IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 92-1049

Summary Calendar

Judy Andrea Reiman, John Karl Reiman, M.D. and Kevin Edward Beckley,

Plaintiffs-Appellants,

versus

Judge H.F. Garcia, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(CA 1 90 134)

(January 8, 1993)

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

Plaintiffs appeal the dismissal of their case for insufficient service of process against all but two defendants and failure to state a claim upon which relief can be granted as to those who were properly served. We affirm.

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

I.

Dr. John Reiman, his wife, Judy, and step-son, Kevin Beckley, filed a pro se complaint and an amended complaint against 30 individuals, including numerous high-level United States military personnel, and a corporation. Dr. Reiman is an anesthesiologist and former Air Force Lieutenant Colonel who was stationed in Lakenheath, England. Dr. Reiman claims that he learned of unsafe hospital conditions and narcotic trafficking engaged in by United States military officials while at Lakenheath and that he intended to "blow the whistle." He further alleges that the defendants conspired to prevent him from disclosing this information through various actions, ultimately resulting in his dismissal from the Air Force under the guise of mental illness.

According to the government, Dr. Reiman had disciplinary problems, he was diagnosed with a personality disorder, and there were questions about his standard of care. The government also alleges that Dr. Reiman deserted the Air Force, was later arrested in Louisiana, and finally discharged.

The government filed a motion to dismiss, alleging among other things that service of process was insufficient and that the complaint failed to state a claim upon which relief could be granted under F.R.C.P. 12(b)(6). The district court ordered the plaintiffs to respond. The plaintiffs first filed a motion for stay of the proceedings pending a decision from the United States Court of Appeals for the Ninth Circuit, and then filed an

opposition to the government's motion to dismiss. The district court referred the case to a magistrate.

The magistrate recommended that the case be dismissed for insufficient service of process as to all defendants except Colonel Jack Salmon and Colonel Daniel L. Locker. As to Salmon and Locker, the magistrate recommended that the claims against them be dismissed under F.R.C.P. 12(b)(6). The district court adopted the magistrate's recommendation and dismissed the case. Plaintiffs appeal the dismissal and the denial of their motion for stay.

II.

Plaintiffs argument for stay is without merit. Their motion is apparently based on the fact that they have filed a number of similar actions against substantially the same defendants in federal district court in Nevada, Nebraska, and California, one of which has been appealed to the Ninth Circuit. The only authority for a stay offered by the plaintiffs is 28 U.S.C. § 1407, which authorizes the transfer and consolidation of multidistrict litigation. However, the plaintiffs have made no motion under this section, nor does this provision authorize a stay.

The government concedes that Salmon and Locker were properly served. As to all other defendants, the plaintiffs failed to satisfy the mandates of F.R.C.P. 4(c)(2)(C)(ii) and 4(j). The plaintiffs attempted service by mail pursuant to Rule 4(c)(2)(C)(ii). Under this rule, service by mail is not complete until the sender receives acknowledgement of service from the person served within 20 days from the date of mailing. If

acknowledgement is not received within 20 days, then the plaintiffs must serve the defendants by other means. Here, the plaintiffs did not receive acknowledgement. In any event, Rule 4(j) requires that service be made within 120 days from the filing of the complaint or the action shall be dismissed, absent a showing of good cause. The plaintiffs concede that 120 days have passed but argue good cause; they say the military "stonewalled" service.

The district court did not abuse its discretion by finding an absence of good cause. See McDonald v. United States, 898 F.2d 466, 467-68 (1990). They successfully served two military defendants, Salmon and Locker, which belies their claim that the military stonewalled service. The plaintiffs offer no justification for failure to properly serve the civilian defendants and the corporation.

With regard to the claims against Salmon and Locker, we review 12(b)(6) dismissals de novo. Worham v. City of Pasadena, 881 F.2d 1336, 1339 (5th Cir. 1989). The magistrate listed the allegations against defendants Salmon and Locker in his opinion. We do not restate them here. We agree with the magistrate and district court that Reiman's allegations are conclusory and do not set out facts showing how Salmon and Locker could be held liable. See e.g. Guidry v. Bank of LaPlace, 954 F.2d 278, 281 (5th Cir. 1992) (conclusory pleadings are not sufficient for a RICO claim); Brinkman v. Johnston, 793 F.2d 111, 113 (5th Cir. 1986) (conclusory pleadings are not sufficient for a § 1983 claim); F.R.C.P. 9(b) (fraud must be plead with specificity).

AFFIRMED.