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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

KELVIN LEON ROBINSON, Father, and JENNIFER L. CLARKE, Mother, and on behalf of minor children JENNELLE L. H. ROBINSON, age 5, and JEFFERY D. C. ROBINSON, age 3, Plaintiffs, vs. STATE OF IOWA, and SUSAN McMANIGAL, C.P.W., Defendants.	**No. 4:02-cv-40337** **ORDER ON DEFENDANTS' MOTION TO DISMISS**

Before the Court is Defendants' Motion to Dismiss Plaintiffs' complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). Although Plaintiffs have asked to be heard on this matter, the Court finds this motion is resolved on well-established legal principles, and a hearing is not materially necessary to aid the Court in reaching its decision.

On July 15, 2002, Plaintiff Kelvin Leon Robinson, appearing without an attorney, and representing himself on his own behalf (i.e. pro se), filed a "Complaint and Federal Question With a Motion for Federal Protection" against Defendants. Specifically, Plaintiffs bring this action under 42 U.S.C. § 1983 and, to summarize their complaint, assert that the state courts of Iowa (a district court and the Iowa Supreme Court) exercised "undisciplined judicial power and authority, [a] lack of competence in their thorough review of the record and [committed] abuse of discretion in drawing

conclusions of fact and rulings on law . . .". See Complaint at p. 1. Additionally, Plaintiffs allege CPW McManigal "failed to perform appropriate assessment based upon substantial evidence and testified falsely in the courtroom . . . she perjured herself and conspired with others . . . abridged confidentiality, and gave false and misleading information upon which the court relied . . . [t]he result . . . deprived all family members of due process rights". See id. at p. 2.

The Plaintiffs requested the following particular forms of relief:

> 1) To protect them from further egregious conduct by the state and Susan McManigal and all other known or unknown parties to this matter; 2) that the current attorney be appointed to replace the current guardian ad litem for the children; 3) that the state and Susan McManigal and their agents to be restrained from contacting or otherwise interfering with the children's therapy; 4) that the state and Susan McManigal and their agents to be restrained from uttering or otherwise introducing information gathered from court dating back 18 years; 5) that the children immediately be removed from the custody of the state and placed under the protection of the Federal Court and insure that the mother retain legal custodial care; 6) that the court insure that the father has telephone contact, so the children will know they are not abandoned and that they are still loved; 7) that the court order the Juvenile Court to maintain the current level of services during the course of this litigation; 8) that plaintiff's pray the Court order a hearing on the merits of this matter; 9) the plaintiff's pray the Court to appoint attorney for the mother and for the father.

See id. at pp. 8-9. What is clear from the claim and requires no further factual inquiry is that Plaintiffs ask this Court to directly intervene in various aspects of a state juvenile court CINA case.

In essence, Plaintiffs challenge Iowa state court orders concerning custody of and visitation with their minor children. An essential request of Plaintiffs is for this court to review the transcript of an Iowa Juvenile Court proceeding, since Plaintiffs assert that the findings of the Iowa Juvenile Court were faulty. The only federal court with appellate jurisdiction over state court proceedings is the Supreme Court of the United States. Atlantic Coast Line R.R. v. Brotherhood of Locomotive Engineer, 398 U.S. 281, 296 (1970). Another way of saying this is that there is no right of appeal from the Iowa juvenile courts to a federal district court for the Southern District of Iowa. This Court has limited jurisdiction. The current action, without regard to its essential merits, falls outside the limited jurisdiction of the Court.

This concept has come to be known as the Rooker-Feldman doctrine. See Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923) (indicating that, by federal statute, jurisdiction over appeals from state courts are exclusively reserved for the Supreme Court and beyond the original jurisdiction of federal district courts); see also District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486-87 (1983) (finding that the jurisdictional bar discussed in Rooker extends to particular claims "inextricably intertwined" with those a state court has already decided). The Eighth Circuit Court of Appeals has clarified that "[a] claim is inextricably intertwined if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it . . . Rooker-Feldman precludes a federal action if the relief requested in the

federal action would effectively reverse the state court decision or void its ruling". Neal v. Wilson, 112 F.3d 351, 356 (8th Cir. 1997) (quoting Charchenko v. City of Stillwater, 47 F.3d 981, 983 (8th Cir. 1995)) (citations omitted). In this case, very clearly the issues Plaintiffs ask this Court to address are inextricably intertwined with prior Iowa state juvenile court proceedings. Indeed, this Court could only grant Plaintiffs' requested relief by "effectively revers[ing] the state court decision or void its ruling". See id.

Moreover, the Eighth Circuit has also indicated that "a litigant cannot circumvent Rooker-Feldman by recasting his or her lawsuit as a § 1983 action". Bechtold v. City of Rosemount, 104 F.3d 1062, 1065 (8th Cir. 1997). For these reasons then, to the extent Plaintiffs ask this Court to review Iowa state juvenile court proceedings and state court appellate review of those proceedings, the Rooker-Feldman doctrine applies and prevents this Court from taking such action.

This Court's jurisdiction also will not encompass a matter that has been rendered moot. In resistance to Defendants' motion to dismiss, Plaintiffs point out that the juvenile court action prompting Plaintiffs to file suit in this Court has now been dismissed. As the underlying state juvenile court proceeding has been dismissed, the need for much, if not all, of the relief Plaintiffs have requested, had it been available (but is unavailable under the Rooker-Feldman doctrine), no longer exists. A live case or controversy is not and must be present. A case which no longer presents a live case

or controversy is considered moot, and a federal court does not have the necessary jurisdiction to hear the case. See Hickman v. Missouri, 144 F.3d 1141, 1142 (8th Cir. 1988). Therefore, Defendants' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) is granted under the Rooker-Feldman doctrine and because this case is now moot.

The Defendants' Motion to Dismiss (Clerk's No. 4) must be **granted**. Accordingly, this case is **dismissed**.[1]

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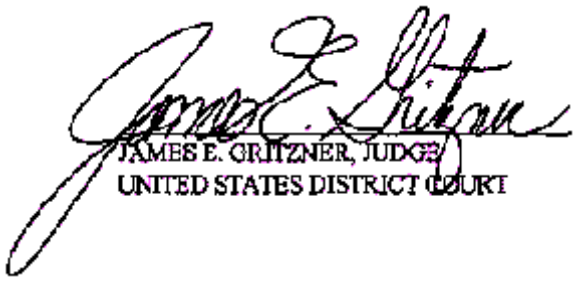
[1] Because the Court lacks jurisdiction to hear this case, no decision is rendered on the merits of the action. However, under the circumstances of a pro se complaint, the Court believes it is appropriate to note for the Plaintiffs that without regard to the factual validity of their claims there are numerous other legal problems surrounding Plaintiffs' complaint. For instance, Plaintiffs' action, grounded as it is in § 1983, would seemingly not exist against these named Defendants. See Will v. Michigan Dep't of State Police, 491 U.S. 58, 71 (1989) (explaining that states and state agencies are not 'persons' subject to suit under section 1983). Additionally, while Mr. Robinson and Ms. Clarke do have the right to appear on their own behalf and represent themselves without an attorney, they have no authority to bring this cause of action on behalf of their children, Jennelle and Jeffrey. See, e.g., Chancellor v. Van Buren, H.M.A., Inc., 202 F.R.D. 593, 596 (W.D. Ark. 2000) (indicating that a parent can only bring a cause of action on behalf of their minor child provided the parent is represented by an attorney). In this case, the Plaintiffs, unsatisfied with the Iowa juvenile court proceedings, hope to try again. However, the doctrine of claim preclusion can prohibit a parent from seeking to re-litigate an Iowa juvenile case in federal court. See Robbins v. Dist. Court of Worth County, 592 F.2d 1015, 1017-18 (8th Cir. 1979) (specifying that "[r]es judicata applies to § 1983 and operates as a bar to the re-litigation of constitutional issues actually raised as well as to constitutional issues that could have been raised in a prior lawsuit if the second suit concerns the same operative nucleus of fact"). See id. at 1017 (citing Goodrich v. Supreme Court of South Dakota, 511 F.2d 316, 318 (8th Cir. 1975)). To the extent Plaintiffs seek to redress a violation of state law, this § 1983 action fails, since § 1983 actions cannot be used to address violations of state law. See Maine v. Thiboutot, 448 U.S. 1, 3 (1980) (highlighting that § 1983 provides a remedy for violations of rights created by the "Constitution and laws" of the United States, that is, rights created by federal statute as well as those created by the Constitution). Plaintiffs argue that under Monell v. Department of Social Services, 430 U.S. 658 (1978), "a municipal government can be held liable under Section 1983 if . . . plaintiff can demonstrate . . . a deprivation of a federal right occurred as a result of a 'policy' of the local government's legislative body or of those local officials whose acts may fairly be said to be those of the municipality". This is irrelevant here because the Defendants in this case, are not a municipal government or a municipal employee. Finally, Plaintiffs' claim regarding the conduct of CPW McManigal does not exist since she is entitled to immunity. See Thomason v. Scan Volunteer Services, Inc., 85 F.3d 1365, 1373 (8th Cir. 1996) (indicating that even

IT IS SO ORDERED.

Dated this 31st day of January, 2003.



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arguably false statements made by a case worker acting in her role as witness during state court proceedings, as well as in providing reports and recommendations to the court, are entitled to absolute immunity); see also Lux v. Hansen, 886 F.2d 1064, 1067 (8th Cir. 1989) (finding that social workers are traditionally granted qualified immunity regarding the methods and procedures used while investigating suspected child abuse); Iowa Code § 232.73 (pointing out that, by statute, Iowa law grants immunity to all those participating in a child abuse investigation or the legal actions resulting therefrom).