

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JOHN F. KENNEDY, *et al.*,

Plaintiffs,

v.

EDDIE GARCIA, *et al.*,

Defendants.

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Civil Action No. 3:23-CV-2603-N-BT

**THE PLAINTIFFS JOHN FITZGERLAD KENNEDY & HIS WIFE
HILDA TOBIAS KENNEDY RESPECTFULLY SUBMIT THIS OPPOSITION TO
DEFENDANT EDDIE GARCIA IN HIS OFFICIAL CAPACITY AS DALLAS
POLICE CHIEF MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM
UNDER FRCP 12 (b) 6.**

Dear Honorable Chief Federal District Judge David Charles Godbey of Texas:

The plaintiff, John Fitzgerald Kennedy (“John”) and Hilda Tobias Kennedy (“Hilda”, collectively, “the Kennedys”, “the Plaintiffs”) respectfully request this court please accept this informal brief in opposition to the motion to dismiss by defendant Eddie Garcia, in his official capacity as Chief of Pollice for the Dallas, Texas Police Department (hereafter, “the Dallas Police Department” or “Dallas Police¹”).

¹ Nothing in any filing(s) by the Kennedys will ever be in any way shape or form; intended to disparage or insult in any way, the good and Honorable people who serve the United States of America in any way but rather to honor them and all the people in the United States who voted to enact the laws that govern and regulate the rights of a free and just society, with justice for all in this and all courts.

BACKGROUND

On December 14, 2023 (delivered to the court on November 22, 2023), Plaintiffs filed their Verified Complaint for Declaratory Relief (the “Original Complaint.”) ECF No. 3. On December 26, 2023, Defendant The Dallas Police Department was served ECF No. 8. On January 2, 2024, the Plaintiffs filed their First Amended Verified Complaint for Declaratory Relief ECF No. 10. On February 26, 2024 the Dallas Police Department filed a Motion to Dismiss for failure to state a claim upon where relief can be granted under FRCP 12 (b) 6. On March 11, 2024, the court granted an unopposed extension of time to answer a motion to dismiss by the Dallas Police Department to April 3, 2024, ECF No. 22. This Opposition to the Dallas Police Department Motion to Dismiss is respectfully submitted to the court by the Kennedys on Wednesday, April 2, 2024.

THE KENNEDYS CIRCUMSTANCES SUMMARY

The plaintiff, John F. Kennedy, who had dyslexia and other disabilities at the time and now has more disabilities, was kidnapped from his mother, Marilyn Monroe, in Los Angeles prior to her death, and subjected to terrible illegal abuses that, although not time barred resolution by this court, were in part a result of the Dallas Police Department's negligence and discrimination.

John interacted with his father in a loving manner, as his father is a natural born man of good conscience, more than the his larger extended family group to which he belongs: When John's father, the 35th President of the United States, John F. Kennedy, was murdered in the enclave of Dallas, Texas, at the age of 46 years old over sixty years ago, this left John, a disabled minor, orphaned in an abusive home in constant fear of his safety and life; he was denied all due process and left without any identification (property)²; he was denied the ability to get back his identification by several if not all law enforcement entities for negligence and discrimination.

John's extended family on his father's side benefited from his kidnapping and denial of due process, leaving him stranded with mental anguish, so they remained silent. Like a good son, John and his wife Hilda file this lawsuit pursuant to *Paul Landis*, whistleblower, and former Secret Service Agent, book, *The Final Witness: A Kennedy Secret Service Agent Breaks His Silence After Sixty* which confirms³ the fact that John and his father were denied due process by negligence and discrimination of several law enforcement agencies such as Dallas Police Department, and others including the Secret Service who by an act the U.S. Congress gives John rights to judiciary review in this court for him and his father under Public Law 82-79 as a minor child of the President of the

² Even though John went to the police, no one would or could help him because he lacked identification. He could not claim his mother's image rights, which are the property of the biological descendant of the actor, under California law.

³ Paul Landis had several attempts to be served, including one by certified mail/return receipt request by the Travis County Constable's Precinct Five, two attempts by process servers, and one by waiver of service. A motion for alternative service is pending.

United States with no statute of limitation over the Secret Service (the governing law) for judicial review as a child[ren] under the Congressional Act for his benefit and his father's benefit.

The Dallas Poice Department, through Black Letter Law, is obligated to help John; however, it moves in this court in and through their motion to dismiss these affiemative defenses: state soveignty immunity, abandonment and withdrawal, subjective non-scientific⁴ manner determination in a manner that is both negligent and discriminatory to a child in the word child[ren].

The Kennedys have suffered federal interference violations stemming from the actions of the Dallas Police Department and others that are ongoing, as will be shown, and horrible things as a result of it, which also destroy the moral fabric of the United States and the continuity of the free state by not applying black letter law principles in protecting the children of the highest elected office holders by subjective desires and methods because a child must be protected regardless of their race, gender, family status, religion, and disability with an act of the U.S. Congress in a free state. Plaintiff seeks punitive damages for him and his wife. To do otherwise is not legal.

HILDA TOBIAS KENNEDY

Hilda Kennedy, John's wife of 52 years, suffered with John at a crossing moment and continues to suffer for this crime⁵. The Kennedys seek to be made whole for these violations and are entitled to relief.

⁴ Science is mentioned in the United States Constitution in **Article I, Section 8**, which grants, among other constitutional powers, the authority to "promote science and useful arts" by establishing nationwide protection of patents and copyrights.

⁵ Hilda Kennedy's immigrant status and language difficulties caused even more discrimination, she is legally blind.

STANDARD FOR DISMISAL:

When a plaintiff “[has] not nudged their claims across the line from conceivable to plausible⁶, their complaint must be dismissed.” *Twombly*, 550 U.S. at 570. When reviewing motions to dismiss, “the court must accept all factual allegations in a complaint as true and take them in the light most favorable to plaintiff.” *Dusek v. JPMorgan Chase & Co.*, 832 F.3d 1243, 1246 (11th Cir. 2016). However, this only applies to factual allegations and not “legal conclusions.” *Iqbal*, 556 U.S. at 678.

In *Kregler v. City of New York* 608 F. Supp.2d 465 (S.D.N.Y. 2009) Decision and Order, the Supreme Court decisions have rejected the existence of any general heightened pleading standard. Instead, *Kregler* asserts that the applicable test by which to assess the sufficiency of his complaint is the short and plain statement of the claim called for under Rule 8(a)(2), which requires that the pleadings need only give the defendant “fair notice of what the claim is and the grounds upon which it rests.” *Swierkiewicz*, 534 U.S. at 513, 122 S. Ct. 992. With regard to the standard governing review of Rule 12(b)(6) motions to dismiss, *Kregler* points to authority declaring that a complaint should not be dismissed for failure to state a claim “unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Ricciuti v. NYC Transit Auth.*, 941 F.2d 119, 123 (2d Cir.1991) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S. Ct. 99, 2 L.Ed.2d 80 (1957)).”

“The respondents also argue that the complaint failed to set forth specific facts to support its general allegations of discrimination and that its dismissal is therefore proper. The decisive answer to this is that the Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is “*a short*

⁶ DNA is the standard for parentage claims in all United States Courts. The oldest DNA done is two million years old. The *Judgment of Solomon* is not necessary anymore.

and plain statement of the claim” that will give the defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests. The illustrative forms appended to the Rules plainly demonstrate this. Such simplified “*notice pleading*” is made possible by the liberal opportunity for discovery and the other pretrial procedures established by the Rules to disclose more precisely the basis of both claim and defense and to define more narrowly the disputed facts and issues. Following the simple guide of Rule 8(f) that “*all pleadings shall be so construed as to do substantial justice,*” we have no doubt that the petitioners’ complaint adequately set forth a claim and gave the respondents fair notice of its basis. The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome, and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits.”

Pleading Facts and Arguing Plausibility: Federal Pleading Standards a Year After Iqbal JUNE 2010 COMMENTARY

The rule ...“*a short and plain statement of the claim showing that the pleader is entitled to relief*” is the minimum template emphasizing a minimum and binding standard between the filer, the plea, the law/jurisdiction, and the court, not the opposition like or dislike of its length are the bar. The ability to paint a picture (showing) is based on the complexity and specifics of the case:

ARGUMENT

This complaint concerns the Dallas Police Department subjective intentional discrimination based on John’s race, his mother’s religion, and his disability status which deprived him of an investigation which covers his kidnapping, illegal placing without any judicial process with abusive persons not his parents who subjected him to physical, sexual and mental harm without the protections enjoyed by non-disabled, not protected classes, his rights under Black Letter Law and an act of the U.S. Congress.

The Dallas Police Department thus violates rights guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title IV of the Civil Rights Act of 1964, and Title II of the Americans with Disabilities Act.

For John with disabilities, protected status, and Black Letter Law, the Dallas Police Department's hostile work environment is compounded by the actions of the United States Secret Service, which has the authority to intervene, and vice versa for the appalling crime of child sexual abuse and trafficking. By contrast, the Dallas Police Department funnels the same sex crimes into other agencies through referrals, such as the Secret Service and the Federal Bureau of Investigation, but does nothing for John. The Dallas Police Department thus violates rights guaranteed by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, which is actionable under 42 U.S.C. Section 1983, prohibits state actors from depriving individuals of their constitutional rights, privileges, and immunities based on race or national origin and disabilities.

The Dallas Police Department has violated, and continues to violate, John's rights and the rights under the Equal Protection Clause and Title IV by intentionally discriminating against him through the creation of a racially/disabled hostile victim environment, including by subjecting John by responding to this court with deliberate indifference, through efforts to stop him from pursuing injunction relief, declaratory relief and adjudication of parentage and failing to investigate his criminal abuses of a child which denied John of property rights and ninth amendment right to be acknowledged by the State and Federal government by his real family (His loving mother and

father) who did not put him up for adoption and thus he was denied benefits going forward such as his father's veterans benefits and his mother's image rights.

Under Title II of the Americans with Disabilities Act ("ADA"), a public entity is prohibited from excluding a "qualified individual with a disability" from "participation in or . . . the benefits of the services, programs, or activities of a public entity," or subjecting a qualified individual "to discrimination by any such entity." Public police departments are considered public entities under the ADA; thus, the district and its police department are public entities that the ADA prohibits from discriminating against individuals with disabilities.

The ADA defines disability as "(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." John has a "mental impairment that substantially limits one or more major life activities" because he has dyslexia and post traumatic stress, mental anguish⁷ among other disabilities. These medical conditions limit John's major life activities, including learning, concentrating, thinking, and communicating.

Despite John's protections under the ADA, the Dallas Police failed to make reasonable modifications and accommodations for John for what happened to him, which is not time barred for the crimes done to him. The Dallas Police Department's failure to make reasonable modifications and its subjective discriminatory methods of administration resulted in John losing the benefits of public policing to which he was entitled by an act of the Black Letter Law to protect the United States President, his children, and an act of the United States Congress.

⁷ Mental anguish includes emotional responses like grief, sadness, fear, depression, agitation, and embarrassment from the injury. Disfigurement, disabilities, and loss of enjoyment often cause mental anguish.

The Dallas Police Department did not provide those necessary accommodations to John but instead sadly suggests this federal court deny him further relief and reject his injunction relief, his declaratory judgment, and his adjudication relief by DNA to prevent him from accessing non-subjective non-discriminatory policy to access his rights and gain rights as required by law and ultimately deny John and his wife due process rights and privileges. This interference must not happen to anyone under Public Law 82-79:is thus a dangerous precedent for the people of the United States and the protection of the President of the United States and the children thereof.

A public entity, directly or through contractual or other arrangements, is prohibited from utilizing criteria or methods of administration “that [have] the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability” or “that [have] the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public entity's program with respect to individuals with disabilities.”

Under the ADA, the Dallas Police Department is prohibited from denying the benefits of policing (public or by an act of Congress) to John with disabilities on the basis of their disability, race, or religion, through their erroneously deprived John and/or of his liberty and property interests.

As previously discussed, John lacked an adequate understanding of his rights in the Dallas Police process given his age and disability that affect him even now. These are key to the Dallas Police Department's illegal affirmative defenses and must remain moot as they take advantage of his medical condition as a pro se litigant under Black Letter Law rights and an act of the United States Congress.

To the extent that John and Hilda seek monetary damages for their claim under Title II of the ADA, courts engage in an additional inquiry. The Supreme Court in *United States v. Georgia*, 546 U.S. 151, 159 (2006), held that courts considering whether Congress validly abrogated sovereign immunity for a Title II claim against a State must conduct a “*claim-by-claim*” assessment. It established a three-part test to do so: “(1) *which aspects of the State's alleged conduct violated Title II; (2) to what extent such misconduct also violated the Fourteenth Amendment; and (3) insofar as such misconduct violated Title II but did not violate the Fourteenth Amendment, whether Congress's purported abrogation of sovereign immunity as to that class of conduct is nevertheless valid.*” *Id.* at 159.

To state a claim under Title II of the ADA in satisfaction of the first *Georgia* prong, a party must sufficiently plead that “(1) *he is a qualified individual; (2) with a disability; (3) who was excluded from participation in or denied the benefits of the services, programs, or activities of a public entity, or was subjected to discrimination by any such entity; (4) by reason of his disability.*” *Geness v. Cox*, 902 F.3d 344, 361 (3d Cir. 2018).

To obtain injunctive relief, the court must find that “(1) *the moving party has shown actual success on the merits; (2) the moving party will be irreparably injured by the denial of injunctive relief; (3) the granting of the permanent injunction will result in even greater harm to the defendant; and (4) the injunction would be in the public interest.*” *Coffelt v. Fawkes*, 765 F.3d 197, 201 (3d Cir. 2014). A party seeking declaratory relief “*must allege facts from which it appears there is a substantial likelihood that he will suffer injury in the future.*” *Blakeney v. Marsico*, 340 F. App'x 778, 780 (3d Cir. 2009) quoting *Bauer v. Texas*, 341 F.3d 352, 358 (5th Cir. 2003)).

Laws are not self-enacting, the court, as fact finder must determine the authenticity of the standing John has in court by scientific truth.

“The Supreme Court has mentioned in dicta in the criminal context that *pro se* status does not mean that a litigant is free to ignore relevant rules of procedural and substantive law.

This position is justifiable in criminal cases on constitutional grounds. It is not, however, justifiable in civil cases, where many litigants appear *pro se* not because they prefer to do so, but because they cannot afford counsel. Modern procedural due process jurisprudence requires, at the very least, that courts should give the *pro se* civil litigant a liberal construction of his pleadings. **The court should then determine what further process is due, based on the individual facts and circumstances of the case.** In short, in civil cases, there sometimes may be a "license not to comply" with procedural requirements.”
Procedural Due Process Rights of Pro Se Civil Litigants, Julie M. Bradlow

CONCLUSION

RESPECTFULLY RECOMMENDED PRACTICAL REMEDIES GOING FORWARD:

Based on the Dallas Police Department's violations of John's constitutional and civil rights, the Kennedys respectfully request an injunction to stop the Dallas Police Department from interfering with John's Black Letter Law and Congressional rights, grant John and his wife Hilda, who suffered emotional distress and mental distress, an investigation of claims of abuse and kidnapping through injunction relief, and determine John's parentage by scientific means (DNA)⁸ for declaratory judgment and adjudication of his parents going forward without any retaliation or discrimination based on the fact that the Act of Congress grants this Court judicial review over sub violations of the Act of Congress. Or in the alternative, if the Court requests, Third Circuit precedent "*supports the notion that in civil rights cases district courts must offer amendment- irrespective of whether it is requested—when dismissing a case for failure to state a claim unless doing so would be inequitable or futile.*" *Fletcher—Harlee Corp. v. Pote Concrete Contractors, Inc.*, 482 F.3d 247, 251 (3d Cir. 2007).

⁸ California state law requires elected officials to give up their DNA if needed in a criminal investigation, and/or DNA banks have access to a large number of linages for the determination or exclusion of linages.

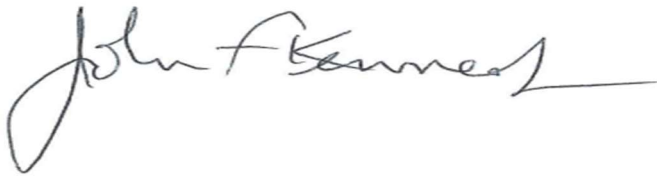
PRAYER FOR RELIEF

John and Hilda Pray this court Deny the Dallas Police Department's Motion To Dismiss For Failure To State A Claim Under FRCP 12 (b) 6 and this case proceed to discovery.

VERIFIED OPPOSITION

Pursuant to 28 U.S.C. § 1746, I, John Fitzgerald Kennedy, and I, Hilda Tobias Kennedy, have personal knowledge of the matters alleged in the foregoing Verified Opposition to Defendant the Dallas Police Department concerning myself, my activities, and my intentions. I verify under the penalty of perjury that the statements made therein are true and correct.

Respectfully submitted,

A handwritten signature in cursive script that reads "John Fitzgerald Kennedy". The signature is written in black ink and is positioned above the typed name.

JOHN FITZGERALD KENNEDY April 2, 2024

A handwritten signature in cursive script that reads "Hilda Tobias Kennedy". The signature is written in black ink and is positioned above the typed name.

HILDA TOBIAS KENNEDY April 2, 2024

CERTIFICATE OF SERVICE I, William Henry Kennedy certify that on April 2, 2024, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the CM/ECF electronic case filing system of the court. The electronic case filing system will send a "Notice of Electronic Filing" notification to all case participants registered for electronic notice, including all pro se parties and/or attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

A handwritten signature in black ink, appearing to read "William H. Kennedy". The signature is written in a cursive style with large, flowing loops.

WILLIAM HENRY KENNEDY