UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Anmarie Calgaro, Plaintiff, v. St. Louis County et al., Defendants.	Case No. 16-cv-3919 (PAM/LIB)

ST. LOUIS COUNTY AND LINNEA MIRSCH'S MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR JUDGMENT ON THE PLEADINGS AND SUMMARY JUDGMENT

INTRODUCTION

This is an action by Anmarie Calgaro against St. Louis County, Linnea Mirsch, the alleged interim director of the St. Louis County Department of Public Health and Human Services, in her individual and official capacities, and several other defendants under 42 U.S.C. § 1983. In her complaint, Calgaro alleges that the county and Mirsch deprived her of her rights under the Due Process Clause of the Fourteenth Amendment in connection with their alleged actions in approving or providing public assistance for her child, J.D.K., for medical expenses, approving or providing public assistance for J.D.K. for other living expenses, and denying her access to information concerning J.D.K.[1]

The judgment-on-the-pleadings portion of our motion is directed toward all claims against Mirsch in her individual capacity as well as the claims against St. Louis County

[1] We have been informed that Calgaro's child prefers the initials E.J.K. We use J.D.K. in our motion papers because those are the initials identified in the complaint.

relating to J.D.K.'s living expenses and Calgaro's requests for information concerning J.D.K. With respect to the claims against Mirsch in her individual capacity, as we explain in Part II, below, the complaint fails to state a claim upon which relief can be granted because it does not "allege specific facts" showing that she had "personal involvement in, or direct responsibility for," any alleged deprivation of Calgaro's due-process rights. *Mayorga v. Missouri*, 442 F.3d 1128, 1132 (8th Cir. 2006).

With respect to the claim against St. Louis County relating to J.D.K.'s living expenses, we demonstrate in Part III that the complaint does not state a plausible claim because the alleged actions of the county in failing to provide Calgaro notice or a hearing were in compliance with state statutes and administrative rules that the county is required to follow in administering general assistance, the relevant public-assistance program. It follows that the alleged violation of the Due Process Clause, if any, was the result of the law of *the state*, rather than an actionable "policy or custom" of *the county*, as required under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), and related cases.

As for the claim against the county relating to Calgaro's alleged requests for information concerning J.D.K., Part IV provides several reasons why the complaint fails to state a plausible claim. These include, first and foremost, the absence of a liberty or other interest that qualifies for protection under the Due Process Clause. They also include Calgaro's failure to make factual allegations regarding any county policy or custom that led to the alleged deprivation of her rights, and the existence of ample state-law processes in this area that Calgaro did not exhaust before bringing this action.

The summary-judgment portion of our motion, addressed in Part V, covers the remaining claim against St. Louis County relating to J.D.K.'s medical expenses. While the record shows that J.D.K. was enrolled in medical assistance, the public-assistance program that covers medical expenses, from November 5, 2015, through November 1, 2016, it also shows that the county had nothing to do with determining that J.D.K. was eligible for the program or approving or making any resulting payments to Fairview Health Services ("Fairview"), Park Nicollet Health Services ("Park Nicollet"), or anyone else. All of these actions were performed by the state, not St. Louis County. Thus, the county is entitled to summary judgment on this claim.[2]

ARGUMENT

I. STANDARDS OF DECISION

A. Judgment on the Pleadings

The defense of failure to state a claim upon which relief can be granted may be raised in a motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 12(h)(2)(B). The standard that applies to such a motion is the same one that applies to a motion to dismiss under Rule 12(b)(6). *Haney v. Portfolio Recovery Assocs., L.L.C.*, 837 F.3d 918, 924 (8th Cir. 2016) (per curiam). The ultimate question in both instances is whether the complaint contains "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2).

[2] The other defendants have moved to dismiss the complaint on various grounds. (*See* Docket Nos. 15 (motion to dismiss by Park Nicollet Health Services), 24 (J.D.K.), 28 (Fairview Health Services), 31 (St. Louis County School District and Michael Johnson).) We join and incorporate by reference the arguments made by the other defendants to the extent they apply to the claims against us.

This pleading standard "does not require 'detailed factual allegations,' but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). "A pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.'" *Id.* (quoting *Twombly*, 550 U.S. at 555). "Nor does a complaint suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" *Id.* (alteration in original) (quoting *Twombly*, 550 U.S. at 557).

"To survive a motion to dismiss"—or, in this case, a motion for judgment on the pleadings that raises a failure-to-state-a-claim defense—"a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Id.* (quoting *Twombly*, 550 U.S. at 570). "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.* "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." *Id.* (quoting *Twombly*, 550 U.S. at 556). "Where a complaint pleads facts that are 'merely consistent with' a defendant's liability, it 'stops short of the line between possibility and plausibility of "entitlement to relief."'" *Id.* (quoting *Twombly*, 550 U.S. at 557).

B. Summary Judgment

"Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules [of Civil Procedure] as a

whole, which are designed 'to secure the just, speedy[,] and inexpensive determination of every action.'" *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986) (quoting Fed. R. Civ. P. 1). A motion for summary judgment must be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

A factual dispute is *genuine* for summary-judgment purposes if "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted." *Id.* at 249–50 (citations omitted). "The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff." *Id.* at 252. A fact is *material* within the meaning of Rule 56 if it "might affect the outcome of the suit under the governing law." *Anderson*, 477 U.S. at 248. "Factual disputes that are irrelevant or unnecessary will not be counted." *Id.*

Summary judgment must be granted "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex*, 477 U.S. at 322. "In such a situation, there can be 'no genuine issue as to any material fact,' since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." *Id.* at 322–23. "The moving party is 'entitled to a judgment as a matter of law' because the nonmoving party has failed to

make a sufficient showing on an essential element of her case with respect to which she has the burden of proof." *Id.* at 323.

II. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AGAINST MIRSCH IN HER INDIVIDUAL CAPACITY.

As we mentioned above, the complaint in this case asserts various due-process claims against Mirsch, the alleged interim director of the St. Louis County Department of Public Health and Human Services, in her individual capacity.[3] (Docket No. 1 at 1 & ¶¶ 8–9.)

A plaintiff asserting an individual-capacity claim against a government official under section 1983 must establish "a causal link" between the official's conduct and an actionable "deprivation of rights." *Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990). In this regard, the plaintiff must "allege specific facts" showing that the official had "personal involvement in, or direct responsibility for," the deprivation. *Mayorga*, 442 F.3d at 1132.

This Court has dismissed individual-capacity claims on the grounds that they were not supported by sufficient factual allegations concerning the defendant-official's involvement in an alleged deprivation of rights on a number of occasions. *E.g.*, *Wills v. Jesson*, Case No. 11-cv-3429 (PAM/TNL), 2012 U.S. Dist. LEXIS 4728, at *2–3 (D.

[3] The complaint also asserts section-1983 claims against Mirsch in her official capacity (Docket No. 1 at 1 & ¶ 9), which amount to claims against St. Louis County itself. *See Monell*, 436 U.S. at 690 n.55 (explaining that official-capacity suits are "another way of pleading an action against an entity of which [the official] is an agent"). St. Louis County is entitled to judgment on the pleadings or summary judgment with respect to these claims for the reasons set forth in Parts III–V.

Minn. Jan. 17, 2012) (Magnuson, J.) (dismissing individual-capacity claims under section 1983 because complaint did not "plead facts sufficient to show each defendant's personal involvement in or responsibility for the alleged violations" and contained "no substantive allegations specifically linking any of the . . . Defendants to the constitutional violations alleged"); *Perkins v. Anderson*, Case No. 07-cv-1101 (PAM/FLN), 2007 U.S. Dist. LEXIS 20601, at *2 (D. Minn. Mar. 20, 2007) (Magnuson, J.) (dismissing individual-capacity claim under section 1983, in part because "[t]he Complaint contain[ed] no allegations of Defendant's personal involvement in any wrongful conduct").

Calgaro's official-capacity claims against Mirsch should be dismissed on the same grounds. Although the complaint alleges deprivations of Calgaro's rights under the Due Process Clause of the Fourteenth Amendment, it contains no factual allegations indicating the existence of a causal connection between Mirsch's conduct and the deprivations. (Docket No. 1 at 1–47.) In fact, the complaint contains no factual allegations concerning her conduct *at all*. (*Id.*) Mirsch is mentioned in just three places throughout the complaint's forty-seven pages (fifty-five if we count the exhibits)—once in the caption and once each in paragraphs 8 and 9, which merely allege:

> 8. Defendant Linnea Mirsch is the interim director of the St. Louis County Health and Human Services Department. The director is the final decision and policy maker for the Department.
>
> 9. Ms. Mirsch is an agent, representative, or employee of the Department of Health. As such, she is acting under the color of state law and is being sued in her individual and official capacity as the director of the Department of Health.

(*Id.* at 1 & ¶¶ 8–9.)

These general background allegations regarding Mirsch's position and status do not come close to stating a plausible claim that she was personally involved in, or directly responsible for, the due-process violations alleged in the complaint.[4] Thus, the Court should rule that the complaint fails to state a claim against Mirsch and grant our motion for judgment on the pleadings with regard to all claims against her in her individual capacity.

III. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AGAINST ST. LOUIS COUNTY RELATING TO J.D.K.'S GENERAL ASSISTANCE.

We next address Calgaro's claim that St. Louis County violated her rights under the Due Process Clause in approving or making public-assistance payments for J.D.K.'s living expenses without providing her notice or an opportunity to be heard. (Docket No. 1 ¶¶ 4, 6, 54, 126.) Our understanding is that this claim relates to J.D.K.'s enrollment in general assistance, a state program that provides "cash payments to persons unable to provide themselves with a reasonable subsistence compatible with decency and health and who are not otherwise provided under the laws of [the] state or the United States." Minn. Stat. § 256D.02, subd. 4 (2016).

"[A] local government" such as St. Louis County "may not be sued under § 1983 for an injury inflicted solely by its employees or agents." *Monell*, 436 U.S. at 694. The statute does not "impose liability vicariously on governing bodies solely on the basis of

[4] Furthermore, because the allegations in paragraphs 8 and 9 use the verb "is," they only purport to describe Mirsch as of November 16, 2016, the date on which the complaint was executed by Calgaro and her counsel. The complaint says nothing about Mirsch's role as of the time the alleged deprivations occurred.

the existence of an employer-employee relationship with a tortfeasor." *Id.* at 692. "Instead, it is when execution of *a government's policy or custom*, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983." *Monell*, 436 U.S. at 694 (emphasis added).

If a deprivation of rights arises from an act of a municipality that is in accordance with federal or state law that the municipality is required to follow, it cannot be said that the deprivation was caused by a municipal "policy or custom" within the meaning of *Monell* and related precedents. That is because, "[w]hen the municipality is acting under compulsion of state or federal law, it is the policy contained in that state or federal law, rather than anything devised or adopted by the municipality, that is responsible for the injury." *Bethesda Lutheran Homes & Servs. v. Leean*, 154 F.3d 716, 718 (7th Cir. 1998).

Although the Eighth Circuit has not decided whether to adopt this common-sense limitation on municipal liability, *Slaven v. Engstrom*, 710 F.3d 772, 781 n.4 (8th Cir. 2013), several other circuits have endorsed it. *See, e.g.*, *Snyder v. King*, 745 F.3d 242, 247 (7th Cir. 2014) ("[A] county 'cannot be held liable under Section 1983 for acts that it did under the command of state or federal law.'") (quoting *Bethesda Lutheran Homes*, 154 F.3d at 718); *Vives v. City of New York*, 524 F.3d 346, 353 (2d Cir. 2008) ("[W]e agree with all circuits to address state laws mandating enforcement by municipal police officers that a municipality's decision to honor this obligation is not a conscious *choice*. As a result, the municipality cannot be liable under *Monell* in this circumstance."); *Whitesel v. Sengenberger*, 222 F.3d 861, 872 (1st Cir. 2000) ("[W]e emphasize that

[defendant-municipality] cannot be liable for merely implementing a policy created by the state judiciary."); *Familias Unidas v. Briscoe*, 619 F.2d 391, 404 (5th Cir. 1980) (explaining that official's "duty in implementing [state statute] . . . may more fairly be characterized as the effectuation of the policy of the [state] embodied in that statute, for which the citizens of a particular county should not bear singular responsibility").

So have a number of district courts in the Eighth Circuit. *See, e.g.*, *Smith v. South Dakota*, Case No. CIV. 11-4001-KES, 2012 U.S. Dist. LEXIS 41980, at *12 (D.S.D. Mar. 27, 2012) ("[C]ourts 'agree that municipalities and local governments cannot be liable under § 1983 for enforcing a state law when it is required to do so.'") (quoting *Slaven v. Engstrom*, 848 F. Supp. 2d 994, 1004 (D. Minn. 2012), *aff'd*, 710 F.3d 772); *Bernbeck v. Gale*, Case No. 4:10CV3001, 2011 U.S. Dist. LEXIS 96972, at *12 (D. Neb. Aug. 30, 2011) (rejecting section-1983 claim against city, in part because city official "acted pursuant to [state] statutes" and "[t]he municipality and [official] were required to enforce the statutes"); *Ashanti v. City of Golden Valley*, Case No. 10-cv-2121 (PJS/JJG), 2011 U.S. Dist. LEXIS 31051, at *20 (D. Minn. Mar. 24, 2011) ("Golden Valley is correct in asserting that a municipality cannot be liable under *Monell* if it merely implements a state law that it is obligated to enforce."), *aff'd*, 666 F.3d 1148 (8th Cir. 2012); *Maynard v. Greater Hoyt Sch. Dist. No. 61-4*, 876 F. Supp. 1104, 1108 (D.S.D. 1995) (rejecting section-1983 claim against school board because board "was not implementing its own policy or custom, but was enforcing the state's policy").

And so has the Minnesota Court of Appeals. *See Minn. Council of Dog Clubs v. City of Minneapolis*, 540 N.W.2d 903, 906 (Minn. Ct. App. 1995) ("It is our conclusion

that [city] is not liable for attorney fees [under section 1983] in this case for merely following state law."). In ruling that a municipality's compliance with state law was not an actionable policy or custom for purposes of section 1983 in *Minnesota Council of Dog Clubs*, the court of appeals observed that "[i]t is difficult to imagine a municipal policy more innocuous and constitutionally permissible, and whose causal connection to the alleged violation is more attenuated, than the 'policy' of enforcing state law." *Id.* (quoting *Surplus Store & Exchange, Inc. v. City of Delphi*, 928 F.2d 788, 791 (7th Cir. 1991)).

The court of appeals also noted that, "if municipalities were to be held liable every time they enforced a state law, the consequences would be horrendous. Any municipality could be financially devastated by a number of such actions." *Id.* "Furthermore, in order to protect itself, a municipality would have to examine every statute passed by the legislature and then decide whether to enforce it. This would produce a spotty and chaotic enforcement policy throughout the state." *Id.*; *see also Bethesda Lutheran Homes*, 154 F.3d at 718 ("[O]ur position has the virtue of minimizing the occasions in which federal constitutional law, enforced through section 1983, puts local government at war with state government.").

Turning to this case, there is no question that St. Louis County has a legal obligation to administer general assistance in the county in accordance with state law and administrative rules adopted by the Minnesota Department of Human Services ("MnDHS"). The general-assistance statutes provide, "Every county agency *shall* provide general assistance to persons residing within its jurisdiction who meet the need requirements of sections 256D.01 to 256D.21." Minn. Stat. § 256D.03, subd. 1 (2016)

(emphasis added). "General assistance *shall* be administered by the county agencies according to law and rules promulgated by the commissioner [of MnDHS] pursuant to [the Minnesota Administrative Procedure Act]." *Id.* (emphasis added). "'Shall' is mandatory." Minn. Stat. § 645.44, subd. 16 (2016).

The state-law test that St. Louis County is required to apply in determining whether a person under the age of eighteen is eligible for general assistance is in Minn. Stat. § 256D.05, subd. 1(a)(10) (2016), which provides in part:

> (a) Each assistance unit with income and resources less than the standard of assistance established by the commissioner and with a member who is a resident of the state shall be eligible for and entitled to general assistance if the assistance unit is:
>
> . . . .
>
> (10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, and only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency.

The MnDHS rule on the eligibility of minors, Minn. R. 2500.1219, subp. 4 (2013), is essentially the same as Minn. Stat. § 256D.05, subd. 1(a)(10).[5]

[5] The rule provides that a "child under the age of 18 who is not a member of a family as defined in" Minn. Stat. § 256D.02, subd. 5, is not eligible for general assistance unless "the child is legally emancipated"; "the child lives with an adult who is not a family member or legal custodian with the express written consent of an agency acting in its legal capacity as a custodian of the child"; "the child lives with an adult who is not a family member or legal custodian with the express written consent of the child's parents or legal guardian, together with the express written consent of the county agency"; or

The state statutes and MnDHS rules that St. Louis County is required to follow in administering general assistance also establish a comprehensive scheme of administrative review, and in some cases judicial review, of certain government actions relating to general assistance. *See* Minn. Stat. §§ 256.045–.0451 (2016) (addressing review of actions relating to human services, including actions relating to general assistance); Minn. Stat. § 256D.10 (2016) (addressing review of actions relating to general assistance); Minn. R. 9500.1211 (2013) (same). The statutes and rules require notice and a hearing in many scenarios, but they do *not* provide for notice or a hearing for a young person's parents when a county determines that the person is eligible for general assistance under Minn. Stat. § 256D.05, subd. 1(a)(10), and Minn. R. 2500.1219, subp. 4.

The upshot of all this is that St. Louis County's alleged failure to give Calgaro notice and a hearing in connection with J.D.K.'s receipt of general assistance was in accordance with state law that it is bound to follow. This defeats the general-assistance portion of Calgaro's claims because it makes it impossible for her to establish that any alleged due-process violation was caused by a county policy or custom, as required under *Monell*. Instead, under these circumstances, "it is the policy contained in . . . state . . . law, rather than anything devised or adopted by the [county], that is responsible for the [alleged] injury." *Bethesda Lutheran Homes*, 154 F.3d at 718. We therefore ask the Court to grant our motion for judgment on the pleadings with respect to this aspect of the case.

"the child does not live with an adult but is at least 16 years of age and whose living arrangement is approved in a social services case plan for the child and includes general assistance as a component of the plan." Minn. R. 2500.1219, subp. 4.

IV. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AGAINST ST. LOUIS COUNTY RELATING TO CALGARO'S DATA REQUESTS.

The next part of the complaint at issue is Calgaro's claim that St. Louis County deprived her of her due-process rights in connection with the alleged denial of her requests for unidentified information concerning J.D.K. (Docket No. 1 ¶¶ 77, 128–30, 197.) This claim fails for several reasons.

To begin, the Due Process Clause provides that no state shall "deprive any person of *life, liberty, or property*, without due process of law." (Emphasis added.) Thus, in considering a due-process claim, one of the essential questions is "whether there exists a [life or] liberty or property interest of which a person has been deprived." *Swarthout v. Cooke*, 562 U.S. 216, 219 (2011). In this case, Calgaro asserts that she has a protected liberty interest arising from her parent-child relationship with J.D.K. (*E.g.*, Doc. 1 ¶¶ 46–49, 176–78.) We acknowledge that, in general terms, parents have a protected liberty interest "in the care, custody, and control of their children." *Troxel v. Granville*, 530 U.S. 57, 65 (2000). But the scope of the interest is not unlimited, *Stevenson v. Blytheville Sch. Dist. #5*, 800 F.3d 955, 966 (8th Cir. 2015), and we are not aware of any binding authority indicating that it extends to a parent's access to government data concerning her child.

Next, as we discussed in Part III, Calgaro cannot maintain a municipal-liability claim against St. Louis County unless she shows that the alleged deprivation of her due-process rights was caused by a county policy or custom. Her claim fails on this ground as well because the complaint does not contain any factual allegations regarding the

existence of a county policy or custom covering parents' access to data concerning their children. The only allegations that even arguably address this requirement are the ones in paragraphs 5 and 7, which merely state that St. Louis County and its Department of Public Health and Human Services' "policies, customs, practices, or procedures (or lack of procedures), acting under the color of state law, were the moving force behind the constitutional violations asserted in the Complaint." (Doc. 1 ¶¶ 5, 7.) These are textbook examples of the kinds of allegations that do not pass muster under *Twombly* and *Iqbal*—"Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555).

Furthermore, access to St. Louis County's data concerning J.D.K. is governed by the Minnesota Government Data Practices Act (the "MGDPA"), Minn. Stat. ch. 13 (2016), which "regulates the collection, creation, storage, maintenance, dissemination, and access to government data in government entities." *Id.* § 13.01, subd. 3. The MGDPA provides that, "[u]pon request of any person who disagrees with a determination regarding data practices made by a government entity, the commissioner [of the Minnesota Department of Administration] may give a written opinion regarding the person's rights as a subject of government data or right to have access to government data." *Id.* § 13.072, subd. 1. The MGDPA also authorizes aggrieved persons to initiate court actions seeking damages, injunctions, civil penalties, attorneys' fees, and other relief, *id.* § 13.08, and similar administrative proceedings in the Minnesota Office of Administrative Hearings that are subject to judicial review, *id.* § 13.085.

The provisions of the MGDPA authorizing administrative and judicial relief are relevant to Calgaro's due-process claim in two respects. First, they show that there is no legal basis for the notion that state law provides no process for a parent who is denied access to government data concerning her child. To the extent the Due Process Clause requires any process in this context (and again, we do not believe it does), the multiple processes found in the MGDPA are more than sufficient. Second, the complaint does not allege that Calgaro pursued any of her state-law remedies before she commenced this action on November 16, 2016. (Docket No. 1.) This is a critical omission because "a litigant asserting a deprivation of procedural due process must exhaust state remedies before such an allegation states a claim under § 1983." *Wax 'n Works v. City of St. Paul*, 213 F.3d 1016, 1019 (8th Cir. 2000).

For all of these reasons, the complaint does not state a plausible claim that St. Louis County violated Calgaro's constitutional right to due process in connection with her alleged requests for government data concerning J.D.K. Her claim should be dismissed on this basis.

V. ST. LOUIS COUNTY IS ENTITLED TO SUMMARY JUDGMENT ON CALGARO'S CLAIM RELATING TO J.D.K.'S MEDICAL ASSISTANCE.

The last part of the complaint that implicates St. Louis County is Calgaro's claim that the county deprived her of her due-process rights in approving or making public-assistance payments for medical services that J.D.K. allegedly received from Fairview and Park Nicollet, including gender-transition services. (Docket No. 1 at 2–3 & ¶¶ 4, 6, 24–25, 102, 122, 131, 133, 188, 197–199.)

Calgaro cannot maintain this claim because the record—in particular, the declaration executed by Deborah Waldriff, the Director of the Financial Assistance Division of the St. Louis County Department of Public Health and Human Services—establishes that the state, not the county, was responsible for determining that J.D.K. was eligible for medical assistance and approving and making the resulting medical-assistance payments.

As explained in Waldriff's declaration, J.D.K. was enrolled in medical assistance from November 5, 2015, through November 1, 2016.[6] (Waldriff Decl. ¶¶ 1, 3–4.) J.D.K. applied for medical assistance online via the MNsure website, www.mnsure.org. (*Id.* ¶ 3.) St. Louis County did not approve and had no involvement in approving the application. (*Id.* ¶ 5.) Online applications like the one submitted by J.D.K. are handled by the state through the Minnesota Eligibility Technology System, not St. Louis County. (*Id.*)

With respect to the payments themselves, St. Louis County did not approve and had no involvement in approving any payments in connection with J.D.K.'s enrollment in medical assistance. (*Id.* ¶ 6.) The approvals were handled by the state, not St. Louis County. (*Id.*) Along the same lines, St. Louis County did not make and had no involvement in making any payments to Fairview, Park Nicollet, or anyone else in connection with J.D.K.'s enrollment in medical assistance. (*Id.* ¶ 7.) The payments, which included a combination of federal and state funds, were handled by the state, not St. Louis County. (*Id.*)

[6] Medical assistance is governed by federal and state law, including Minn. Stat. ch. 256B and MnDHS rules.

The Supreme Court has explained that a "principal purpose[] of the summary judgment rule is to isolate and dispose of factually unsupported claims." *Celotex*, 477 U.S. at 323–24. In this case, the record shows that St. Louis County played no role in determining that J.D.K. was eligible for medical assistance or in approving or making the medical-assistance payments at issue.[7] (*Id.* ¶ 8.) As a result, St. Louis County is entitled to summary judgment on Calgaro's factually unsupported claim that the county violated her due-process rights in connection with J.D.K.'s medical assistance.[8]

CONCLUSION

St. Louis County and Mirsch respectfully request that the Court enter an order (1) granting their motion for judgment on the pleadings with respect to all claims against Mirsch in her individual capacity and the claims against St. Louis County relating to J.D.K.'s general assistance and Calgaro's data requests for the reasons set forth in Parts II–IV and (2) granting their motion for summary judgment with respect to the claim against St. Louis County relating to J.D.K.'s medical assistance for the reasons set forth in Part V.

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[7] Furthermore, St. Louis County is in the dark as to what medical services J.D.K. did or did not receive through medical assistance. (*See id.* ¶ 9 ("[The Minnesota Eligibility Technology System] does not show what medical services J.D.K. received during J.D.K.'s enrollment in medical assistance. Neither does any other source of data available to St. Louis County employees in the Department of Public Health and Human Services.").)

[8] This conclusion applies with equal force to the medical-assistance portion of the due-process claim against Mirsch in her individual capacity. As we demonstrated in Part II, the complaint does not state a claim upon which relief can be granted in this regard. But even if it did, Mirsch would be entitled to summary judgment for the reasons provided here.

Dated: December 15, 2016

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Anmarie Calgaro, Plaintiff, v. St. Louis County et al., Defendants.	Case No. 16-cv-3919 (PAM/LIB)

CERTIFICATE OF COMPLIANCE UNDER D. MINN. LR 7.1(f)(2)

I, Nick D. Campanario, affirm that St. Louis County and Linnea Mirsch's Memorandum of Law in Support of Their Motion for Judgment on the Pleadings and Summary Judgment complies with the word-count limits in D. Minn. LR 7.1(f) and the type-size limits in D. Minn. LR 7.1(h). The memorandum contains 5,166 words. In calculating the number of words in the memorandum, I relied on the word-count function of my word-processing software, Microsoft® Office Word 2007. I certify that the function was applied specifically to include all text, including headings, footnotes, and quotations.

Dated: December 15, 2016

Respectfully submitted,

s/ Nick D. Campanario
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