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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Case No. 07-cv-01044-WDM-KLM

JOSEPH J. MANN, et al.,
Plaintiffs,
vs.
STATE OF COLORADO, et al.,
Defendants.

Proceedings before KRISTEN L. MIX, United States Magistrate Judge, United States District Court for the District of Colorado, commencing at 11:35 a.m., November 5, 2007, in the United States Courthouse, Denver, Colorado.

WHEREUPON, THE ELECTRONICALLY RECORDED PROCEEDINGS ARE HEREIN TYPOGRAPHICALLY TRANSCRIBED...

APPEARANCES

BEVERLY MANN, the plaintiff herein, appearing pro se.

FREDERICK HAINES, DONALD LAKE, PATRICIA GILBERT, ANDREW FISHER, DAVID BROUGHAM, Attorneys at Law, appearing

TELEPHONIC STATUS CONFERENCE

1 APPEARANCES (continued)

2 for the defendants.

3 DAVID GLOSS, STEPHENIE LORIMER, GAYLE KING and
4 TROY KING, defendants herein, appearing pro se.

5 P R O C E E D I N G S

6 (Whereupon, the within electronically recorded
7 proceedings are herein transcribed, pursuant to order of
8 counsel.)

9 THE CLERK: Good morning. This is 07-cv-01044,
10 Joseph J. Mann versus the State of Colorado, et al. Let's
11 have the parties and counsel enter their appearances,
12 please.

13 MS. MANN: I'm Beverly Mann, pro se, and also for
14 my father Joseph Mann.

15 MR. HAINES: This is Frederick Haines. I'm first
16 Assistant Attorney General for defendant State of Colorado.

17 MR. LAKE: This is Donald Lake and Allison Redbird
18 (phonetic) on behalf of the Golden Pond Living Facility and
19 Carla Martin.

20 MR. GLOSS: David R. Gloss appearing pro se.

21 MR. LORIMER: Stephenie D. Lorimer appearing pro
22 se.

23 MS. KING: Gayle Anna King appearing pro se.

24 MR. KING: Troy King appearing pro se.

25 MS. GILBERT: Patricia Gilbert appearing on behalf

1 of defendants Galimberti, Tait and Mink.

2 MR. FISHER: Andy Fisher for the Golden defendants,
3 City of Golden defendant.

4 MR. BROUGHAM: David Brougham for the City of
5 Lakewood defendants.

6 THE COURT: All right. Thank you. It seems like
7 we have complete representation of pro se parties and
8 defense counsel, as well as the pro se plaintiff. This case
9 comes before the Court today on a status conference. The
10 case was filed on May 7th, 2007, and referred to me by
11 District Court Judge Walker Miller effective August 6th,
12 2007, which was my first day on the court.

13 There are three motions to dismiss pending. One
14 was filed by the City of Lakewood, Ms. Munger, and Ms. Young
15 on May 23rd, 2007. That's docket number four. That motion
16 has been joined by defendants David R. Gloss, Gail King,
17 Carla Martin, Golden Pond Senior Living, Stephenie Lorimer,
18 and Troy King. There's a second motion to dismiss filed by
19 the State of Colorado on July 2nd, 2007, that's docket
20 number 50. It's joined by defendants Enrico Galimberti,
21 Donald Tait, and Ted Mink. And a final motion to dismiss
22 filed by the City of Golden, William Kilpatrick, and Matt
23 Jurischk on August 10th, 2007, at docket number 86.

24 Since the filing of the complaint, plaintiff has
25 filed 14 motions seeking various relief. An emergency

1 motion for preliminary restraining order, docket number 28
2 filed June 14th, 2007; a motion pursuant to 28 USC Section
3 1447(c) to remand to Denver District Court and an
4 alternative motion pursuant to 28 USC Section 1404(a) to
5 transfer the case to another United States district court,
6 docket number 29 filed June 14th, 2007; an emergency motion
7 pursuant to Federal Rule of Civil Procedure 17(c) for
8 immediate appointment of counsel for Joseph Mann, that's
9 docket number 31 filed June 14th, 2007; a motion pursuant to
10 28 USC Section 2241 for immediate writ of habeas corpus,
11 docket number 34 filed June 15th, 2007; a motion to strike
12 Golden Pond Senior Living defendants' reply to response to
13 motion to dismiss and City of Lakewood defendants' reply to
14 response to motion to dismiss, docket number 44 filed June
15 25th, 2007; a motion to enjoin removal of other lawsuits to
16 federal district court, docket number 60 filed July 6th,
17 2007; a motion for declaratory judgment in light of Pinetti
18 versus Quarterman to sever habeas motion and for expedited
19 hearing at docket number 70 filed July 20th, 2007; an
20 emergency motion for extension of time in which to respond
21 to State of Colorado's motion to dismiss and reply to State
22 of Colorado's and City of Lakewood's responses to motion to
23 remand; an emergency motion to file documents with the court
24 via fax filing, it says as long as 20 pages, that's docket
25 number 72 filed July 23rd, 2007; a motion for leave to file

1 reply to motion for remand and alternatively for transfer at
2 docket number 74 filed July 25th, 2007; a motion for leave
3 to file reply to defendant State of Colorado's response to
4 plaintiffs' motion to remand or alternatively to transfer
5 venue and response to the State of Colorado's motion to
6 dismiss, docket number 78 filed July 25th, 2007; a motion
7 for leave to file reply to defendants' response to motion
8 for remand and alternatively for transfer pursuant to 28 USC
9 Section 1404(a), docket number 92 filed August 24th, 2007;
10 a motion for leave to file their reply to Golden Pond
11 defendants' response to motion for declaratory judgment,
12 docket number 95 filed August 27, 2007; a motion for
13 emergency temporary restraining order, docket number 98
14 filed August 31st, 2007; and, finally, an emergency motion
15 to enjoin defendant David R. Gloss from further probate
16 court filings ostensibly on behalf of Joseph Mann and reply
17 to joinder of the state's response to plaintiffs' motion for
18 emergency TRO at docket number 104 filed September 5th,
19 2007.

20 It's come to the Court's attention that Ms. Mann
21 has communicated in a belligerent and abusive manner with my
22 staff and that she has made inaccurate statements to defense
23 counsel about the status of proceedings in this matter,
24 including that immediate evidentiary hearings were going to
25 be scheduled.

1 MS. MANN: That is not --

2 THE COURT: Excuse me. Excuse me. You're not
3 being asked to speak at this point. The Court is extremely
4 concerned about plaintiff's multiple filings of dubious merit
5 and her inappropriate conduct. Despite the leniency
6 generally shown towards pro se plaintiffs, it is apparent to
7 the Court that action must be taken to regain control over
8 the proceedings and to clearly warn Ms. Mann that her
9 actions will not be permitted and will cause the Court to
10 consider entry of sanctions if continued.

11 In the interest of judicial economy, the Court is
12 entering an order effective today staying this matter until
13 a ruling on the pending motions to dismiss, pursuant to Wang
14 versus Hsu, 919 F.2d 130, Tenth Circuit, 1990; Albright
15 versus Rodriquez, 51 F.3d 1531, Tenth Circuit, 1995, and
16 Kutilek versus Gannon, 132 FRD 296, District of Kansas,
17 1990.

18 Further, the Court hereby orders that in the event
19 that plaintiff files any further pleadings prior to a ruling
20 on the motions to dismiss, which violate the stay imposed by
21 the Court today, plaintiff will be subject to the imposition
22 of sanctions pursuant to Andrews versus Heaton, 483 F.3d
23 1070, Tenth Circuit, 2007. Those are my orders today. The
24 parties will receive a written minute order reflecting these
25 orders. Are there any questions?

1 MS. MANN: I have a number of questions. First of
2 all, I don't know who told you that I had misrepresented
3 anything to your staff, but I haven't been told that anyone
4 said that. I did not misrepresent anything to your staff,
5 and I would like to know who said it. I would like a copy
6 of it, or whatever, or to know whether it was, you know,
7 oral or what. I misrepresented absolutely nothing to
8 anyone.

9 THE COURT: That motion is denied. Any further
10 questions?

11 MS. MANN: I -- well, I have a -- of course, it
12 seems to me that the jurisdictional issue, the -- my motion
13 under 28 USC 1447(c) needs to be addressed before any kind
14 of a motion to dismiss is decided. And I also -- there's
15 also the issue of my father's rights independent of mine,
16 and I filed a motion a long time ago to -- I'm sorry, for
17 leave -- for appointment of counsel for my father, and, you
18 know, his rights are at issue here, too, and I think that
19 he's entitled to be represented by counsel before any motion
20 is -- I'm sorry, any motion to dismiss or anything would
21 decide his rights on -- you know, if decided.

22 And the third thing is I -- I'm not sure exactly
23 the extent of a magistrate's authority there. I'm generally
24 familiar with the Magistrates Act, but my understanding is
25 that anything the magistrate -- any order that the

1 magistrate issues I'm entitled to file something with the
2 judge. You know, filing, I guess, an objection within ten
3 days, and I assume that this is included. Am I correct?

4 THE COURT: With respect to the second set of
5 comments made by Ms. Mann about the appointment of counsel,
6 the Court construes that as a request for consideration of
7 the order for stay which was just entered. That request is
8 denied.

9 With respect to the third set of comments by Ms.
10 Mann about the extent of the magistrate judge's authority,
11 the Court comments for the record that the magistrate judge
12 is not permitted to give legal advice. Therefore, to the
13 extent that is any type of a request for legal advice or a
14 motion, it is denied.

15 Are there any questions --

16 MS. MANN: Well, I do want to say --

17 THE COURT: Excuse me, ma'am. Excuse me, ma'am.
18 I'm talking now. It's your job to listen.

19 Are there any questions from the defendants?

20 MS. MANN: I'm going to -- I --

21 THE COURT: Excuse me, ma'am. Excuse me. This is
22 my court. I am in control here, not you. I have given you
23 an opportunity to ask your questions. You have asked them
24 and they have been responded to. Your opportunity is now
25 done.

1 Are there any questions from the defendants?

2 MR. HAINES: None from the State of Colorado.

3 MR. KING: None from --

4 MS. KING: None from Gayle King.

5 MR. GLOSS: None from Mr. Gloss.

6 MR. BROUGHAM: None from --

7 MS. GILBERT: None from the (inaubidle - both
8 speaking) county defendants.

9 MR. BROUGHAM: None from Brougham.

10 MS. MANN: I'm going to file --

11 MR. FISHER: None from --

12 MS. MANN: -- I'm going to ask -- I'm sorry. I'm
13 going to file a motion for recusal --

14 THE COURT: Ms. Mann, you may not speak any further
15 in this hearing.

16 MS. MANN: Ma'am, I --

17 THE COURT: You may not speak any further, Ms.
18 Mann. Excuse me. I have not heard from the remaining
19 defendants. Are there any questions from the City of
20 Lakewood, Janet Young, and Mary Munger?

21 MR. BROUGHAM: No, Your Honor.

22 THE COURT: Are there any questions from the City
23 of Golden, Mr. Jurischk, and Mr. Kilpatrick?

24 MR. FISHER: No, Your Honor.

25 THE COURT: Are there any questions from Mr. Tait,

1 Mr. Galimberti, and Mr. Mink?

2 MS. GILBERT: No.

3 MS. MANN: I do have one question --

4 THE COURT: Are there any questions from Ms.
5 Martin, Golden Pond Senior Living?

6 MR. LAKE: No, Your Honor.

7 THE COURT: All right. And the State of Colorado
8 has no questions, is that correct?

9 MR. HAINES: That's correct, Your Honor.

10 THE COURT: Thank you. We'll be in recess.

11 MR. HAINES: Thank you.

12 MS. GILBERT: Thank you, Your Honor.

13 MS. KING: Thank you.

14 MS. MANN: I'm --

15 MR. FISHER: Thank you, Your Honor.

16 MS. MANN: I'm going to -- (recording ends).

17 (Whereupon, the within hearing was then in
18 conclusion at 11:48 a.m. on November 5, 2007.)

19

20 I certify that the foregoing is a correct
21 transcript, to the best of my knowledge and belief, from the
22 record of proceedings in the above-entitled matter.

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24

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Signature of Transcriber

Date