FILED
United States Court of Appeals
Tenth Circuit

April 14, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

ANGELA BETH FREEMAN, mother and next friend of Ashlyn M. Freeman, Brooklyn Freeman, and Caitlyn Freeman,

Plaintiff - Appellant,

v.

MARGARET CRESPO, in her official capacity as Laramie County School District No. 1 President,

Defendant - Appellee.

No. 22-8041
(D.C. No. 2:21-CV-00219-SWS)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **BALDOCK**, and **PHILLIPS**, Circuit Judges.

Angela Beth Freeman appeals pro se from a district court order that dismissed her lawsuit against Dr. Margaret Crespo, the President of Laramie County School District No. 1 (LCSD), for adopting COVID-19 safety measures at LCSD schools.

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Exercising jurisdiction under 28 U.S.C. § 1291, we affirm for substantially the same reasons given by the district court.

BACKGROUND

In 2021, Ms. Freeman, proceeding pro se, sued Dr. Crespo in federal district court for adopting and enforcing COVID-19 "mitigation efforts." R. at 7. In an amended complaint, she alleged that "social distancing," "face coverings/masks," "quarantining," and "forced diagnosis" were required "in order to enter or participate in public school accommodations, athletics, and activities," despite no "verifiable scientific proof of the existence of the[] alleged new 'virus.'" R. at 136. She sought monetary, injunctive, and declaratory relief under 42 U.S.C. §§ 1983 and 1985(3) and Wyoming law. She claimed that Dr. Crespo, "in her private and official capacit[ies]": (1) "worked to deny [her] and [her] offspring/property their rights, privileges, or immunities secured by . . . the First, Fifth, Ninth and Fourteenth Amendments to the [U.S.] Constitution"; (2) violated various aspects of the Wyoming Constitution; and (3) committed fraud, common-law conspiracy, and infliction of emotional distress. R. at 139, 144-45, 148-52. Dr. Crespo moved to dismiss for lack of subject-matter jurisdiction and failure to state a claim.

The district court granted the motion, dismissed Ms. Freeman's amended complaint without prejudice, and entered judgment for Dr. Crespo. In doing so, the court determined that Ms. Freeman lacked standing to sue on behalf of her children; that her equitable claims challenging the mask mandate were moot because LCSD had repealed the mandate; that she failed to plead a plausible § 1983 claim, given the

conclusory nature of her allegations; that she failed to plead a plausible § 1985(3) claim, given that she did not allege any racial or class-based discriminatory animus; and that her state law claims failed because the Wyoming Governmental Claims Act (WGCA), Wyo. Stat. Ann. § 1-39-104, provided Dr. Crespo immunity from tort liability, and that in any event, Ms. Freeman did not comply with the Act's notice requirement before bringing suit.

Ms. Freeman unsuccessfully sought reconsideration and now appeals from the district court's dismissal order.

DISCUSSION

I. Standards of Review

We review de novo "a dismissal for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1)." *Hennessey v. Univ. of Kan. Hosp. Auth.*, 53 F.4th 516, 527 (10th Cir. 2022). But we "review any factual findings underlying the dismissal for clear error." *Id.*

We also review de novo a Rule 12(b)(6) dismissal for failure to state a claim. *Sagome, Inc. v. Cincinnati Ins.*, 56 F.4th 931, 934 (10th Cir. 2023). "To survive, a complaint must allege facts that, if true, state a claim to relief that is plausible on its face." *Id.* (internal quotation marks omitted).

As part of our review, we liberally construe Ms. Freeman's pro se filings, but we "cannot take on the responsibility of serving as [her] attorney in constructing arguments and searching the record." *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

II. Plausibility and Jurisdiction

Ms. Freeman asserts three grounds on which the district court purportedly erred.[1] First, she contends the district court erred by "exclud[ing] [her] Exhibits, Opposition to Dismiss, memorandum and statements in [the] Amended Complaint in [t]he Final Judgment[.]" Aplt. Br. at 17-18. But the district court did not exclude any of her filings. Rather, in its sixteen-page order dismissing Ms. Freeman's amended complaint, the district court stated that it had reviewed her response to Dr. Crespo's motion, and it then proceeded to address issues of plausibility and subject-matter jurisdiction in relation to the claims she had pled. The district court repeatedly referenced Ms. Freeman's amended complaint and her arguments, and it cited exhibit 3 (her WGCA Notice of Claim) when discussing Dr. Crespo's state-law immunity. Although the district court did not mention each of Ms. Freeman's exhibits, she fails to show how that omission has any bearing on the district court's reasoning,[2] and we will not craft a litigant's arguments. *See Garrett*, 425 F.3d at 840.

[1] Ms. Freeman confines her appellate arguments to LCSD's mask mandate. Thus, she has waived the district court's rulings as to any other COVID-19 mitigation measures. *See Burke v. Regalado*, 935 F.3d 960, 995 (10th Cir. 2019) ("The failure to raise an issue in an opening brief waives that issue." (internal quotation marks omitted)).

[2] Indeed, some of Ms. Freeman's exhibits have no clear relevance to plausible claims for relief. For instance, exhibit 8 is entitled "Citizen's State Criminal Complaint" and appears to reflect her view that Dr. Crespo is criminally liable for the mask mandate. But "a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another." *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 767 n.13 (2005) (internal quotation marks omitted).

Next, Ms. Freeman argues the district court erred in determining that she lacks standing to sue on behalf of her children. It is clear, however, that "[a] litigant may bring his own claims to federal court without counsel, but not the claims of others." *Bunn v. Perdue*, 966 F.3d 1094, 1098 (10th Cir. 2020) (internal quotation marks omitted). Thus, "non-attorney parents generally may not litigate the claims of their minor children in federal court." *Adams ex rel. D.J.W. v. Astrue*, 659 F.3d 1297, 1300 (10th Cir. 2011) (internal quotation marks omitted).

Finally, Ms. Freeman argues she was denied a fair judgment because "[t]he District Court shielded [Dr. Crespo] from [her] Title 42 [U.S.C.] § 1983 lawsuit." Aplt. Br. at 23. We disagree. The district court analyzed Ms. Freeman's claims under the proper legal standards and determined that she was not entitled to relief. Ms. Freeman has not shown that the district court erred when it granted Dr. Crespo's motion and dismissed the amended complaint.

CONCLUSION

We affirm the district court's judgment for substantially the same reasons given in its June 8, 2022, order.

Entered for the Court

Gregory A. Phillips
Circuit Judge