

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

| | | |
|---------------------------|---|----------------|
| MARY ELLEN VALENTINE, | : | |
| Plaintiff, | : | |
| | : | CIVIL ACTION |
| v. | : | |
| | : | No. 00-CV-4152 |
| THE COURT OF COMMON PLEAS | : | |
| OF BUCKS COUNTY, et al., | : | |
| Defendants. | : | |

GREEN, S.J.

May _____, 2001

MEMORANDUM /ORDER

Presently before the Court is the Defendants’¹ Motion to Dismiss Plaintiff’s Complaint, and Plaintiff’s Motions for Appointment of Counsel. For the reasons that follow, Defendants’ motion will be granted, without prejudice to Plaintiff’s filing of an amended complaint; and, Plaintiff’s motion for appointment of counsel will also be granted.

I. Factual Background

Ms. Valentine alleges that she is a legally disabled individual. See Pltf.’s Compl. at 5.² She states that she is “dyslexic, learning disabled with auditory processing impaired, visual processing impaired with short term memory loss, hard of hearing and cognitively impaired.” See Pltf.’s Compl. at 5. She has been on Social Security Disability Insurance for fifteen years.

¹ The *pro se* Plaintiff, Mary Ellen Valentine has filed suit against the following Defendants: the Court of Common Pleas of Bucks County; Mr. Wiley, court administrator; the Honorable Judge Kane; the Honorable Judge Garb; the Honorable Judge Rufe; the Honorable Judge McAndrews; Ms. Joan Bertz, Master; Ms. McCabe, Master; Mr. Robert Bernstein, Court Reporter; and, Mr. Fautash.

² The page references to Ms. Valentine’s Complaint refer to the page numbers in the bottom right hand corner of the pages of the Complaint.

See Pltf.’s Compl. at 7.

Ms. Valentine alleges that since 1993, she has attempted to access the Bucks County Court of Common Pleas to modify her support payments. See Pltf.’s Compl. at 7, 12. She alleges specific instances of on-going discrimination where she was not provided the necessary accommodations required of her disabilities, thereby preventing her from participating in and understanding court proceedings, and generally denying her access to the court and court services. See Pltf.’s Compl. at 7.

Specifically, Plaintiff’s Complaint alleges that the court does not have nor did it provide necessary accommodations, such as TTY and TDD³. See Pltf.’s Compl. at 9. She alleges that the discrimination has resulted in her failure to receive proper support payments from her ex-husband, has prevented her from qualifying for MediGap insurance. See Pltf.’s Compl. at 11. Moreover, she has been forced to bear the expense of attending hearings by telephone, and has been required to provide her own equipment. See Pltf.’s Compl. at 11. She also alleges that the court has improperly required her to appear in person, even though she lives in Maine and had provided the court with a copy of her doctor’s note stating that she is incapable of leaving her home to travel such a distance due to her disabilities. See Pltf.’s Compl. at 9, 16. In addition, the Plaintiff alleges that the court failed to follow requisite procedures by failing to review her support payments every three years, failing to adjust her support payments without a hearing, and failing to follow the grid formulas for determining support payments. See Pltf.’s Compl. at 12.

³ TTY is the accepted acronym for a “TeleTYpewriter.” TDD is the acronym for a “Telecommunications Device for the Deaf.” Both devices are commonly available and widely used assistive machines used by hearing impaired individuals.

She also asserts that she was denied information and assistance in finding a *pro bono* attorney to represent her. See **Pltf.’s Compl.** at 16. Finally, one of the hearings that took place was not recorded and as a result, the Plaintiff alleges that she was barred from the appeal process, because there was no transcribed report. See **Pltf.’s Compl.** at 8.

The Plaintiff filed a complaint with the Department of Justice [“DOJ”], No. 204-62-76, in July of 1993. See **Pltf.’s Compl.** at 11. Ms. Valentine states that she was ridiculed by court officers, that she suffered shame and embarrassment, and that her case gained a reputation, thereby leading to further disparate treatment. See **Pltf.’s Compl.** at 12. She also alleges that she was retaliated against, as a result of having filed a complaint with the DOJ. See **Pltf.’s Compl.** at 12, 17.

Ms. Valentine raises claims against the defendants under Title II of the ADA and Article I § 26 of the Pennsylvania Constitution. A Motion to Dismiss was filed on behalf of the following Defendants: the Court of Common Pleas of Bucks County, Mr. Wiley, Judge Kane, Judge Garb, Judge Rufe, and Judge McAndrews.

II. Discussion

“A pleading which sets forth a claim for relief . . . shall contain (1) a short and plain statement of the grounds upon which the court’s jurisdiction depends, . . . , (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks.” Fed. R. Civ. P. 8(a).

Defendants argue that *pro se* Plaintiff’s Complaint should be dismissed for failure to file a document which puts the Defendants on fair notice of either the claims against them or the relief sought. Defendants further argue that the “pleadings are so indecipherable and unwieldy as

to prejudice [D]efendants' ability to adequately respond." See Dfdts.' Mem. of Law at 3.

I conclude that Plaintiff's Complaint must be dismissed for failure to comply with Rule 8(a).⁴ Though it is true that a *pro se* plaintiff's complaint should be held to less stringent standards than pleadings drafted by lawyers, see Haines v. Kerner, 404 U.S. 519, 520-21 (1972), it must still set forth claims and prayers for relief with a measure of clarity. While Plaintiff's Complaint does contain some allegations which may support a claim of discrimination, it is not clear whether the claims are against the Court of Bucks County, the individual Defendants, or both. As such, neither the Court nor the Defendants are able to read the Complaint and understand Plaintiff's claims or demands. For example, in order to determine whether certain of Plaintiff's claims should be dismissed under the Rooker-Feldman doctrine, it is necessary to understand with some degree of particularity whether Plaintiff is seeking relief from specific adjudicative acts of the Defendants, or if she is seeking to have Defendants answer for non-adjudicative actions. In its current state, the Complaint does not set forth clear claims from which such legal determinations may be made. And, since the entire Complaint suffers from this infirmity, it must be dismissed.

But, pursuant to 28 U.S.C. § 1915(e), a court "may request an attorney to represent any person unable to afford counsel." The *pro se* Plaintiff has already been granted permission to

⁴ The Court recognizes that Defendants raise other arguments against Plaintiff's Complaint, arguing that there is no "individual liability" under the ADA Complaint, and that the claims are barred by the Rooker-Feldman doctrine and the Eleventh Amendment. However, since I am dismissing the Plaintiff's Complaint under Rule 8(a), it is not necessary to conduct in-depth analyses of Defendants' other arguments at this time. It should also be noted that the ability to conduct the aforementioned analyses is hindered by the state of Plaintiff's Complaint. An amended complaint may better crystallize Plaintiff's allegations, providing an opportunity for the Court to more adequately understand Plaintiff's claims and review Defendants' objections.

proceed *in forma pauperis*. See Docket # 2. Plaintiff stated in the Complaint that she has tried unsuccessfully to obtain counsel, both independently and through court services. See, e.g., **Pltf.'s Compl.** at 8. Plaintiff also avers that, due to her disabilities, she needs assistance filling out forms, understanding the law and prosecuting her case. See, e.g., **Pltf.'s Compl.** at 8;**Pltf.'s Motion for Appointment of Counsel.**

Since I have concluded that Plaintiff may be able to state a claim under the ADA regarding her lack of access to the court and for a failure of the court to accommodate her, I will grant Plaintiff's motion for appointment of counsel. An appropriate order follows.

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ORDER

AND NOW, this _____ day of May, 2001, upon consideration of the Defendants' Motion to Dismiss the Plaintiff's Complaint (Docket # 4), and Plaintiff's Motions for Appointment of Counsel (Docket # 8 and Docket # 9), **IT IS HEREBY ORDERED** that :

- 1.) Defendants' motion is **GRANTED**; Plaintiff's Complaint is **DISMISSED, WITHOUT PREJUDICE**, to Plaintiff's filing an Amended Complaint within **120 days** of this Order.
- 2.) Plaintiff's motions for appointment of counsel are **GRANTED**. This matter is referred to the **Clerk of the Court** to attempt to find voluntary counsel to represent the Plaintiff in this matter. Plaintiff's voluntary counsel may, at her discretion, file an amended complaint within **120 days** of this Order.

BY THE COURT:

CLIFFORD SCOTT GREEN, S.J.