

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CRISTINA NICHOLE IGLESIAS (also
known as CHRISTIAN NOEL
IGLESIAS),

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,
MICHAEL CARVAJAL, CHRIS BINA,
IAN CONNORS, DAN SPROUL,
JEFFERY ALLEN,
ALIX MCLEAREN,
THOMAS SCARANTINO,
and DONALD LEWIS,

Defendants.

Case No. 19-CV-415-NJR

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

Plaintiff Cristina Nichole Iglesias is an inmate of the Federal Bureau of Prisons (“BOP”) who is currently incarcerated at Federal Medical Center at Carswell, Texas, a female facility. Previously, Iglesias brought this action for deprivations of her constitutional rights under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Iglesias filed her Complaint (Doc. 1) *pro se* and was allowed to proceed on an Eighth Amendment claim for deliberate indifference (Count 1) and Rehabilitation Act claim for failure to accommodate a serious disability (Count 5) (Doc. 14). The Court later appointed Iglesias counsel with instructions to file a First Amended Complaint on behalf of Iglesias (Doc. 40).

On September 8, 2020, Iglesias filed her First Amended Complaint (Doc. 52). After a threshold review of her complaint on October 29, 2020, Iglesias was permitted to proceed on the following claims:

- Count 1:** Eighth Amendment claim for failure to provide necessary medical treatment against Carvajal, Bina, Connors, Hollingsworth, Doe, McLearn, Scarantino, and Lewis.
- Count 2:** Fifth Amendment right to equal protection claim against Carvajal, Bina, Connors, Hollingsworth, Doe, McLearn, Scarantino, and Lewis for denial of placement in a female facility.
- Count 3:** Eighth Amendment failure to protect claim against Carvajal, Bina, Connors, Hollingsworth, Doe, McLearn, Scarantino, and Lewis.

(Doc. 70). The Court noted that “as to BOP, however, it is not a person and is not a proper defendant under *Bivens*” (*Id.* at p. 2). Accordingly, the Court dismissed BOP without prejudice (*Id.*).

Iglesias filed a Motion for Reconsideration regarding the dismissal of BOP (Doc. 74) and a Motion for Leave to File a Second Amended Complaint (Doc. 85). In Iglesias’s Motion for Reconsideration, she argues that dismissing the BOP was clear error (Doc. 74, p. 1). Iglesias notes that “[t]he Court’s Order construed Iglesias’s claim against BOP as a claim brought only under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), which authorizes suits against individual federal employees for constitutional violations” (*Id.* at p. 1). Iglesias continues asserting that her “claim against BOP is a direct cause of action arising under the Constitution for violations of her Fifth and Eighth Amendment rights” (*Id.* at pp. 1-2).

In response to Iglesias's Motion for Reconsideration, the "BOP agrees with the Iglesias that the amended complaint raised allegations against BOP in its official capacity under the Eighth Amendment" (Doc. 76). The BOP did not object to Iglesias's motion "[t]o the extent the Court's screening order dismissed BOP on that basis" (*Id.*). Defendant Connors did not object, but "respectfully [sought] clarification that only official-capacity claims remain" (Doc. 77, p. 2).

In Iglesias's Motion for Leave to File Second Amended Complaint, Iglesias notes she is trying to "(i) clarify Plaintiff's claims against the [BOP] . . . ; (ii) replace the initially named Warden of United States Penitentiary-Marion ("USP-Marion") with the current Warden; (iii) provide the proper name for initially named Defendant J. Doe; (iv) reflect Iglesias's current incarceration at Federal Correctional Institution-Fort Dix ("FCI-Fort Dix")" (Doc. 85). Defendant Connors opposed this motion for leave noting that it includes "the futile inclusion of individual-capacity claims in any future iteration of this case" (Doc. 87, p. 2).

Defendants Carvajal, Bina, Connors, Sproul, Allen, McLearen, Scarantino, Lewis, in their official capacities only ("Federal Officials"), and the BOP also opposed Iglesias's motion for leave (Doc. 89). In opposition, they note that "[t]he Court's order [] implicitly dismissed the official capacity claims against the Federal Officials, because such claims are properly brought only against the agency, precluding a cause of action under *Bivens*" (*Id.* at p. 2). The Federal Officials and BOP argue that "[g]ranted Plaintiff leave to file the proposed Second Amended Complaint that includes official capacity claims against the Federal Officials for injunctive relief would be futile because they are redundant of the

claims against BOP” (*Id.* at p. 3). They continue noting that “[g]iven that Plaintiff can obtain any appropriate relief directly against BOP, the inclusion of official capacity claims against federal officials seeking the identical injunctive relief is inappropriate” (*Id.* at p. 4).

On April 23, 2021, the Court granted the Motion for Leave to File Amended Complaint. As a result, Iglesias’s Motion for Reconsideration was denied as moot (Doc. 101). On April 30, 2021, Iglesias filed her Second Amended Complaint. (Doc. 106).

The Second Amended Complaint alleges the following claims:

- Count 1:** Eighth Amendment claim for failure to provide necessary medical treatment against BOP, Carvajal, Bina, Connors, Sproul, Allen, McLearen, Scarantino, and Lewis.
- Count 2:** Fifth Amendment right to equal protection claim against BOP, Carvajal, Bina, Connors, Sproul, Allen, McLearen, Scarantino, and Lewis for denial of placement in a female facility.
- Count 3:** Eighth Amendment failure to protect claim against BOP, Carvajal, Bina, Connors, Sproul, Allen, McLearen, Scarantino, and Lewis.

On June 16, 2021, the parties filed a joint stipulation to dismiss Iglesias’s claims under *Bivens* against the defendants in their individual capacity, “but not in their official capacity, in exchange for the agreement and confirmation of the [BOP], which BOP hereby provides, that BOP is capable of providing all of the relief Iglesias seeks in her Second Amended Complaint and that Defendants will not argue that maintaining *Bivens* claims against any of the individual defendants is a prerequisite to Iglesias obtaining that requested relief” (Doc. 114, p. 1).

This case is now before the Court for preliminary review of the Second Amended

Complaint pursuant to 28 U.S.C. § 1915A. Under Section 1915A, the Court is required to screen prisoner complaints to filter out non-meritorious claims. See 28 U.S.C. § 1915A(a). Any portion of a complaint that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law is immune from such relief must be dismissed. 28 U.S.C. § 1915A(b).

Having reviewed the allegations in the Second Amendment Complaint, Iglesias adequately sets forth claims against Defendants BOP, Carvajal, Bina, Connors, Sproul, Allen, McLearn, Scarantino, and Lewis in Counts 1, 2, and 3. Accordingly, Counts 1, 2, and 3 shall proceed against the BOP, Carvajal, Bina, Connors, Sproul, Allen, McLearn, Scarantino, and Lewis.

The Clerk of Court shall prepare for Defendants Sproul and Allen: (1) Form 5 (Notice of a Lawsuit and Request to Waive Service of a Summons), and (2) Form 6 (Waiver of Service of Summons). The Clerk is **DIRECTED** to mail these forms, a copy of the Second Amended Complaint, and this Memorandum and Order to Defendants Sproul and Allen's place of employment as identified by Iglesias.

Defendants are **ORDERED** to timely file an appropriate responsive pleading to the Complaint and shall not waive filing a reply pursuant to 42 U.S.C. Section 1997e(g). **Pursuant to Administrative Order No. 244, Defendants need only respond to the issues stated in this Merit Review Order.**

If judgment is rendered against Iglesias, and the judgment includes the payment of costs under Section 1915, Iglesias will be required to pay the full amount of the costs, regardless of whether her application to proceed *in forma pauperis* is granted. See 28 U.S.C.

§ 1915(f)(2)(A).

Finally, Iglesias is **ADVISED** that she is under a continuing obligation to keep the Clerk of Court and each opposing party informed of any change in her address; the Court will not independently investigate her whereabouts. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs. Failure to comply with this order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

DATED: June 17, 2021

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. Behind the signature, there is a faint circular seal of the United States District Court for the District of Columbia, featuring an eagle with a shield and the words "OFFICE OF THE CLERK OF COURT" and "UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA".

NANCY J. ROSENSTENGEL
Chief U.S. District Judge