



## Stephens et al v. State of North Carolina et al

2019 | Cited 0 times | W.D. North Carolina | January 11, 2019

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION 3:18-cv-00072-RJC-DSC

BRIANNE STEPHENS et al.,

Plaintiffs, v. STATE OF NORTH CAROLINA et al.,

Defendants.

### ORDER

THIS MATTER i respective Motions to Dismiss, (Doc. Nos. 88, 89, 92, 96, 100, 101, 102, and 108), as well as the parties briefs and exhibits; ), (Doc. No. 123), recommending dismissal of all claims with prejudice; Objection, (Doc. No. 124); and Defendants 125 28).

### I. BACKGROUND

This case arises from a child custody determination made in Mecklenburg , the mother of the minor child whose

custody was at issue, filed the instant suit on February 8, 2018. (Doc. No. 1). Plaintiff also removed the companion case 3:18-cv-00126-RJC-DSC, in which nearly identical claims and facts were plead, from Mecklenburg County District Court to this Court. In that suit, Plaintiff named the father of her minor child, Tarik Shah, as the sole defendant. Here, however, Plaintiff has named thirty defendants, most of whom are stat state-court custody proceedings. (See Doc. No. 1).

A child custody hearing was held on December 6 and 7, 2017, in which the , was addressed. (See Stephens v. State, NCWD File No. 3:18-cv-00072-RJC-DSC, Doc. No. 52-1: Temporary Child Custody Order at 1). Plaintiff was present at the hearing and was represented by counsel. (Id. father, filed a Motion for Modification of Child Support Order to terminate the child

support payments he had been making to Plaintiff. (Doc. No. 1-1 at 1). On February 8, 2018, District Court Judge Gary L. Henderson entered a Temporary Child Custody Order awarding temporary



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physical and legal custody of DS to Defendant. (See Stephens v. State, NCWD File No. 3:18-cv-00072-RJC-DSC, Doc. No. 52-1 at 5). Judge Henderson found that r person to have physical custody or contact with Id.). Plaintiff filed the instant suit on behalf of herself and her three minor children in federal district court that same day. (Doc. No. 1). Plaintiff amended her Complaint as of right on May 8, 2018. (Doc. No. 84). As amended, this suit purports to allege claims under the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Although Plaintiff complains of discrimination based upon her alleged disabilities, her Complaint is nothing more than an attempt to appeal the state- court Child Custody Order in a federal forum. Plaintiff asks this Court to invalidate the state-court orders issued throughout her child custody proceedings. All Defendants have moved to dismiss this suit, filing various Rule 12(b) motions. (See Doc. Nos. 88, 89, 92, 96, 100, 101, 102, and 108). On July 5, 2018, Magistrate Judge Cayer issued an M&R to dismiss be granted and that be dismissed with prejudice. (Doc. No. 123). Plaintiff filed an Objection on July 16, 2018, (Doc. No. 124), and Defendants timely filed replies on July 30, 2018. (See Doc. Nos. 125 28). For the reaso and finds that this Court lacks jurisdiction to adjudicate this suit under the Rooker-Feldman doctrine. II. STANDARD OF REVIEW

A district court may assign dispositive pretrial matters, including motions to dismiss, 28 U.S.C. § 636(b)(1)(A) and court shall make a de novo determination of those portions of the report or specific

Id. at § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983). nd no factual Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir.1982). Similarly, de novo review is not required at do not direct Id.

## III. DISCUSSION

Under Rule 72(b) of the Federal Rules of Civil Procedure, a district court judge shall make a de novo determination of any portion of an M&R to which specific written objection has been made. Except for numbered paragraphs 1 17 Amended Complaint. (Compare Doc. No. 124 ¶¶ 18 129, with Doc. No. 84 ¶¶ 1 7,

37 39, 41 97, 99 127, and 166 82). Moreover, paragraphs 1 17 do not present any new evidence or legal argument to challenge the M&R. Rather, they continue to argue that Plaintiff should not have lost custody of her child in the state-court proceedings. And thus, they example, paragraphs 2 the underlying issue was parental custody of minor children. (Doc. No. 124 ¶¶ 2 7).

This reinforces the fact that Plain appeal the state-court child custody determination in federal court. Indeed, in paragraph 17, Plaintiff pleads that the current federal action is based on allegations Id. ¶ 17). Objection, the Court has nevertheless conducted a de novo review. In doing so, the Court is convinced that it does not have jurisdiction over this dispute under the Rooker-Feldman doctrine.

A. Rooker-Feldman Doctrine The United States Supreme Court has exclusive jurisdiction over



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appeals from state-court judgments. See 28 U.S.C. § 1257(a); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 416 (1923). Relatedly, the Rooker-Feldman state court from seeking what in substance would be appellate review of the state

judgment in a United State Johnson v. De Grandy,

512 U.S. 997, 1006 (1994) Rooker-Feldman doctrine bars lower federal courts from considering not only issues raised and decided in state courts, but also issues

Washington v. Wilmore, 407 F.3d 274, 279 (4 th

Cir. 2005) (quoting Feldman, -court loser seeks redress in the federal district court for the injury caused by the state-court decision, his federal claim is, by defi - court decision, and is therefore outside the jurisdiction of the federal district Davani v. Va. Dep't of Transp., 434 F.3d 712, 719 (4th Cir. 2006). The Supreme Court has emphasized that the Rooker-Feldman doctrine is a narrow doctrine and only applies to cases brought by state-court losers seeking redress for an injury caused by the state-court decision itself. Metcalf v. Call, 2014 WL 12497025, at \*2 (W.D.N.C. Mar. 31, 2014), aff'd, 584 F. App'x 56 (4th Cir. 2014). -court decision, the Rooker-Feldman doctrine does Davani, 434 F.3d at 718 (footnote omitted). Thus, under this doctrine, a plaintiff is barred from appealing in federal court a child custody judgment previously litigated in state court exactly what Plaintiff seeks to do here. Metcalf, 2014 WL 12497025, at \*2. In the instant case, Plaintiff asks this Court to invalidate the state-court licies and practices that allegedly disrupted - ¶ 12, 181). Indeed, she Child Custody Order to her federal Amended Complaint, (Doc. No. 84 at 31 38), and asks this Court to declare the Child Custody Order . (Id. ¶ 181). Additionally, Plaintiff seeks s Id. ¶ 180). In sum, her child custody appeal as a lawsuit alleging violations of various federal anti-discrimination laws, this Court must pierce the pleadings and expose this case for what it is: a state- federal redress for an injury caused by a state-court decision. As such, federal claim is inextricably intertwined with the state-court decision and is

therefore outside the jurisdiction of this Court. While the Court is mindful of the latitude extended to pro se pleadings, Haines v. Kerner, 404 U.S. 519, 520 (1972), it -court decision in an improper forum, nor can it manufacture federal jurisdiction where none exists. IV. CONCLUSION

Rooker-Feldman doctrine. IT IS THEREFORE ORDERED that:

1. AFFIRMED and

ADOPTED; 2. (Doc. Nos. 88, 89, 92, 96, 100, 101, 102,

and 108), are GRANTED. 3. DISMISSED WITH



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PREJUDICE; and 4. The Clerk of Court is directed to close this case.

Signed: January 11, 2019

