



## BACKGROUND<sup>1</sup>

Plaintiff Boone brings federal civil rights and civil RICO claims against numerous federal, state and private defendants. He alleges a conspiracy among various state, federal and private actors and agencies to fabricate evidence against him and to unlawfully arrest and detain him.<sup>2</sup>

In his complaint, plaintiff outlines the parameters of the alleged conspiracy. In April of 1995, a Millville, New Jersey police officer unlawfully arrested plaintiff.<sup>3</sup> While detained, Detective William Edminster (“Detective Edminster”) approached plaintiff and requested his assistance in arresting “Blacks” for drug distribution. When plaintiff refused, Detective Edminster grew agitated. He told plaintiff he would “make sure that Mr. Boone stayed in a ‘Nigger’s Place’.” Shortly after the conversation with Detective Edminster, the police released plaintiff and dropped all charges against him. Plaintiff alleges that the conspiracy began as a result of his interaction with Detective Edminster and as a result of his refusal to assist the detective.

The conspiracy allegations center on the interactions between Troy Thompson (“Troy”), Wendeline Johnson/Thompson (“Wendeline”) and Detective Edminster. According to plaintiff, Detective Edminster coerced Troy and Wendeline into helping him set up plaintiff. In September of 1998, state authorities arrested Troy and Wendeline after finding illegal drugs in their residence.

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<sup>1</sup> Because this is a motion to dismiss, the facts alleged in Boone’s complaint are to be believed accepted as true for this purpose.

<sup>2</sup> Plaintiff is a federal prisoner. On August 11, 1999, a jury in the United States District Court for the District of New Jersey found that plaintiff violated 21 U.S.C. § 841(a)(1). He is serving time in the Federal Detention Center located in Philadelphia, Pennsylvania and within the Eastern District of Pennsylvania

<sup>3</sup> Plaintiff does not, in his complaint, indicate for what crime he was arrested.

Detective Edminster told Troy and Wendeline that, if they cooperated, he would drop the charges against them and guarantee immunity from further criminal charges. Conversely, he told Troy and Wendeline that if they did not cooperate, he would have their children taken from them.

From May through August of 1999, Troy and Wendeline engaged in several activities designed to fabricate evidence against plaintiff. The activities fell into three general categories. On numerous occasions, Troy gave drugs to Wendeline. She would then hand the drugs over to state and federal officers and tell them she received the drugs from plaintiff. Second, Wendeline supplied the FBI with tape recordings of her alleged drug transactions with plaintiff. Plaintiff, however, argues that the government tampered with and altered these recordings so that they are inaccurate. Finally, Detective Edminster tried to capture plaintiff's participation in the drug transactions on tape. Despite repeated attempts, Detective Edminster never captured plaintiff on tape nor did he ever witness plaintiff engage in such a transaction.

Plaintiff alleges that these activities led to the fabrication of substantial evidence against him and resulted in his arrest on August 12, 1999, approximately one year after Detective Edminster secured Troy and Wendeline's assistance and approximately four years after Detective Edminster initially asked plaintiff to help him arrest blacks.

According to plaintiff, the conspiracy continued through his trial. He alleges that the district attorneys, magistrate judge and judge assigned to his case all conspired to violate his constitutional rights. Plaintiff contends that defendants conspired to deny him a fair and speedy trial. Specifically, plaintiff claims (1) that certain defendants conducted three illegal searches and used the evidence from the searches against him at trial; (2) that the public defender appointed to represent plaintiff advised plaintiff to plead guilty without investigating the charges; (3) that the public defender failed to investigate the charges or develop a defense strategy even when plaintiff

maintained his innocence; and (4) that the judge refused to find plaintiff new counsel despite being told by the public defender that his communications with plaintiff had broken down.

As to defendant CCBSS, the defendant raising the instant motion to dismiss, plaintiff argues that CCBSS engaged in the conspiracy by providing housing and social services to Wendeline and her children. Specifically, plaintiff alleges that CCBSS gave its permission to Wendeline and the local police department to conduct illicit drug deals in the allegedly state provided housing. Plaintiff asserts that such permission was particularly harmful because it condoned drug transactions where children were present, thus endangering the children's safety and well-being.

### **PROCEDURAL HISTORY**

Plaintiff's trial took place in the United States District Court for the District of New Jersey. The jury found plaintiff guilty and a prison sentence resulted. Plaintiff filed this civil suit against seventy-nine named defendants in the Eastern District of Pennsylvania on March 25, 2002. In his complaint, he seeks a declaratory judgement that the defendants violated his federal and state constitutional rights, that he is innocent, that the charges brought against him were fabricated and that the prosecutors violated the rules of ethics. He also seeks an injunction ordering that he be examined and treated by a qualified physician and that he be released from prison. Plaintiff seeks \$100,000,000 in compensatory damages, an amount to be determined in punitive damages, as well as costs and attorney fees. Finally, plaintiff seeks a return of all the property and items seized from him.

Defendant CCBSS filed the pending motion to dismiss under Federal Rules of Civil Procedure 12(b)(1), (2), (3), (5), 12(e) and 12(f). See Def. CCBSS's Brief in Support of its Mot. to

Dis. CCBSS states six grounds for dismissal: 1) lack of subject matter jurisdiction; 2) lack of personal jurisdiction over defendant CCBSS; 3) improper venue; 4) insufficient service of process; 5) motion for a more definite statement; and 6) motion to strike. See id. at 7. As set forth below, the court lacks personal jurisdiction over CCBSS. Accordingly, CCBSS' motion to dismiss on this ground is granted. It is not, therefore, necessary to consider the other issues raised.

### **STANDARD OF REVIEW**

Once a defendant raises a jurisdictional defense, the burden shifts to the plaintiff to prove that the relevant jurisdictional requirements are met. See Mellon Bank (East) PSFS v. Farino, 960 F.2d 1217, 1223 (3d Cir. 1992); Gehling v. St. George's Sch. of Medicine, Ltd., 773 F.2d 539, 542 (3d Cir. 1985). A "plaintiff meets this burden and presents a prima facie case for the exercise of personal jurisdiction by 'establishing with reasonable particularity sufficient contacts between defendant and the forum state.'" See Mellon Bank (East) PSFS, Nat'l Assoc. v. Farino, 960 F.2d 1217, 1223 (3d Cir. 1992) (citation omitted). The plaintiff must support this burden through "sworn affidavits or other competent evidence." North Penn Gas Co. v. Corning Natural Gas Corp., 897 F.2d 687, 689 (3d Cir.), cert. denied, 498 U.S. 847 (1990) (citations omitted). "Factual discrepancies created by affidavits are generally resolved in favor of the non-moving party." Id.; see also Carterat Savings Bank v. Shushan, 954 F.2d 141, 142 n.1 (3d Cir.), cert. denied, 506 U.S. 817 (1992).

### **DISCUSSION**

Determining whether personal jurisdiction exists over a non-resident defendant requires a two-part inquiry. First, a district court must determine whether the long-arm statute of the forum

state in which it sits would permit the courts of the forum state to exercise personal jurisdiction over the defendant. Second, a district court must ask whether asserting personal jurisdiction would be consistent with due process requirements. See International Shoe v. Washington, 326 U.S. 310, 316 (1945); Imo Indus. v. Kiekert AG, 155 F.3d 254, 259 (3d Cir. 1998); see also Fraley v. Chesapeake & Ohio Ry. Co., 397 F.2d 1, 3 (3d Cir.1968) (stating that due process analysis applied in diversity jurisdiction cases also is applicable in non-diversity cases); Modern Mailers, Inc. v. Johnson & Quin, Inc., 844 F. Supp. 1048, 1051 (E.D. Pa.1994) (noting that Fifth Amendment due process clause limits state long-arm statute in federal question cases in same manner that Fourteenth Amendment applies in diversity actions). Because Pennsylvania’s long-arm statute is coextensive with the limits of due process,<sup>4</sup> the essential question is whether asserting personal jurisdiction over the defendant would comply with due process requirements.

The due process inquiry focuses a court’s attention on the relationship between the defendant’s conduct, the forum state and the litigation. See Shaffer v. Heitner, 433 U.S. 186, 204 (1977); Imo Indus., 155 F.3d at 259. To satisfy the dictates of the due process clause, the defendant must have purposefully directed conduct toward the forum state or must have purposefully availed itself of the protection of the laws of the forum state. See Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472 (1985); Imo Indus., 155 F.3d at 259.

Case law development over time has delineated two independent bases of personal jurisdiction. A defendant is subject to the court’s general jurisdiction, regardless of where the events occurred giving rise to the action, when the defendant’s contacts with the forum state are

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<sup>4</sup> See 42 Pa. C.S.A. § 5322(b) (extending state court jurisdiction over non-residents to “fullest extent allowed under the Constitution of the United States”); Vetrotex Certaineed Corp. v. Consolidated Fiber Glass Prods. Co., 75 F. 3d 147, 150 (3d Cir. 1995).

continuous and systematic. See Helicopteros Nacionales de Colombia v. Hall, 466 U.S. 408, 414 n.9 & 416 (1984); Imo Indus., 155 F.3d at 259 n.2. In contrast, a defendant is subject to the court's specific jurisdiction when the events giving rise to the action are related to the forum state and the defendant has the necessary minimum contacts with the forum state. See Helicopteros Nacionales de Colombia, 466 U.S. at 414 n.8; Imo Indus., 155 F.3d at 259. Although plaintiff asserts that CCBSS is subject to both the general and specific jurisdiction of the court, for the reasons stated below, I conclude that neither ground is sufficient to support personal jurisdiction over this defendant.

### **I. General Jurisdiction**

A defendant is subject to the court's general jurisdiction, regardless of where the events occurred giving rise to the action, when the defendant's contacts with the forum state are continuous and systematic. See Helicopteros Nacionales de Colombia v. Hall, 466 U.S. 408, 414 n.9 & 416 (1984); Imo Indus., 155 F.3d at 259 n.2. To subject a non-resident defendant to the general personal jurisdiction of the court, it must be shown that the defendant maintained "continuous and systematic" contacts with the forum state. See Helicopteros Nacionales de Colombia, 466 U.S. at 416; Imo Indus., 155 F.3d at 259 n.2. Proof of such contact requires a showing of extensive and pervasive activity in the forum state. See Reliance Steel Prods. Co. v. Watson, Ess, Marshall, & Engass, 675 F.2d 587, 589 (3d Cir. 1982). In addition, it must be shown that the assertion of personal jurisdiction would comport with traditional notions of "fair play and substantial justice." See Imo Indus., 155 F.3d at 259.

While many facts are still disputed, there is no account of the facts in this matter which demonstrates "continuous and systematic" contact by CCBSS with the Eastern District of

Pennsylvania. See Helicopteros Nacionales de Colombia, 466 U.S. at 416; Imo Indus., 155 F.3d at 259 n.2. CCBSS is a social services government agency located in Cumberland County, New Jersey. There is no allegation or evidence that it maintains an office in Pennsylvania, or that it has any agents or employees in Pennsylvania. Plaintiff points to no benefits received by CCBSS from Pennsylvania. He alleges no continuous practices or interactions with Pennsylvania.

The only evidence plaintiff offers of CCBSS' contacts with the forum is Gregory Curliss' affidavit. In that affidavit, Mr. Curliss states that:

Although there is from time to time contact and communication with public agencies and clients in the Eastern District of Pennsylvania, there exists a lack of continuous and systematic contacts between CCBSS and the Eastern District of Pennsylvania.

Affidavit of Gregory Curliss, Director Cumberland County Board of Social Services. Mere acknowledge of minute contact with a forum does not provide a sufficient basis on which to assert general personal jurisdiction. On these facts, I find no evidence of extensive and pervasive contacts. I find no evidence of purposeful availment. Therefore, I conclude that CCBSS is not subject to the general personal jurisdiction of the court.<sup>5</sup>

## **II. Specific Jurisdiction**

In the absence of general personal jurisdiction, an action arising from a defendant's forum-related conduct may be maintained on proof of specific personal jurisdiction. See Helicopteros

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<sup>5</sup> When a court finds sufficient contacts between the defendant and the forum state, it goes to the next step in the analysis. The second step requires a determination by the court as to whether the exercise of personal jurisdiction over the defendant would offend traditional notions of "fair play and substantial justice." See Burger King Corp., 471 U.S. at 477; Farino, 960 F.2d at 1226. Because I find that the plaintiff did not satisfy the first prong of the analysis, as he failed to establish systematic and continuous contacts between CCBSS and the forum sufficient to satisfy the general jurisdiction standard, I need not address the fair and substantial justice prong.

Nacionales de Colombia, 466 U.S. at 414 n.8; Imo Indus., 155 F.3d at 259. The showing required for the assertion of specific jurisdiction is considerably less than that required for general jurisdiction. The plaintiff must demonstrate that his cause of action arises out the defendant’s forum-related contacts. The contacts, however, must still demonstrate that the defendant “purposefully directed its activities toward the residents of the forum state” or purposefully availed itself of the benefits of the forum. See Burger King Corp., 471 U.S. at 472; Imo Indus., 155 F.3d at 259. See Burger King Corp., 471 U.S. at 472; Imo Indus., 155 F.3d at 259; Vetrotex Certainteed Corp., 75 F. 3d at 151. Where the conduct of a defendant is such that the defendant reasonably should have foreseen being haled into court in the forum state, the necessary minimum contacts for specific jurisdiction have been shown. See World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980).

Although plaintiff urges this court to find specific personal jurisdiction over CCBSS, there is absolutely no basis for specific jurisdiction here. None of the events which led to plaintiff’s cause of action have any connection to this forum. Pennsylvania law is not invoked in any of plaintiff’s claims. The cause of action arose solely from events in New Jersey. In fact, plaintiff has no contact with Pennsylvania other than his incarceration here. The court, therefore, finds that it does not have specific jurisdiction over CCBSS.<sup>6</sup>

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<sup>6</sup> Once a court finds sufficient contacts between the defendant and the forum state to satisfy either general or specific jurisdiction, it must then determine whether the exercise of personal jurisdiction over the defendant would offend traditional notions of “fair play and substantial justice.” See Burger King Corp., 471 U.S. at 477; Farino, 960 F.2d at 1226. Because I find that the plaintiff did not satisfy the first prong of the analysis, as he failed to establish sufficient minimum contacts between CCBSS and the forum to satisfy specific jurisdiction standards, I need not address the fair and substantial justice prong.

## **CONCLUSION**

For the foregoing reasons, I find the court does not have personal jurisdiction over the defendant. Thus, I will dismiss plaintiff's claim against CCBSS on this ground. This determination renders moot all other arguments raised by defendant CCBSS in its motion. As such, I need not address those arguments. An appropriate order follows.

