

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Michelle Smith v. Office of Administrative Hearings, et al.

Smith v. Office of Administrative Hearings · No. CV-26-01515-PHX-DWL · Decided March 30, 2026

OPINION

Michelle Smith v. Office of Administrative Hearings, et al.

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Michelle Smith, No. CV-26-01515-PHX-DWL 10 Petitioner, ORDER 11 v. 12 Office of
Administrative Hearings, et al., 13 Respondents. 14 15 Plaintiff, who is proceeding pro se, is the
mother of A.M., a minor child with a 16 disability. (Doc. 1-3 at 3.) On an unspecified date,
Plaintiff filed an amended due process 17 complaint with the Arizona Office of Administrative
Hearings (“OAH”) alleging that the 18 Dysart Unified School District No. 89 (“Dysart”)
“improperly changed the child’s 19 educational placement, violated stay-put protections, relied on
discriminatory placement 20 criteria, and failed to comply with IDEA [Individuals with
Disabilities Education Act] 21 procedural requirements.” (Id. at 8.) 22 On December 9, 2025, an
administrative law judge (“ALJ”) issued a final decision. 23 (Id. at 13.) 24 On December 11,
2025, Plaintiff filed a complaint in Maricopa County Superior 25 Court seeking judicial review of
the ALJ’s decision. (Id. at 7-9 [complaint]; 27 [minute 26 entry].) The sole defendant named in the
complaint was the OAH. (Id. at 7.) 27 On January 22, 2026, Plaintiff filed an amended complaint
in Maricopa County 28 Superior Court. (Id. at 2-5.) The amended complaint adds Dysart as an
additional 1 defendant. (Id. at 2.) 2 On February 17, 2026, Dysart received the amended
complaint. (Doc. 1 at 1.) 3 On March 4, 2026, Dysart filed a notice of removal, alleging that the
Court 4 possesses subject-matter jurisdiction because the amended complaint asserts a federal 5
claim arising under the IDEA. (Doc. 1.) That same day, the Court issued a “Notice to 6 Self-
Represented Litigant.” (Doc. 3.) Among other things, this notice advised Plaintiff 7 that “[i]f you
DO NOT respond to a motion within the requirements of the local Rules, the 8 Court may assume
consent to the denial or granting of the motion and may dispose of the 9 motion summarily under
Local Rule of Civil Procedure 7.2(i).” (Id. at 6.) 10 Now pending before the Court are three
motions filed post-removal. First, Plaintiff 11 has filed an amended motion to remand. (Doc. 6.)
Plaintiff contends that under the IDEA, 12 “a party aggrieved by the findings and decision of an
administrative hearing officer has the 13 right to bring a civil action in either state court or federal
district court. Plaintiff elected to 14 file the appeal in Arizona state court, which is expressly
permitted under the statute.” (Doc. 15 6 at 2.) Plaintiff contends that Dysart’s removal effort

should be rejected because her 16 “choice of state court forum should be respected,” “[t]he case was properly filed in state 17 court before Defendant removed the matter to federal court,” and “[b]ecause the state court 18 had already exercised jurisdiction and established deadlines and procedural orders, 19 remanding the matter would promote judicial economy and allow the case to proceed in 20 the forum where it was originally filed.” (Id. at 3.) In response, Dysart argues that “[g]iven 21 that this action arises under the IDEA, federal question jurisdiction is present” and 22 “[n]othing in the IDEA prohibits a defendant from removing such an action. In fact, the 23 statute explicitly grants federal courts jurisdiction in these actions.” (Doc. 7 at 3.) The 24 deadline to file a reply has now expired and Plaintiff did not file a reply. 25 Plaintiff’s amended motion to remand is denied for the reasons identified by Dysart. 26 Plaintiff has asserted a claim under the IDEA. Although Plaintiff had the statutory right to 27 initially pursue that claim in state court, 20 U.S.C. 1415(i)(2)(A), it was also permissible 28 for Dysart to subsequently remove this action to federal court. See, e.g., *Pedraza v. 1 Alameda Unified School Dist.*, 2011 WL 4507111, *9 (N.D. Cal. 2011) (“Ms. Pedraza’s 2 primary argument is that the District’s removal of case number C 07–59893 obstructed her 3 right to the procedural guarantees of 20 U.S.C. § 1415(i)(2)(A), which provides that an 4 aggrieved party may bring a civil action in state court or federal district court. Ms. 5 Pedraza’s arguments . . . are without merit. Case number C–07–5989 was an appeal of the 6 due process hearing decision issued by OAH. The case was correctly removed pursuant to 7 28 U.S.C. § 1441(b), which provides that any action over which district courts have original 8 jurisdiction based on a claim or right arising under the Constitution, treaties or laws of the 9 United States may be removed from state court. As indicated in 20 U.S.C. § 1415(i)(2)(A), 10 a district court, as well as a state court, has jurisdiction to hear appeals of state agencies’ 11 decisions after hearings under the IDEA. Because this Court has original jurisdiction over 12 Ms. Pedraza’s appeal of the OAH decision, removal was proper.” (citations omitted); 13 *Moorestown Township Bd. of Educ. v. S.D. on behalf of M.D.*, 2010 WL 11692501, *1-2 14 (D.N.J. 2010) (same); *Ector Cnty. Independent Sch Dist. v. VB bnf MB*, 2007 WL 9653135, 15 *2 (W.D. Tex. 2007) (“Since the statute provides for original jurisdiction, an action brought 16 under § 1415(i)(2)(A), such as this one, may be removed to a federal court in accordance 17 with 28 U.S.C. § 1441(a).”). Also, Dysart has otherwise complied with the requirements 18 for removal. 19 The next pending motion is Dysart’s motion to dismiss. (Doc. 5.) Among other 20 things, Dysart argues that the amended complaint should be dismissed because it is 21 untimely and because it “does not outline any alleged wrongful conduct by the District or 22 OAH” and “offers absolutely no allegations or evidence.” (Id. at 6-8.) 23 Under LRCiv 7.2(c), Plaintiff’s response to the motion to dismiss was due by March 24 23, 2026. That deadline has now expired and Plaintiff has not filed a response. As Plaintiff 25 was previously advised, the Court could summarily grant Dysart’s motion due to her failure 26 to file a response. See LRCiv 7.2(i) (“[I]f the unrepresented party . . . does not serve and 27 file the required answering memoranda, . . . such non-compliance may be deemed a consent 28 to the . . . granting of the motion and the Court may dispose of the motion

summarily.”). 1 See also *Wystrach v. Ciachurski*, 267 F. App’x 606, 607-08 (9th Cir. 2008) (“The court 2 also did not abuse its discretion in applying its local rule summarily to grant defendants’ 3 motion to dismiss because plaintiffs failed timely to respond. Local Rule 7.2(i) of the Rules 4 of Practice of the United States District Court for the District of Arizona authorizes a court 5 to dispose summarily of a motion, if the non-moving party fails to serve and file the 6 required answering memorandum.”). 7 However, before dismissing on this basis, “the district court is required to weigh 8 several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the 9 court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public 10 policy favoring disposition of cases of their merits; and (5) the availability of less drastic 11 sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Plaintiff’s response was due 12 one week ago, so the public’s interest in expeditious resolution of litigation has not been 13 seriously injured, there is little to no risk of prejudice to the defendants, and the Court’s 14 docket can weather a brief delay. In light of the public policy favoring disposition of cases 15 on their merits, the Court will not dismiss at this juncture and will, as a one-time courtesy, 16 sua sponte extend the response deadline. As a less drastic sanction, the Court warns 17 Plaintiff that any future failure to adhere to deadlines may result in dismissal. 18 The final pending motion is Dysart’s motion to seal. (Doc. 4.) Dysart contends that 19 because it must, under 20 U.S.C. § 1415(i)(2)(C), submit the complete administrative 20 record to this Court, and portions of the administrative record “contain confidential 21 information pertaining to the Plaintiff’s child’s education records, including the student’s 22 Individualized Education Programs,” it should be allowed to file the administrative record 23 under seal. (Id.) This request is granted. Cf. *J.C. by and through M.C. v. School Bd. of 24 St. Johns County, Fla.*, 2015 WL 13735451, *1 (M.D. Fla. 2015) (“[G]ood cause exists to 25 seal the administrative record because redaction of all identifying and private information 26 of J.C. and M.C. would be unduly burdensome, and because the record consists largely of 27 an allegedly disabled minor’s educational records which are confidential under IDEA.”). 28 ... 1 Accordingly, 2 IT IS ORDERED that: 3 1. Plaintiff’s amended motion to remand (Doc. 6) is denied. 4 2. Dysart’s motion to seal (Doc. 4) is granted. Dysart shall file the 5 || administrative record under seal. 6 3. The deadline for Plaintiff to respond to Dysart’s motion to dismiss (Doc. 5) 7|| 1s extended to April 13, 2026. Plaintiff is once again warned that failure to respond may 8 || result in the motion being summarily granted. 9 Dated this 30th day of March, 2026. 10 11 om ee Dominic W. Lanza 13 United States District Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _5-