

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 10-3111

JILL JONES-SODERMAN,

Appellant

v.

HONORABLE MARGARET MARY MCVEIGH; PAUL DASHER,
PH.D; ANITA RAE MANNS, ESQ.; STEPHEN SCHIPPIONE, ESQ.;
MICHAEL KUHNS; KAY MCCORMACK; RICHARD GRUBER; NEW
JERSEY OFFICE OF THE ATTORNEY GENERAL, DIVISION OF
CONSUMER AFFAIRS; HONORABLE EDWIN H. STERN; JON S. CORZINE,
in his official capacity as Governor of the State of New Jersey; NEW JERSEY
STATE LEGISLATURE; LESLIE ARONSON, Former Executive Director
Board of Social Work Examiners; MARILYN BAIR, Former Deputy
Attorney General; SUSAN BERGER, Deputy Attorney General;
JODI KRUGMAN, ESQ., Deputy Attorney General; JANE DOE; JOHN DOE

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 08-cv-01887)
District Judge: Honorable Peter G. Sheridan

Submitted Pursuant to Third Circuit LAR 34.1(a)
April 20, 2011
Before: BARRY, JORDAN AND GARTH, Circuit Judges

(Opinion filed: April 25, 2011)

OPINION

PER CURIAM

Jill Jones-Soderman appeals pro se from the order of the District Court dismissing her amended complaint. We will affirm.

I.

Jones-Soderman's amended complaint arises from the loss of her license to practice social work in New Jersey. According to Jones-Soderman, Judge Margaret Mary McVeigh of the New Jersey Superior Court wrote a letter in 2001 to the New Jersey licensing agency expressing her concern with Jones-Soderman's conduct in connection with a family court matter. That letter precipitated an investigation, during which the agency was not able to confirm that Jones-Soderman possessed a PhD as she had represented. The investigation led in turn to a revocation proceeding, during which Jones-Soderman was represented by Anita Manns. In 2003, Jones-Soderman signed a consent order agreeing to stop presenting herself as a doctor and to the suspension of her license for nine months.

The licensing agency later received information that Jones-Soderman continued to practice in New Jersey during that time (and continued to hold herself out as a doctor). That information led to a second revocation proceeding, during which Jones-Soderman was represented by Stephen Schippione. The second proceeding concluded when Jones-Soderman signed a second consent order in 2004 agreeing to the permanent suspension of her New Jersey license. She later applied for reinstatement of her license, and that application remains pending.

Jones-Soderman filed and amended her federal complaint in 2008, asserting

claims under 42 U.S.C. § 1983, the Racketeer Influenced and Corrupt Organizations Act (“RICO”) and state law against numerous defendants whom she holds responsible for the loss of her license. The defendants include Judge McVeigh, assistant attorneys general and hearing officers involved in her current and former revocation proceedings, former New Jersey Governor Jon S. Corzine, the New Jersey legislature, and other state employees and agencies (collectively the “state defendants”). Jones-Soderman also named the three private attorneys she retained to represent her during those revocation proceedings. In general, she alleges a conspiracy among all the defendants to deprive her of her license. Among the relief she requested was \$13 million in damages, reinstatement of her license, and the enactment of certain laws protecting the rights of children.

Defendants Manns and Schippione answered the amended complaint, but the state defendants moved to dismiss it on numerous grounds under Rule 12(b)(6). During argument on that motion, Manns and Schippione orally moved for dismissal on statute of limitations grounds, and we will treat their motions as ones for judgment on the pleadings under Rule 12(c). On June 17, 2009, the District Court granted all motions and explained its reasons for doing so on the record. The District Court also dismissed the action without prejudice as to defendant Richard Gruber (a private attorney involved in the 2001 family court matter), whom Jones-Soderman had been unable to serve. The case remained pending against Michael Kuhns (Jones-Soderman’s third privately retained attorney), whom she had served but who had not responded to the complaint. The District Court informed Jones-Soderman that she could seek a default judgment against

Kuhns and told her that she would have to “decide whether you want to move forward.” (June 17, 2009 Trans. at 75.)¹

Nothing more of substance transpired for some ten months until the case was called for possible dismissal for failure to prosecute. The District Court scheduled a status conference and, on May 20, 2010, entered an order directing Jones-Soderman to file a submission in furtherance of her case by June 4, 2010, “or the complaint shall be dismissed in its entirety.” The District Court received nothing further from Jones-Soderman by that date and entered its final order dismissing the case with prejudice under Rule 41(b) on June 15, 2010. Jones-Soderman appeals.²

II.

Jones-Soderman challenges the orders of June 17, 2009, and June 15, 2010.

In the first order, the District Court dismissed her claims against the state defendants on various grounds, including judicial immunity for the defendant judges, prosecutorial

¹ On August 1, 2009, the District Court added a statement on the record that it had dismissed the § 1983 claims against Manns and Schippione on the additional ground that those privately retained attorneys were not state actors.

² Defendants Manns and Schippione initially asserted crossclaims for indemnity and contribution against the other defendants, but when the District Court dismissed Jones-Soderman’s complaint and terminated the action in its entirety it effectively resolved those crossclaims. Cf. Owens v. Aetna Life & Cas. Co., 654 F.2d 218, 220 n.2 (3d Cir. 1981) (mere grant of summary judgment for defendant/crossclaimant on plaintiff’s claim did not resolve crossclaim against another defendant). Thus, we have jurisdiction under 28 U.S.C. § 1291. We exercise plenary review over the dismissal of a complaint under Rules 12(b)(6) and 12(c). See Leamer v. Fauver, 288 F.3d 532, 534 (3d Cir. 2002). We review the dismissal under Rule 41(b) for abuse of discretion. See Briscoe v. Klaus, 538 F.3d 252, 258 (3d Cir. 2008).

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Jones-Soderman has not meaningfully challenged these rulings. She argues that it is “impossible” to determine the District Court’s reasons for dismissal because they are not stated in the June 17 order itself. The District Court, however, explained its reasons on the record. (June 17, 2009 Trans. at 61-75.) Jones-Soderman was present, and the District Court provided her with a copy of the transcript. (Docket No. 47.) She also argues that the District Court’s order does not state that it considered her opposition to the motions, but the District Court clearly addressed her arguments. She further makes generalized assertions that her pro se complaint was entitled to liberal construction and that various defendants acted beyond the scope of their duties, but she does not specify how she believed the District Court erred in construing her complaint and we discern no error in that regard. Finally, she argues that defendants waived their statute of limitations defenses by answering her amended complaint, but that is not the case. The state defendants filed a Rule 12(b)(6) motion instead of answering, and defendants Manns and Schippione pleaded the statute of limitations as an affirmative defense before orally moving for dismissal on that ground.

Jones-Soderman also has not meaningfully challenged the District Court’s second

order, in which it dismissed the remainder of her complaint for failure to prosecute. The District Court applied the proper standard and concluded that Jones-Soderman's dilatoriness, her personal responsibility therefor, and the lack of merit to her claims weighed in favor of dismissal. See Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984). Jones-Soderman does not argue that the District Court abused its discretion in so concluding. Instead, her only argument in this regard is that she actually complied with the District Court's direction to file a submission by June 4, 2010. Jones-Soderman argues that she sent the District Court a letter on June 3 but that it did not reach the court until she re-sent it on June 21. Jones-Soderman's letter does not undermine the District Court's June 15 ruling, however, because it was not before the District Court at that time. Nor did she seek relief on the basis of these allegations under Rule 60(b) in the District Court. In sum, we cannot say that the District Court abused its discretion in dismissing this action under Rule 41(b).

Accordingly, we will affirm the judgment of the District Court.

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Accordingly, we will affirm the judgment of the District Court.

DEPARTMENTAL DISCIPLINARY COMMITTEE
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FIRST JUDICIAL DEPARTMENT
61 BROADWAY
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YVETTE A. ROSARIO
REMI E. SHEA

October 7, 2015

PERSONAL AND CONFIDENTIAL

Jill Jones- Soderman
275 Madison Avenue
6th Floor
New York, NY 10016

Re: Matter of Rosemary Rivieccio, Esq.
Docket No. 2015.1846

Dear Ms. Jones- Soderman:

We are forwarding herewith an answer to your recent complaint against the above-named attorney. If you disagree with the attorney's statement, please write us, telling us specifically how and why; if you have any documents substantiating your points of disagreement, forward them to us. Also, please tell us what has happened in regard to this matter since the time you filed the complaint.

If we do not hear from you within twenty (20) days, we may conclude that you agree with the attorney's statement.

All correspondence and inquiries concerning this matter should be addressed to the undersigned. Please be sure to include the Committee's docket number on your correspondence.

Very truly yours,

Joel Peterson
Legal Assistant

JD:adp/P: JAP

Enc.
PAR14



Law Offices of Rosemary Riviaccio

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September 30th, 2015

DEPARTMENTAL
DISCIPLINARY
COMMITTEE

Departmental Disciplinary Committee
Supreme Court – Appellate Division
First Judicial Department
61 Broadway
New York, New York 10006

ATT: Joel Peterson

RE: *Complaint of Jill Jones-Soderman*
Docket number 2015.1846

Dear Mr. Peterson:

I am in receipt of the complaint made by Ms. Jill Jones-Soderman, wherein she made various allegations against me relative to a custody matter currently pending before the New York County Family Court. Herein is my reply.

By way of background, I have represented the ex-husband/father in various proceedings over the past seven (7) years. My client has filed several successful applications before the Family Court in an effort to obtain compliance and/or enforcement of the parties' prior parenting agreement. At present, I represent him in a contested custody dispute in Family Court, wherein the mother is presently seeking to have custody of the parties two (2) children returned to her after agreeing in December 2013 to transfer sole custody to my client.

Based upon the length of my representation of the father over the past seven years, I have great familiarity with the case. Conversely, as I first became aware of the complainant's involvement in this matter via her association with the mother in January of this year, I question her claims of intimate knowledge of the proceedings. Upon information and belief, Ms. Jones-Soderman has no familial relationship to the mother. I note that to the Family Court, she submitted an "Introduction of Client to the Court" letter along with the mother's initial application in January 2015 which was replete with falsehoods. Such a "letter" is not standard practice. In fact, as the letter did not form a legal basis upon which the Court could act, a motion to amend the initial petition was made by the mother's assigned counsel attorney. (A decision on this application is pending) I note that on March 24, 2015, upon Court inquiry, Ms. Jones-Soderman identified

herself as a “forensics advocate” for the mother. I further note that she appeared with the mother at Court proceedings until April 27, 2015 when she was excluded from the Court due to her own poor behavior and her failure to adhere to the Court’s instructions. The Honorable Gloria Sosa-Lintner¹ stated that her presence was an “obstruction of judicial administration” and further stated that “her participation may be detrimental” and not at all productive. The Court cautioned the mother to “think twice” about having Ms. Jones-Soderman involved in the case, and that she should “get someone who is legitimate” as Ms. Jones-Soderman is more “disruptive than instructive.” While Ms. Jones-Soderman personally did not appear again in Court, on two subsequent occasions a representative of her organization accompanied the mother to Court, although never identified herself as such. That individual simply referred to herself as a “friend” of the mother and made no mention of her formal affiliation to Ms. Jones-Soderman when asked by the Court to identify herself. It was because I did ask the Court to inquire as to unknown individuals in the Courtroom to ensure that potential witnesses are kept out of the proceedings until after they testify that I came to learn of this. Ms. Victoria Morelli, my client’s sister, later learned that the individual in Court who represented herself as a friend of the mother was actually an affiliate of Ms. Jones-Soderman’s organization. Clearly, that individual intended to mislead the Court, not I. Moreover, I am unclear how the identity of this individual has now made her vulnerable to stalking as is alleged.

At no time did I provide false information to the Court or mislead the Court in any way. I quoted from my clients’ bank statements when corroborating that he has paid to his ex-wife his Court ordered monthly maintenance (in the amount of \$60,000 annually.) As to the issue of assigned counsel, I note that the assignment of counsel is granted by the Court for indigent litigants and only in certain circumstances; it is not a right. I was aware of the mother’s prior assets due to my role in the various proceedings that transpired over the years. As such, I asked the Court to inquire further if she qualified for assigned counsel. Upon questioning by the Court, the mother admitted to appearing in prior Court proceedings with privately paid attorneys. Nonetheless, the Court provided the mother with an opportunity to submit supporting documentation of her current income, which is standard procedure when determining whether a litigant qualifies for free legal representation. Upon review of her recent financial materials, the undersigned withdrew any objections to the assignment of counsel for the mother, and an attorney was assigned to represent her by the Court.

I have represented and continue to represent my client to the best of my ability. I was never vindictive, hostile, attacking, etc. as was reported. I have always behaved in a professional manner. Yes, this is a high conflict case, due in large part to the allegations made by the mother directly or through Ms. Jones-Soderman, a non-party. I am not involved in a ‘conspiracy’ with the Court or any of the parent coordinators as alleged herein. I know nothing of any complaints made against Ann Seidor or Rick Spitzer, and I certainly have never engaged in a ‘pay to play’ scheme as suggested. (Upon information and belief, both parent coordinators are in good standing with the Court and both have been approved to accept cases by the Appellate

¹ While implying that her complaint against Judge Sosa-Lintner was well-founded, upon information and belief, it was dismissed. Further, after serving the bench with distinction, the Honorable Sosa-Lintner will be retiring within the next few months, a decision which she announced earlier this year.