

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION

PASTOR MARTIN LINDSTEDT,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.)	
)	Case No. 21-05029-CV-SW-WBG
CITY OF GRANBY, MISSOURI,)	
et al.,)	
)	
Defendants.)	

ORDER

Pending is Plaintiffs Pastor Martin Lindstedt and Church of Jesus Christ Christian/Aryan Nations of Missouri’s Application for Leave to File Action Without Payment of Fees. Doc. 1. For the following reasons, Plaintiffs’ application DENIED.¹

I. STANDARD

By moving to proceed without payment of fees, or *in forma pauperis*, Plaintiffs subject their complaint to review under the standards set by 28 U.S.C. § 1915(e)(2)(B).² Assuming for the sake of argument that Plaintiffs qualify by economic status, the Court must review the proposed complaint to ensure it is not frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant immune from relief. 28 U.S.C. § 1915(e)(2)(B). The Court must also review the complaint to confirm it has jurisdiction because

¹ Plaintiffs consented to the undersigned’s jurisdiction in late April 2021.

² Although the language in 28 U.S.C. § 1915 alternates between “person” and “prisoner,” courts, including this one, have held the statute applies to both prisoners and non-prisoners. *See, e.g., Thibeaux v. U.S. Atty. Gen.*, 275 F. App’x 889, 892 (11th Cir. 2008); *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1306 n.1 (11th Cir. 2004); *Ogunsalu v. Nair*, 117 F. App’x 522, 523 (9th Cir. 2004); *Haynes v. Scott*, 116 F.3d 137, 140 (5th Cir. 1997); *Fisher v. Doe*, No. 18-0604-CV-W-ODS, 2018 WL 11300304, at *1 (W.D. Mo. Aug. 9, 2018); *Davidson v. Fulton State Hosp.*, No. 17-4019-CV-W-FGJ, 2017 WL 11536333, at *1 (W.D. Mo. Feb. 7, 2017); *Strutton v. Adams*, No. 4:05CV502FRB, 2005 WL 1690547, at *1 (E.D. Mo. July 18, 2005).

federal courts have limited jurisdiction. *Ark. Blue Cross & Blue Shield v. Little Rock Cardiology Clinic, P.A.*, 551 F.3d 812, 816 (8th Cir. 2009). In reviewing a pro se complaint under section 1915(e)(2)(B), the Court gives the complaint the benefit of liberal construction. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

The pleading standard created by the Federal Rules of Civil Procedure requires “a short and plain statement of the claim showing that the pleader is entitled to relief.” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (quoting Fed. R. Civ. P. 8(a)(2)). “[A] complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation and internal quotations omitted). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* To be considered plausible, there must be “more than a sheer possibility that a defendant has acted unlawfully.” *Id.*

II. DISCUSSION

A. Defendants Against Whom No Factual Allegation or Cognizable Claim is Asserted

Plaintiffs identify more than forty defendants in the caption and/or on the second and third pages of the proposed complaint. Doc. 1-2 at 1-3. As best the Court can discern, the defendants are the City of Granby, Missouri; Granby Ex-Mayor Travis Gamble; Granby Mayor Ira Hawkins; Councilmembers Joyce Mann, Joann Lamp, and Charlie Brown; Former Councilmembers Tim Murphy, Ashley Edgemon, Reggie Bard, and William Barrett; City Clerk Lawna Price; David Price; Granby Public Works Director Jim Channel; Granby Police Chief Jacob Kelley; Municipal Judge Steven White; Ex-City Collector Carra Jo Coffey; Ex-Granby City Attorney Jared Thomas; Granby City Attorney Brian Todd Goldstein; Attorney Bryan Reo; Barry Flint; John Styron; Pat

Styron; Styron Enterprises³; Eugene Spears; Sue Bascomb; Allieger-Martin, Inc.; Chad Heyworth; Newton County News; Newton County, Missouri; Newton County Commission; Newton County Commissioners⁴; Newton County Sheriff's Department; State of Missouri; Newton County Assessor & Tax Collector⁵; Missouri Secretary of State Jay Ashcroft; Ex-Missouri Attorney General Josh Hawley; Missouri Attorney General Eric Schmitt; U.S. Government; Judge Kevin Lee Selby; Judge Greg Stremel; Judge Charles Curless; Former Granby Police Department Officer Christiana Poitras/Jacobs⁶; unidentified "three or four other former Granby Police Department Officers"⁷; and Sheriff Chris Jennings.⁸ *Id.* Plaintiffs contend this Court has jurisdiction because they allege violations of federal statutes. *Id.* at 3.

Contrary to the requirements of the Federal Rules of Civil Procedure, Plaintiffs fail to allege "a short and plain statement of the claim showing" they are "entitled to relief" against certain individuals and entities. *See* Doc. 1-2. That is, they assert no factual matters against Defendants Murphy, Bard, Barrett, Newton County Assessor & Tax Collector, Poitras/Jacobs, and "three or four other Granby Police Department Officers." Thus, Plaintiffs have not asserted plausible claims against these defendants.

Additionally, although they refer to certain defendants in the proposed complaint, Plaintiffs fail to allege any violation of law or cognizable cause of action entitling them to relief against

³ In the caption, "John & Pat Styron & Their Company(s)" are listed, however, on the second page of the complaint, the only company listed is Styron Enterprises. Doc. 1-2 at 1-2. Accordingly, the Court includes Styron Enterprises but no other company that may be associated with the Styrons.

⁴ In the caption, Plaintiffs list "Newton County Commission," but on the third page of the complaint, they list "Newton County Commissioners." *Id.* at 1, 3. The Court includes both.

⁵ It is unclear if "Newton County Assessor & Tax Collector" is one or two individuals. *Id.* at 3.

⁶ Poitras/Jacobs is not listed in the caption but is listed on the second page of the complaint. *Id.* at 1-2.

⁷ "[T]hree or four other former Granby Police Department Officers" appear on the second page on the complaint but are not included in the caption. *Id.*

⁸ Jennings is not identified in the caption but is included on the second page of the complaint. *Id.*

specific defendants. Simply referring to a defendant without alleging sufficient factual matters to support a cognizable cause of action does not satisfy the requirements of the Federal Rules of Civil Procedure. In this regard, Plaintiffs have not alleged any factual matters that would support a cognizable claim against Defendants Mann, Lamp, Brown, Edgemon, David Price, Lawna Price, Coffey,⁹ Channel, Thomas, Goldstein, Reo, Flint, White, John Styron, Pat Styron, Styron Enterprises, Spears, Bascomb, Allieger-Martin, Inc., Chad Heyworth, and Newton County News.

Because Plaintiffs fail to state a claim upon which relief may be granted, the Court DENIES Plaintiffs' motion for leave to proceed in forma pauperis with any claims against Defendants Murphy, Bard, Barrett, Newton County Assessor & Tax Collector, Poitras/Jacobs, "three or four other Granby Police Department Officers," Mann, Lamp, Brown, Edgemon, David Price, Lawna Price, Coffey, Channel, Thomas, Goldstein, Reo, Flint, White, John Styron, Pat Styron, Styron Enterprises, Spears, Bascomb, Allieger-Martin, Inc., Chad Heyworth, and Newton County News. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

B. Claims Against Judges¹⁰

Plaintiffs appear to assert claims against Judges Greg Stremel, Kevin Selby, and Charles Curless related to decisions issued in their official capacities as judges. Doc. 1-2 at 3, 7-8. Judges, however, are immune from suit when acting in their official capacity.¹¹ *See Harris v. Mo. Ct. of Appeals, W. Dist.*, 787 F.2d 427, 429 (8th Cir. 1986) (holding individual judges are immune from suit when acting in their official capacity, courts are protected from § 1983 suits by state immunity

⁹ Regarding Lawna Price and Carra Jo Coffey, Plaintiffs aver Price and Coffey filed "fraudulent 'domestic stalking charges'" presumably against Lindstedt. *Id.* at 8. But Plaintiffs fail to identify any claim against these individuals.

¹⁰ Steven White is also identified as being a judge. *Id.* at 1, 2, 7. However, Plaintiffs failed to allege any cognizable claim against White. *See supra*, section II(A). Additionally, they do not raise issue with any judicial decision rendered by White. *See* Doc. 1-2 at 7.

¹¹ Plaintiffs previously sued state court judges in this Court, but the claims were dismissed because they were barred by immunity. *Church of Jesus Christ Christian v. Newton Cnty.*, No. 3:13-CV-5020-SRB (W.D. Mo.) (Doc. 37 at 3-4) (Feb. 26, 2015).

under the eleventh amendment, and a “court” cannot be liable under the Civil Rights Act) (citations omitted). Because Stremel, Selby, and Curless are immune from suit, the Court DENIES Plaintiffs’ motion for leave to proceed in forma pauperis with any claims against them. *See* 28 U.S.C. § 1915(e)(2)(B)(iii).

Also, to the extent Plaintiffs seek review of the judges’ decisions, this Court cannot review state court decisions. *See D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 486 (1983) (holding lower federal courts do not have jurisdiction to hear “challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that that state court’s action was unconstitutional.”). For this additional reason, the Court DENIES Plaintiffs’ motion to proceed in forma pauperis with their claims against Stremel, Selby, and Curless.

C. Claim(s) Against the Federal Government

In the proposed complaint, Plaintiffs allege they are filing “[s]uit against the Federal Government for their [sic] failure to ensure that the City of Granby, Newton County Missouri and the State of Missouri maintain ‘a republican form of government’ cf. the U.S. Constitution” and seek relief against all Defendants in the amount of “\$6 million in actual and punitive damages.” Doc. 1-2 at 4, 10. Plaintiffs’ lawsuit against the federal government is barred by sovereign immunity. “Absent a waiver, sovereign immunity shields the Federal Government and its agencies from suit.” *Fed. Deposit Ins. Corp. v. Meyer*, 510 U.S. 471, 475 (1994). When an entity possesses sovereign immunity, this Court does not have jurisdiction to hear claims against that entity. *See Rupp v. Omaha Indian Tribe*, 45 F.3d 1241, 1244 (8th Cir. 1995). Because Plaintiffs’ proposed complaint seeks monetary relief against the federal government, which is immune from such relief, the Court DENIES Plaintiffs’ motion for leave to proceed in forma pauperis with their claim(s) against the federal government. *See* 28 U.S.C. § 1915(e)(2)(B)(iii).

D. Claim(s) Against the State and State Officials

Plaintiffs also include the State of Missouri, Missouri Secretary of State Jay Ashcroft, Ex-Missouri Attorney General Josh Hawley, and Missouri Attorney General Eric Schmitt as Defendants (hereinafter, “Missouri Defendants”). Doc. 1-2 at 1, 3, 8, 11. Among other things, Plaintiffs allege the following:

The State of Missouri needs to step in, fine and imprison the City Council thieves, sell the water, gas and sewer infrastructure to a for profit company, pull the home rule charter, eliminate the Granby Police Department and Granby Municipal Court, and allow for open free fair elections under the strict scrutiny of Newton County, State of Missouri and the federal government ensuring a “republican form of government” i.e. an end to appointing cronies of the same old thieves and criminals and them not being able to punish dissent and criticism and ridicule.

Id. at 11. They also contend, “The Missouri Attorney General's Office under Josh Hawley and then Eric Schmitt refused to make the City of Granby, Granby officers and employees obey the Missouri Sunshine Acts, in fact plotted to restrain Pastor Lindstedt from further filing suit.” *Id.* at 3. Additionally, they assert “the Missouri Attorney General’s office under Josh Hawley & Eric Schmitt” cited a “fraudulent ‘domestic protection order’ ...in cases before Judge Charles Curless.” *Id.* at 8.

The Court need not determine whether Plaintiffs’ allegations set forth a cognizable cause of action against the Missouri Defendants because claims against the Missouri Defendants are barred by sovereign immunity with few exceptions. “Eleventh Amendment jurisprudence is well-settled: ‘a suit by private parties seeking to impose a liability which must be paid from public funds in the state treasury is barred by the Eleventh Amendment.’” *Burk v. Beene*, 948 F.2d 489, 492-93 (8th Cir. 1991) (quoting *Edelman v. Jordan*, 415 U.S. 651, 663 (1974)); *see also Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 66 (1989); Mo. Rev. Stat. § 537.600 (2005). While there are limited circumstances in which sovereign immunity is waived, Plaintiffs’ proposed complaint does not allege or implicate an exception to sovereign immunity. *See* Mo. Rev. Stat. § 537.600.1(1)-

(2) (stating sovereign immunity is waived for “[i]njuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of motor vehicles or motorized vehicles within the course of their employment,” and “[i]njuries caused by the condition of a public entity’s property” in certain instances).¹² Moreover, and perhaps most critical to Plaintiffs’ claim(s), “[s]ection 1983 provides no cause of action against agents of the State acting in their official capacities.” *Zajrael v. Harmon*, 677 F.3d 353, 355 (8th Cir. 2012) (citation omitted).¹³

Because the State of Missouri, Missouri Secretary of State Jay Ashcroft, Ex-Missouri Attorney General Josh Hawley, and Missouri Attorney General Eric Schmitt are immune from the claims alleged by Plaintiffs, the Court DENIES Plaintiffs’ motion for leave to proceed in forma pauperis with their claim(s) against these Defendants. *See* 28 U.S.C. § 1915(e)(2)(B)(iii).

E. Claim(s) Against the City of Granby, Newton County, and City & County Officials

Finally, Plaintiffs purport to bring section 1983 and 1985 claims against the City of Granby, the former Mayor of Granby (Gamble), the current Mayor of Granby (Hawkins), Granby Police Chief Kelley, Newton County, Newton County Commission and/or Newton County Commissioners, Newton County Sheriff’s Department, and Sheriff Jennings (hereinafter, “Granby and Newton County Defendants”). Doc. 1-2 at 1-3. “Local governing bodies...can be sued

¹² In addition to the claim(s) being barred by sovereign immunity, it is redundant and unnecessary for Plaintiffs to bring a suit against government officials in their official capacities when the employment entity, such as the State of Missouri, is also named. *King v. Crestwood*, 899 F.3d 643, 650 (8th Cir. 2018). This is because the real party in interest is the entity – here, the State of Missouri. *See Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985) (citations omitted).

¹³ Plaintiffs’ proposed complaint does not specifically name the Missouri Secretary of State or Missouri Attorneys General in their official and/or individual capacities. Thus, the Court presumes they are sued only in their official capacities. *See Zajrael*, 677 F.3d at 355 (citation omitted). Even if the state officials were sued in their individual capacities, they would likely be protected by official and/or qualified immunity. *Stanley v. Finnegan*, 899 F.3d 623, 626-27 (8th Cir. 2018) (citations omitted) (“Qualified immunity protects public officials from § 1983 damage actions if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”); *Davis v. Lambert-St. Louis Int’l Airport*, 193 S.W.3d 760, 763 (Mo. banc 2006) (“Official immunity protects public officials from liability for alleged acts of ordinary negligence committed during the course of their official duties for the performance of discretionary acts.”)

directly under § 1983...where...the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978).¹⁴ Plaintiffs' proposed complaint fails to allege any constitutional right was violated as a result of any "policy statement, ordinance, regulation, or decision officially adopted and promulgated" by the Granby and Newton County Defendants. Thus, the proposed complaint fails to state a section 1983 claim upon which relief may be granted against these Defendants. The Court DENIES Plaintiffs' motion to proceed in forma pauperis with regard to their section 1983 claim(s) against the Granby and Newton County Defendants.

Plaintiffs' section 1985 claim fares no better. At the outset, Plaintiffs fail to identify the basis of their section 1985 claim. When viewing the proposed complaint in the light most favorable to Plaintiffs, it appears the only potentially applicable basis is 42 U.S.C. § 1985(3). To state a claim under section 1985(3), Plaintiffs must allege Defendants engaged in a conspiracy for the purpose of denying Plaintiffs the equal protection of the laws or of the privileges and immunities secured by the laws, Defendants acted in furtherance of the conspiracy, and as a result, Plaintiffs were injured or were deprived of a right or privilege. *See Griffin v. Breckenridge*, 403 U.S. 88, 102-03 (1971) (quoting 42 U.S.C. § 1985(3)); *Appel v. City of St. Louis*, No. 4:05CV772 SNL, 2005 WL 8167879, at *5 (E.D. Mo. Dec. 14, 2005). "[T]he plaintiff must allege with particularity and specifically demonstrate with material facts that the defendants reached an agreement." *Johnson v. Perdue*, 862 F.3d 712, 717-18 (8th Cir. 2017) (citation omitted).

¹⁴ Plaintiffs previously brought a section 1983 claim against Newton County and its Sheriff's Department, but the Honorable Stephen R. Bough dismissed the claim because Plaintiffs failed to allege "any...constitutional or federal statutory rights [that] were deprived as a result of a policy or custom of the Newton County Defendants." No. 3:13-CV-5020-SRB (W.D. Mo.) (Doc. 53 at 5-6) (June 26, 2015).

Plaintiffs' proposed complaint includes no facts indicating the Granby and Newton County Defendants, between or among themselves, reached any agreement. Consequently, Plaintiffs' proposed complaint fails to state a claim under section 1985 upon which relief may be granted against the Granby and Newton County Defendants. Therefore, the Court DENIES Plaintiffs' motion to proceed in forma pauperis with their section 1985 claim(s) against the Granby and Newton County Defendants. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

F. No Other Discernible Causes of Action

To the extent Plaintiffs attempt to assert causes of action other than those discussed *supra*, the Court cannot discern any other claim. Pro se parties are required to “allege sufficient facts to support the claims advanced.” *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004) (citations omitted).¹⁵ “[I]f the essence of an allegation is discernible, even though it is not pleaded with legal nicety, then the district court should construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework.” *Id.* at 915. However, courts will not “construct a legal theory for plaintiff that assumes facts that have not been pleaded” or “assume facts that are not alleged.” *Id.* at 914-15 (citations omitted). Based on its careful review and liberal construction of Plaintiffs’ proposed complaint, the Court finds Plaintiffs have not alleged sufficient facts to support the essence of discernible claim.

¹⁵ Plaintiffs are aware they are required to “allege sufficient facts to support the claims advanced” because Judge Bough informed them of this standard in a prior matter. No. 3:13-CV-5020-SRB (W.D. Mo.) (Doc. 36 at 1-2, Doc. 37 at 1-2) (Feb. 26, 2015); *see also* No. 3:13-CV-5020-SRB (W.D. Mo.) (Doc. 53) (June 26, 2015). In addition, in 2009, the Honorable Howard F. Sachs, when dismissing Plaintiffs’ claims against a state circuit judge and the Missouri Department of Mental Health, noted “[c]ourts are not required to attempt to save cases by sifting through ‘rambling, and sometimes incomprehensible pleadings,’” and Plaintiffs did not clearly assert “a sound claim against any of the defendants.” No. 6:08-CV-3405-HFS (Doc. 11 at 2-3) (June 17, 2009) (quoting *Fuentes v. Chavez*, 315 F. App’x 143, 145 (10th Cir. 2009)). After the case before Judge Sachs was transferred to the Honorable Greg Kays, he reiterated the standard in 2011. No. 6:08-CV-3405-DGK (Doc. 42 at 2-3) (Oct. 17, 2011).

III. CONCLUSION

For all the foregoing reasons, the Court DENIES Plaintiffs' Application for Leave to File Action Without Payment of Fees (Doc. 1) and DISMISSES this matter WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATE: June 30, 2021

/s/ W. Brian Gaddy
W. BRIAN GADDY
UNITED STATES MAGISTRATE JUDGE