in relevant part:

Every person . . . who, under color of any statute, ordinance [or] regulation . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges or immunities secured by the Constitution and laws [of the United States], shall be liable to the party injured.

sought by plaintiff in his amended complaint would necessarily imply the invalidity of his criminal conviction.

Strohl attempts to avoid the bar raised by Heck by noting that the words “exculpatory medical records” do not appear in any of his submissions to this Court, and adds further that he has never stated “LifeQuest, not Strohl, killed Ella Wunderly.” (Pl.’s Resp. to Def.’s Rep. at 1). Instead Strohl describes his claim as alleging that defendants and the police illegally destroyed Wunderly’s medical records in order to cover up defendants’ negligence and mistreatment of patients under their care. Id. Accepting these allegations as true, however, Strohl still must tie these transgressions to a constitutional injury suffered by him. It is not enough simply to allege that defendants acted unlawfully. The only possible injury to Strohl that could have resulted from the alleged conduct of defendants was the absence of exculpatory evidence at his criminal trial, resulting in his eventual conviction. Strohl himself states this fact repeatedly in his submissions to this Court. In his discussion on whether he has standing to assert claims concerning the medical records of a third party he states: “Strohl’s ‘personal stake’ in the records became even greater upon his arrest for homicide, and his standing became unquestionable.” Id. at 5. He also identifies the information contained in the records as providing an “intervening and superseding cause to [Wunderly’s] death.” (Pl.’s Am. Comp. ¶ 34). Finally, near the end of his amended complaint Strohl gives the following summary of his claims against defendants:

It was defendants [sic] testimony and actions, which were consciously calculated by defendants to create a false impression by not assuming responsibility and liability for the injuries which led to the demise of Ella C. Wunderly; and in turn, throwing plaintiff to the Court as a sacrificial lamb by defendants [sic] evil motives, reckless indifference, with total disregard to plaintiffs [sic] interests.

Id. ¶ 36. Clearly, any holding that these records were improperly destroyed or deliberately

concealed would call into question the validity of Strohl's criminal conviction. Accordingly, defendants' motion to dismiss will be granted.⁶

This holding is in keeping with a number of other courts who have faced similar issues. See Maker v. Weiner, 179 F.3d 48, 51 (2nd Cir. 1999)(holding that plaintiff's claim that his right to meaningful court access was denied by the withholding of exculpatory evidence implicates Brady v. Maryland, 373 U.S. 83, 87 (1963)⁷ and therefore calls into question the validity of his conviction and is barred by Heck); Moore v. Novak, 146 F.3d 531, 535-36 (8th Cir. 1998)(holding that a plaintiff convicted of assaulting a police officer was barred under Heck from bringing a § 1983 claim alleging that the officer destroyed or secreted videotape of incident); Hamilton v. Lyons, 74 F.3d 99, 103 (5th Cir. 1996)("Convictions tainted by the suppression, destruction, or alteration of material evidence violate a defendant's Fourteenth Amendment right to due process. Brady, 373 U.S. at 87. If we were to find that Lyons altered and destroyed evidence relevant to the charges against Hamilton, that judgment would necessarily imply the invalidity of his subsequent convictions and sentences on those charges. Thus, Heck also bars this claim. . . .").

An appropriate Order follows.

⁶ As I have held that Strohl's claims are barred under Heck I need not resolve the issues raised by defendants concerning whether defendants are state actors, whether they are entitled to immunity from suit for any allegedly perjured statements made at Strohl's trial, and whether Strohl has standing to assert violations of the regulations governing medical record keeping. Further, as I have determined that no part of Strohl's claim may proceed before me his claims will be dismissed against all defendants named in his amended complaint. Finally, since the addition of the two individuals named in Strohl's motion to for leave to add defendants can do nothing to overcome the bar raised by Heck this motion will be denied.

⁷ Brady requires the prosecution to turn over exculpatory evidence to criminal defendants.

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ORDER

AND NOW, this day of February, 2002, it is hereby ORDERED:

1. Defendants' motion to dismiss plaintiffs claims is GRANTED and the amended complaint is DISMISSED.
2. Plaintiff's motion for leave to add additional defendants is DENIED.

THOMAS N. O'NEILL, JR., J.

