

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JENNIFER J. JOHNSON,

Plaintiff,

v.

MARATHON COUNTY [DEPARTMENT  
OF] SOCIAL SERVICES,

Defendant

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OPINION AND ORDER

12-cv-735-wmc

This lawsuit stems from a state circuit court civil judgment, which dismissed plaintiff Jennifer J. Johnson's complaint against defendant Marathon County Department of Social Services. Johnson requests leave to proceed in this suit without prepayment of fees or costs. Accordingly, the court must review the proposed complaint to determine if her allegations are (1) frivolous or malicious; (2) fail to state a claim on which relief may be granted; or (3) seek money damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Having reviewed all of the pleadings, the court must deny leave to proceed and dismiss the complaint for lack of jurisdiction over what amounts to an attempt to by-pass state appellate review of an unfavorable circuit court decision by bringing the same suit in federal court.

ALLEGATIONS OF FACT

In addressing any *pro se* litigant's complaint, the court must read the allegations generously. *See Haines v. Kerner*, 404 U.S. 519, 521 (1972). For purposes of this order,

the court accepts plaintiff's well-pleaded allegations as true. The court supplements those facts with dates and procedural information about plaintiff's underlying civil action from the electronic docket available at Wisconsin Circuit Court Access, <http://wcca.wicourts.gov> (last visited April 15, 2013).<sup>1</sup>

Johnson is a 54-year-old resident of Wausau, Wisconsin. Johnson, who discloses that she is under the care of a psychiatrist for unspecified issues, appears to have applied for benefits from Marathon County Department of Social Services ("MCDSS"). After Johnson's application was denied, she filed a lawsuit against MCDSS in Marathon County Circuit Court Case No. 2012CV000788. After a hearing on September 27, 2012, the circuit court dismissed Johnson's lawsuit, finding that she had failed to effect proper service or state a claim upon which relief could be granted.

Johnson appears to have filed this lawsuit to "appeal" the state circuit court's dismissal. Johnson notes that her complaint against MCDSS, as a Marathon County agency, was heard in a Marathon County court house and dismissed by a Marathon County circuit court judge. Johnson reasons, therefore, that her lawsuit against MCDSS was dismissed unfairly due to a "conflict of interest." Johnson seeks a new hearing in federal court and an award of benefits in her favor.

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<sup>1</sup> The court draws all other facts from attached exhibits to the complaint, which are deemed part of that pleading. See FED. R. CIV. P. 10(c); see also *Witzke v. Femal*, 376 F.3d 744, 749 (7th Cir. 2004) (explaining that documents attached to the complaint become part of the pleading, meaning that a court may consider those documents to determine whether plaintiff has stated a valid claim).

## OPINION

Liberal construed, Johnson contends that her state court civil action for benefits was dismissed without due process. Review of these allegations is restricted by the *Rooker-Feldman* doctrine. See *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923); *District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462, 486 (1983). Under this doctrine, federal courts (other than the United States Supreme Court) are prohibited from exercising subject matter jurisdiction over claims that purport to take issue with a state court judgment. See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

The pertinent inquiry is whether the “federal plaintiff seeks to set aside a state court judgment or whether he [or she] is, in fact, presenting an independent claim.” *L.V. Crawford v. Countrywide Home Loans, Inc.*, 647 F.3d 642, 646 (7th Cir. 2011). Claims that directly seek to vacate a state court judgment are *de facto* appeals and are barred from review by a federal district court. *Taylor v. Federal Nat’l Mort. Ass’n*, 374 F.3d 529, 532 (7th Cir. 2004) (citing *Facio v. Jones*, 929 F.2d 541, 543 (10th Cir. 1991)).

Here, Johnson is seeking just such relief: asking this court to overturn the state circuit court’s decision and to find that MCDSS wrongfully denied her application for benefits. The *Rooker-Feldman* doctrine, therefore, bars this court from reviewing her claims. See *Taylor*, 374 F.3d at 532; see also *Young v. Murphy*, 90 F.3d 1225, 1230 (7th Cir. 1990) (explaining that litigants who feel that a state court proceeding was dismissed in violation of their constitutional rights must appeal that decision through the state

court system and then the United States Supreme Court). Accordingly, the complaint must be dismissed without prejudice for lack of jurisdiction.

ORDER

IT IS ORDERED that Jennifer J. Johnson's request for leave to proceed *in forma pauperis* (Dkt. # 2) is DENIED and this case is DISMISSED without prejudice for lack of subject matter jurisdiction.

Entered this 2nd day of May, 2013.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge