

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-10487
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JULY 13, 2011 JOHN LEY CLERK
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D.C. Docket No. 3:09-cv-00297-MCR-EMT

MICHAEL A. EVANS,

Plaintiff-Appellant,

versus

LISA ECHEVERRI,
in her official and individual capacity as the
Executive Director, Florida Department of Revenue,

Defendant-Appellee.

No. 10-10489
Non-Argument Calendar

D.C. Docket No. 3:09-cv-00467-MCR-EMT

MICHAEL A EVANS,

Plaintiff-Appellant,

versus

STATE OF FLORIDA DEPARTMENT
OF REVENUE CHILD SUPPORT ENFORCEMENT,
on behalf of Lynisha Campbell,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Florida

(July 13, 2011)

Before TJOFLAT, WILSON and BLACK, Circuit Judges.

PER CURIAM:

This case arises out of Florida Department of Revenue (“DOR”) prosecution of child support proceedings against Michael A. Evans. Evans brought the action

in Appeal No. 10-10487 against Lisa Echeverri, DOR's Executive Director,¹ claiming that subordinates of Echeverri violated his Fourteenth Amendment due process and equal protection rights in initiating and prosecuting such proceedings because Lynisha Campbell, the custodial parent of his child, had never received temporary cash assistance or foster care payments or requested DOR to proceed with the collection of child support on her behalf. Evans also sought relief under Florida law.

The district court referred the case to a magistrate judge. After Evans filed an amended complaint, the magistrate judge issued a Report and Recommendation (R&R) recommending that Evans's claims for monetary relief against Echeverri in her official capacity be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(iii) and that Evans's claims for monetary relief against her in her individual capacity be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii); that Evans's claim for equitable relief be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6); and that Evans's state law claims be dismissed without prejudice. On January 8, 2010, the district court, on review, adopted the R&R and dismissed Evans's federal claims under Rule 12(b)(6) or as frivolous under §§ 1915(e)(2)(B)(ii) and

¹ Evans sued Echeverri in both her official and individual capacities.

(iii).²

Evans appeals the judgment the district court entered pursuant to the court's January 8 order. We find no merit in Evans' claims for the reasons stated in the R&R and the district court's January 8 order. That is, his claims are either patently frivolous or failed to state a claim for relief.

The action that is the subject of Appeal No. 10-10489 began in the Circuit Court for Okaloosa County, Florida, Circuit, State of Florida Department of Revenue Child Support Enforcement on behalf of: Lynisha Twanta Campbell v. Michael A. Evans, Case No. 2009 DR 5489. Evans removed the case to the district court. The district court remanded the case to the circuit court for the reasons stated in the Report and Recommended (R&R) issued by the court's magistrate judge. Evans appeals the judgment remanding the case. We conclude that remand was required for the reasons stated in the R&R.

The judgments in Nos. 10-10487 and 10-10489 are

AFFIRMED.

² The R&R recommended the dismissal of Evans's claim for equitable relief against Echeverri on "Younger abstention grounds. The district court rejected that recommendation and dismissed the claim under Rule 12(b)(6).