

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

ALBERTA SEVIGNY, )  
 )  
 Plaintiff )  
 )  
 v. ) Civil No. 03-285-P-S  
 )  
 GEORGE W. BUSH, et al, )  
 )  
 Defendants )

***RECOMMENDED DECISION RECOMMENDING DISMISSAL OF COMPLAINT***

Alberta Sevigny has filed a civil action in this Court naming a host of defendants, including many national, Maryland, and Maine political leaders and government employees. (Docket No. 1.) Earlier, I issued an order for Sevigny to show cause (Docket No. 34) directing Sevigny to demonstrate why her case should not be dismissed as a sanction under Federal Rule of Civil Procedure 11(c) for violating Federal Rule of Civil Procedure 11(b).<sup>1</sup> See also Fed. R. Civ. P. 1. In that order I explained to Sevigny that I could not construe a sustainable claim against any of the named defendants. I ordered Sevigny to file with this Court a clear explanation of her legal claim, identifying only the facts material to this claim, and explaining how each defendant actually participated in allegedly violating her rights.

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<sup>1</sup> Sevigny is not proceeding in forma pauperis and, therefore, the sua sponte dismissal provided for in 28 U.S.C. § 1915(e)(2)(B) is not appropriate in this case. See Instituto de Educacion Universal Corp., 209 F.3d 18, 24 n.4 (2000); see also Denton v. Hernandez, 504 U.S. 25, 32-35 (1992) (discussing how the court may sua sponte dismiss a complaint under the former incarnation of § 1915(e)(2)(B) as factually frivolous only if the facts alleged are clearly baseless, e.g., the allegations that are fanciful, fantastic and/or delusional, arising “to the level of the irrational or the wholly incredible”)(internal quotation and citation omitted).

Sevigny has now filed a memorandum in response to my order. Therein she explains that the dispute is over “ownership or who owns the content of title Docket #89-7805.” Sevigny asks whether the United States Supreme Court clerk “blackwashed” the contents of this docket number belonging to Sevigny, who apparently was an in forma pauperis petitioner before the Supreme Court. Additionally, Sevigny asks whether Special Attorney Maryellen O’Neil “whitewashed” the document contents of Docket Number 93-2519 ( a suit filed by Sevigny seeking the appointment of a special prosecutor (see Compl. Parts 7 & 8)).<sup>2</sup> With respect to O’Neil, Sevigny further alleges that O’Neil falsely accused Sevigny, thereby tarnishing her good name, but provides no specifics as to what these false accusations by O’Neil might be.<sup>3</sup>

There is not much more in this response that concretely elucidates Sevigny’s claims against the named defendants. She indicates that because the defendants have refused to resolve the title to Docket Number 89-7805 in any United States Court Sevigny has been forced to pay for the current action and she believes that she should be treated as an in forma pauperis plaintiff (as was her apparent status vis-à-vis the United States Supreme Court’s Docket Number 89-7805) yet not, as a paying customer in this

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<sup>2</sup> Sevigny asserts that O’Neil’s misconduct occurred when O’Neil represented President William Jefferson Clinton and others.

<sup>3</sup> This is about as specific Sevigny gets in pinpointing her claims. With respect to former United States Representative/now Governor John Baldacci and President George W. Bush, Jr., Sevigny claims that they violated her rights through acts of “condonement” and that United States Senator Susan Collins violated Sevigny’s First and Fourteenth Amendment rights.

With respect to the requested factual allegations against the individual defendants, Sevigny lists fifteen public employees/leaders, references a series of exhibits, and states that they have committed malfeasant actions by obstructing justice, and have willfully and designedly done so unlawfully and with malice. She does not identify anything these individuals did or did not do that forms the basis of her claims against them and there is nothing in the attached exhibits (chiefly amiable letters responding to Sevigny’s complaints (see, e.g., Compl. Part 9)) that makes this self-evident. Perhaps the most specific allegation in this part of the memorandum is that Special Assistant United States Attorney Maryellen O’Neil and her confidants “collective[ly] collaborated in connivance with other confidants” in the name of the United States government and that Attorney General Janet Reno failed to account for these, and other, individuals. These conclusory allegations are simply not sufficient to state a claim.

action, be subject to 28 U.S.C. 1915(e)(2)(B) dismissal; she describes as having no basis in the law the letter filed by counsel for the Governor of the State of Maryland (Docket No. 35), which indicates that, under Maryland law, all documents served on the Governor must be served instead on the Attorney General of Maryland; and she asserts that she should not have to pass a litmus test for every pleading she files in good faith in this action.<sup>4</sup>

The exhibits demonstrate that the United States Supreme Court clerk has responded to Sevigny's inquiries about her filings in that court in pursuit of certiorari review (see e.g., Compl. Part 8; Docket No. 31, Attach. 4), although Sevigny's efforts to comply with the filing requirement of the Supreme Court were never successful (Comp. Part 7). Sevigny's discontent with these filing requirements does not state a constitutional claim. With respect to her efforts to have an independent prosecutor appointed in her 1993 action, the pleadings here demonstrate that Sevigny was able to proceed with her case, although she was not ultimately successful. (Compl. Parts 7 & 8.) There certainly is no absolute right to have an independent prosecutor appointed to investigate the treatment of a party's pleadings by the United States Supreme Court clerk.

With respect to Sevigny's contention that the government employees and leaders have acted in complicity in violating her rights, the First Circuit has "frequently recognized that, in cases where civil rights violations are alleged, particular care is required to balance the liberality of the Civil Rules with the need to prevent abusive and unfair vexation of defendants." Correa-Martinez v. Arrillaga-Belendez. 903 F.2d 49, 53 (1st Cir. 1990). Although Sevigny may not see it so, I have read her pleading

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<sup>4</sup> Sevigny is also dissatisfied with the handling of her case by this court. She asks the court to cease filing "pleadings" on behalf of the Maryland defendants. She states that she has not consented to have the magistrate judge construe her pleadings or enter orders in this case.

deferentially. However, I am not required to credit her “bald assertions, periphrastic circumlocutions, unsubstantiated conclusions, or outright vituperation.” Id. at 52.

Having given Sevigny an opportunity to show cause why her case should not be dismissed sua sponte, see Fed. R. Civ. P. 11(c)(1)(B)<sup>5</sup>, I conclude that this complaint should be **DISMISSED** against all the remaining defendants as an appropriate sanction under Civil Rule of Procedure 11(c). Plaintiff has been given abundant opportunity to amend her complaint to state a non-frivolous, colorable claim against any or all of these defendants. She has failed to do so.

I have previously recommended dismissal against the Maryland defendants in response to their request for dismissal. To the extent that Sevigny’s pleading filed in response to the order to show cause is also an objection to the earlier recommended

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<sup>5</sup> The pertinent subsections of Rule 11 read in full:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party [emphasis added] is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,--

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Fed. R. Civ. P. 11(b).

If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation . . .

**(1)(B) On Court’s Initiative.** On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

Fed. R. Civ. P. 11 (c)(1)(B).

decision, I recommend that the District Court Judge consider that objection in tandem with this Rule 11 recommendation.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

February 26, 2004.

/s/ Margaret J. Kravchuk  
U.S. Magistrate Judge

**U.S. District Court  
District of Maine (Portland)  
CIVIL DOCKET FOR CASE #: 2:03-cv-00285-GZS  
Internal Use Only**

SEVIGNY v. BUSH et al

Assigned to: JUDGE GEORGE Z. SINGAL

Referred to: MAG. JUDGE MARGARET J.  
KRAVCHUK

Demand: \$

Lead Docket: None

Related Cases: None

Case in other court: None

Cause: 28:1331 Fed. Question

Date Filed: 12/10/03

Jury Demand: Plaintiff

Nature of Suit: 440 Civil Rights:  
Other

Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

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PRO SE

V.

**Defendant**

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**GEORGE W BUSH**

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**GEORGE B BUSH**

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**MARYELLEN O'NEILL**

**ERIC HOLDER**

**KENNETH STARR**

**HARRIET SHAPIRO**

**SUSAN M COLLINS**

**OLYMPIA SNOWE**

**WILLIAM COHEN**

**JOHN BALDACCI**

**TOM ALLEN**