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

CATHERINE ZEIDLER	:	CIVIL ACTION
	:	
v.	:	05-6002
	:	
CITY OF PHILADELPHIA	:	
POLICE COMMISSIONER JOHNSON	:	
PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH	:	
HALL MERCER CRISIS RESPONSE CENTER and	:	
PENNSYLVANIA HOSPITAL	:	

MEMORANDUM AND ORDER

JOYNER, J. **JUNE , 2006**

Pursuant to the motion now pending before this Court, Plaintiff Catherine Zeidler ("Plaintiff") moves for leave to amend her complaint pursuant to Fed. R. Civ. P. 15(a). For the reasons outlined below, such motion shall be DENIED.

Furthermore, via separate motions pending before this Court, Defendants City of Philadelphia, Police Commissioner Johnson, and Philadelphia Department of Public Health ("City Defendants") and Defendants Hall Mercer Crisis Response Center[1] and Pennsylvania Hospital ("Hospital Defendants") (collectively, "Defendants"), move separately to dismiss Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6). For the reasons outlined below, Defendants' motions shall be GRANTED.

[1] According to Hospital Defendants, Hall Mercer Crisis Response Center is not a corporate entity independent from the Pennsylvania Hospital, but rather a fictitious name for its psychiatric services unit. (Hospital Defs.' Mot. to Dismiss, at 2, n.1.)

I. Factual Background

Plaintiff challenges the constitutionality of the Pennsylvania Mental Health Procedures Act, 50 Pa. Cons. Stat. § 7101 et seq. ("MHPA") under the Fourth and Fourteenth Amendments of the United States Constitution, and brings suit against Defendants for alleged violations of her civil rights under the Fourth, Eighth, and Fourteenth Amendments. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff also alleges state law claims, and requests that this Court assert supplemental jurisdiction under 28 U.S.C. § 1367.

Plaintiff claims that on or about August 18, 2004, an individual with a prior relationship to Plaintiff filled out an application for involuntary emergency examination and treatment pursuant to § 7302 of the MHPA ("Application"), alleging that Plaintiff had stopped taking her medication and was acting irrationally. (Pl.'s Compl. ¶ 9.) Plaintiff asserts that the Application was approved telephonically on August 18, 2004, and that on or about August 19, 2004, a warrant was issued allowing the police to take Plaintiff to Hall Mercer Crisis Response Center ("Hall Mercer") for evaluation. (Pl.'s Compl. ¶¶ 10, 11.)

According to Plaintiff, the day the warrant was issued, agents of the Philadelphia Police Department, acting pursuant to

the warrant issued, took Plaintiff from her residence, and transported her to Hall Mercer. (Pl.'s Compl. ¶ 12, 13.) Plaintiff claims that she protested that there was no valid reason for the detention, that the information alleged in the Application was merely based on the allegations of a jealous ex-boyfriend who intended to see her incarcerated in order to gain access to Plaintiff's home and business, and that Plaintiff was being transported to Hall Mercer against her will and without warning of Plaintiff's constitutional rights. (Pl.'s Compl. ¶¶ 12, 13.)

Plaintiff says that upon her admission to Hall Mercer, she explained that the facts alleged in the Application were fabricated as a result of domestic problems, and that none of the Defendants undertook any investigation into the underlying factual allegations on the Application despite Plaintiff's urgings to do so. (Pl.'s Compl. ¶¶ 14, 15.) Plaintiff claims that soon after an agent of Hall Mercer interviewed her as to her medical condition, Plaintiff was forced to remove her clothes, don a gown, and take medication against her will. (Pl.'s Compl. ¶ 16.) Plaintiff remained in the custody of Hospital Defendants from August 19, 2004 to August 23, 2004, and Plaintiff asserts that she was forced continually to ingest medicine against her

will. (Pl.'s Compl. ¶ 17.) Plaintiff also states that several of Plaintiff's friends and family members tried to contact Defendants to explain to them that Plaintiff's incarceration was based on fabrications and lies, but that those persons were ignored and turned away by employees of the Defendants. (Pl.'s Compl. ¶ 18.)

II. Plaintiff's Motion for Leave to Amend Complaint

Alternatively to the motion to dismiss under Fed. R. Civ. P. 12(b)(6), Hospital Defendants moved for a more definite statement under Fed. R. Civ. P. 12(e). In response, Plaintiff filed a motion for leave to amend the Complaint under Fed. R. Civ. P. 15(a). Rule 15(a) provides that leave to amend shall be freely given when justice so requires. The Supreme Court has identified several reasons why a leave to amend may be properly denied, such as "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance [and] futility of amendment." Foman v. Davis, 371 U.S. 178, 184 (1962).

Since "[f]utility is a challenge to the amendment's legal sufficiency," Morley v. Philadelphia Police Dep't, 2004 WL 1527829, at * 8 (E.D. Pa. July 7, 2004), an "[a]mendment of the

complaint is futile if the amendment will not cure the deficiency in the original complaint or if the amended complaint cannot withstand a renewed motion to dismiss." Jablonski v. Pan American World Airways, Inc., 863 F.2d 289, 292 (3d Cir. 1988). See also Milburn v. Girard, 441 F.Supp. 184, 187 (E.D. Pa. 1977) (holding that "if the amendment sets forth a claim upon which, as a matter of law, plaintiff is not entitled to relief, leave to amend should be denied.").

After reviewing the proposed amended complaint, we find that it is not materially different from the original Complaint. The proposed amended complaint only includes new defendants, adds a few more details to the facts already presented, and cites additional constitutional provisions allegedly infringed upon based mostly on the same facts set forth in the original Complaint. In light of the above and regardless of the definiteness or indefiniteness of the statement, the proposed amended complaint would not withstand a motion to dismiss for the same reasons set forth below. Therefore, the proposed amended complaint is considered futile and the motion for leave to amend is hereby denied pursuant to the attached order.

III. Defendants' Motions to Dismiss

A. Standards Governing Rule 12(b)(6) Motions to Dismiss

Generally, in considering motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), the district courts must "accept as true the factual allegations in the complaint and all reasonable inferences that can be drawn therefrom." Allah v. Seiverling, 229 F.3d 220, 223 (3d Cir. 2000) (internal quotations omitted). See also Ford v. Schering-Plough Corp., 145 F.3d 601, 604 (3d Cir. 1998). A motion to dismiss may only be granted where the allegations fail to state any claim upon which relief may be granted. See Morse v. Lower Merion School District, 132 F.3d 902, 906 (3d Cir. 2002). The inquiry is not whether plaintiffs will ultimately prevail in a trial on the merits, but whether they should be afforded an opportunity to offer evidence in support of their claims. In re Rockefeller Center Properties, Inc., 311 F.3d 198, 215 (3d Cir. 2002). Dismissal is warranted only "if it is certain that no relief can be granted under any set of facts which could be proved." Klein v. General Nutrition Companies, Inc., 186 F.3d 338, 342 (3d Cir. 1999) (internal quotations omitted). Courts are not required to credit bald assertions or legal conclusions improperly alleged in the complaint and legal conclusions draped in the guise of factual

allegations may not benefit from the presumption of truthfulness. In re Rockefeller, 311 F.3d at 216.

B. Discussion of Defendants' Motion to Dismiss

Defendants seek dismissal of Plaintiff's constitutional and state law claims for failure to state a claim upon which relief may be granted under Fed. R. Civ. P. 12(b)(6). Defendants argue that the MHPA is not facially unconstitutional, that they did not violate Plaintiff's constitutional rights, and that courts have continually rejected 42 U.S.C. § 1983 claims premised on alleged violations of the MHPA because § 1983 does not provide a cause of action for violations of state statutes.

1. Federal Law Claims Against Defendants

a. Claims of Facial Unconstitutionality

Plaintiff claims that the MHPA is facially unconstitutional because it allows for the incarceration of persons without probable cause or due justification and deprives citizens of procedural and substantive due process rights. (Pl.'s Compl. ¶ 34h.) Plaintiff's claims are based on the right to freedom from unreasonable searches and seizures and right to due process, guaranteed by the Fourth and Fourteenth Amendments, respectively.

i. Fourth Amendment Claim

In a recent case also dealing with the MHPA, the Third Circuit Court of Appeals acknowledged that "the Supreme Court has held that states may act without obtaining a warrant and without probable cause in situations where special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable." Doby v. DeCrescenzo, 171 F.3d 858, 871 (3d Cir. 1999) (citing Griffin v. Wisconsin, 483 U.S. 868, 873 (1987)) (internal quotations omitted). Furthermore, the Court agreed that "the temporary involuntary commitment of those deemed dangerous to themselves or others qualifies as a 'special need' permitting the state to act without a warrant." Doby, 171 F.3d at 871 (citing McCabe v. Life-Line Ambulance Serv. Inc., 77 F.3d 540, 549 (1st Cir. 1996)). The Court found that the "special need" exception applied to the county's conduct under the MHPA.[2] Doby, 171 F.3d at 872.

In light of the above, from the constitutional point of view, a warrant is not required in cases such as the ones provided for by § 7302 of the MHPA. It is settled law in the Third Circuit that the MHPA is not facially unconstitutional under the Fourth Amendment. Therefore, Plaintiff's claim under

[2] The county is the entity in charge of authorizing the involuntary emergency treatment under the MHPA.

the Fourth Amendment is not a claim for which relief may be granted.

ii. Fourteenth Amendment Due Process Claims

In a similar case also dealing with an involuntary commitment to a psychiatric facility under the MHPA, the Third Circuit Court of Appeals stated that "in an emergency situation, a short-term commitment without a hearing does not violate procedural due process." Benn v. Universal Health Sys., Inc., 371 F.3d 165, 174 (3d Cir. 2004).

This holding is consistent with Doby's earlier finding that "it may be reasonable . . . for a state to omit a provision for notice and a hearing in a statute created to deal with emergencies, particularly where the deprivation at issue, in this case detention for a maximum of several hours[3] to permit an examination, continues for only a short period of time." Doby, 171 F.3d at 871. Moreover, the Court stated that the application procedure itself[4] has sufficient safeguards to prevent ill-

[3] Under § 7302(d) of the MHPA, the involuntary emergency treatment may not exceed 120 hours, unless the person is admitted to voluntary treatment or a certification for extended involuntary emergency treatment is filed pursuant to §§ 202 or 303 of the MHPA, respectively.

[4] Section 7302(a) of the MHPA sets forth the application procedure for emergency examination.

motivated individuals from seeking the involuntary examination of others.[5] Id. at 870.

Regarding the substantive due process claims, the Third Circuit has determined that "involuntary commitment under the MHPA does not in itself violate substantive due process." Benn, 371 F.3d at 174. More specifically, the Third Circuit has held that "the MHPA meets the rationality test imposed by substantive due process analysis." Doby, 171 F.3d at 871 n.4.

In conclusion, since the Third Circuit has specifically stated that the MHPA does not deny due process, Benn, 371 F.3d at 174, Plaintiff's claim that the MHPA is facially unconstitutional under the Due Process Clause of the Fourteenth Amendment is not a claim for which relief may be granted.

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[5] Some of the safeguards discussed in Doby are:

> First, [that] the petitioners themselves are not making clinical determinations about an individual's mental state; instead, it is the county delegate, a trained mental health professional, who has the duty to decide whether the information provided by the petitioner constitutes grounds for issuing a warrant. Second, [that] the face of the application includes a clear statement providing that anyone who supplies false information to the county may be prosecuted criminally.

Shay v. County of Berks, 2003 U.S. Dist. LEXIS 1223, at *17 (E.D. Pa. Jun. 12, 2003) (citing Doby, 171 F.3d at 870) (internal quotations omitted).

b. Claims of Violations of Constitutional Rights

Plaintiff claims violations to her constitutional rights under the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution. (Pl.'s Compl. ¶¶ 19, 23, 30, 32, 34c, 34f, 34o, 38.)

i. Fourth Amendment Claims

Plaintiff contends that her right to freedom from unreasonable seizures and searches under the Fourth Amendment has been violated. When relating the facts of the case, Plaintiff acknowledges that a warrant was issued allowing agents of the Philadelphia Police Department to take plaintiff to Hall Mercer and that, pursuant to such warrant, she was removed from her residence to be transported to Hall Mercer for involuntary emergency examination and treatment. (Pl.'s Compl. ¶¶ 11, 12.) Plaintiff also claims that she was arrested, assaulted, incarcerated, and maliciously prosecuted without just or probable cause and that Defendants searched and seized her person pursuant to a deficient warrant. (Pl.'s Compl. ¶¶ 23, 34c, 34o.) Plaintiff further argues that the police officers did not have a valid warrant and should have known that they were without legal justification to effect an arrest. (Pl.'s Resp. to City Defs.' Mot. to Dismiss, at 4.)

Section 7302(a) of the MHPA provides for distinct ways upon which emergency examinations may be undertaken, while § 7302(a)(1) and (2) detail the procedure for the issuance of the warrant in the cases where it is required and the procedure to be followed in cases where a warrant is not required. As mentioned before, the fact that the warrant issued by the county administrator may have been defective under the MHPA does not mean that the procedure established by the MHPA is unconstitutional, regardless of whether it might itself constitute a violation of the MHPA.

Even if Defendants violated the MHPA, that would not establish a § 1983 claim. Benn, 371 F.3d at 173-74. The Benn Court established that "[t]he plain language of section 1983 . . . solely supports causes of action based upon violations, under the color of state law, of federal statutory law or constitutional rights. Section 1983 does not provide a cause of action for violation of state statutes." Id. at 174. For these reasons, a deficiency in the warrant issued for the emergency treatment of Plaintiff would not be a valid claim for which relief may be granted under § 1983. Any claim related to such issue would be based exclusively on state law.

Plaintiff also claims that none of the Defendants undertook any investigation into the veracity of the underlying factual allegations on the Application despite Plaintiff's urgings to do so. (Pl.'s Compl. ¶¶ 15, 34a.) In Doby, plaintiff's main claim was that it was unconstitutional to enforce § 7302(a)(1) of the MHPA based upon uncorroborated information supplied by someone who was not a mental health professional. However, the Court determined that it is reasonable under the procedures of § 7302 of the MHPA to issue warrants without independent investigation because there are sufficient safeguards to assure the reliability of the information.[6] Doby, 171 F.3d at 871. Consequently, this Plaintiff's claim is not one for which relief may be granted under the Fourth Amendment.

ii. Eighth Amendment Claims

Plaintiff alleges that Defendants also violated her rights under the Eighth Amendment. (Pl.'s Compl. ¶¶ 34q, 39.) However, the Supreme Court has long established that "[t]he State does not acquire the power to punish with which the Eighth Amendment is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law." City of Revere v.

[6] The two safeguards specifically mentioned are "[t]he statutory requirement that the individual appear 'responsible' and the warning on the application form that false statements can subject a petitioner to criminal prosecution." Doby, 171 F.3d at 871.

Massachusetts General Hosp., 463 U.S. 239, 245 (1983) (citing Ingraham v. Wright, 430 U.S. 651, 671-72, n.40 (1977)). Other cases have since stated that "[b]ecause none of the transactions [plaintiff] complains of relate to post-conviction punishment, the Eighth Amendment is not implicated." Fowler v. Nicholas, 522 F.Supp. 655, 658 (E.D. Pa. 1981).

In a case dealing with the involuntary commitment of the mentally retarded, the Third Circuit determined that "the Eighth Amendment —— which limits the scope of judicial review of conditions of incarceration for the criminally convicted to a 'cruel and unusual' threshold —— is inappropriate in the context of civil as distinguished from criminal confinement." Romeo v. Youngberg, 644 F.2d 147, 156 (3d Cir. 1981) (en banc), vacated, 457 U.S. 307 (1982).[7] The Court concluded that the due process component of the Fourteenth Amendment, and not the Eighth Amendment, is the proper source for determining the rights of the involuntarily committed. Id.

The Third Circuit has established that "[a]lthough the facts of Youngberg concerned the mentally retarded, the language and analysis of the opinion clearly apply to the class of persons who

[7] Although the Supreme Court vacated the decision, the Court did not address this issue because the plaintiff/respondent no longer relied on the Eighth Amendment as a direct source of constitutional rights. Youngberg v. Romeo, 457 U.S. 307, 315 n.16 ¶ 2 (1982).

have been committed involuntarily." Rennie v. Klein, 720 F.2d 266, 273 n.1 (3d Cir. 1983) (Seitz, C.J., concurring). In view of the above, Plaintiff's Complaint contains no valid claims for which relief may be granted under the Eighth Amendment.

iii. Fourteenth Amendment Claims

In relation to the Fourteenth Amendment, Plaintiff does not make specific claims beyond the ones already addressed in the discussion on the constitutionality of the MHPA under due process analysis. For this reason, there are no additional constitutional claims for which relief may be granted under the Fourteenth Amendment.

c. Conspiracy Claims

Plaintiff repeatedly claims that Defendants conspired to violate her constitutional rights. (Pl.'s Compl. ¶¶ 19, 27, 37, 38.) Regardless of the sufficiency or insufficiency of facts in the Complaint to support a conspiracy claim, "[s]ection 1983 does not create a cause of action *per se* for conspiracy to deprive one of a constitutional right. Without an actual deprivation, there can be no liability under Section 1983." Morley, 2004 WL 1527829, at * 7 (citing Defeo v. Sill, 810 F.Supp. 648, 658 (E.D. Pa. 1993) aff'd, 16 F.3d 403 (3d Cir. 1993)). As explained in the analysis above, none of Plaintiff's constitutional claims

under the Fourth, Eighth or Fourteenth Amendments are valid in the present case. As in Morley, Plaintiff's conspiracy claim fails as a matter of law. See id. (holding that "[w]ithout any showing of a violation of his constitutional rights, [plaintiff's] Section 1983 conspiracy claim fails as a matter of law.").

2. State Law Claims Against Defendants

In light of our determination that Plaintiff's Complaint fails to state a valid claim against Defendants under federal law, we decline to exercise supplemental jurisdiction over Plaintiff's state law claims asserted under the MHPA. 28 U.S.C. § 1367(c)(3).

For all the reasons set forth above, Defendants' motions to dismiss are granted pursuant to the attached order.

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ORDER

AND NOW, this day of June, 2006, upon consideration of Plaintiff's Motion for Leave to Amend Complaint (Doc. No. 17) and all responses in opposition thereof (Docs. Nos. 19 and 21), it is hereby ORDERED that such motion is DENIED. Furthermore, upon consideration of the Defendants' Motions to Dismiss Plaintiff's Complaint (Docs. Nos. 8 and 9) and all responses in opposition and support thereof (Docs. Nos. 14, 15, 20, and 22), it is hereby ORDERED that both motions are GRANTED and Plaintiff's Complaint is DISMISSED.

BY THE COURT:

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J. CURTIS JOYNER, J.