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Boyd v. Wachovia Bank NA

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-3525

JOANNE BOYD,

Appellant

v.

WACHOVIA BANK, N.A.

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil No. 07-cv-02033)
District Judge: Honorable J. Curtis Joyner

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
December 6, 2007

Before: SCIRICA, MCKEE and RENDELL, Circuit Judges

(Opinion filed: February 21, 2008)

OPINION

PER CURIAM

Joanne Boyd appeals from the order of the United States District Court for the Eastern District of Pennsylvania dismissing her case for failure to state a claim. We will affirm the District Court's order.

Boyd filed in District Court a "petition for notice of appeal," which named Wachovia Bank, N.A. ("Wachovia") as the sole respondent and sought review of a March 19, 2007 action by the United States Supreme Court. Boyd invoked the First and Fourteenth Amendments of the Constitution, alleging that employees of the Office of the Clerk of the United States Supreme Court violated her rights in processing a petition she filed in that court. Boyd asserted that the Supreme Court Office of the Clerk engaged in discrimination against her, and the denial of her Supreme Court petition was an attempt to conceal criminal actions. Other materials attached to her document filed in District Court contained Boyd's allegations that employees of the United States Postal Service engaged in criminal and reckless behavior, including mail tampering, causing delay in mail delivery in relation to her Supreme Court petition. Boyd asserted that these employees' actions were aimed at thwarting her efforts to stop a sheriff's sale on her residence.

Wachovia filed a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Wachovia argued, among other things, that Boyd's document contained no allegations that Wachovia engaged in any conduct that affected Boyd's legal rights and contained no averments to explain Wachovia's presence in the lawsuit. Boyd did not respond to the motion to dismiss. The District Court granted Wachovia's motion to

dismiss, noting that the motion appeared to be uncontested, that Boyd's initial pleading failed to comply with Rule 3 and 8(a) of the Federal Rules of Civil Procedure, and that Boyd failed to state a viable cause of action against Wachovia. Boyd appeals.¹ This Court advised the parties that the appeal would be submitted for possible dismissal under 28 U.S.C. § 1915(e) or for possible summary action. Boyd has filed a "motion for leave to correct affirmative relief" in opposition to summary action.

Upon review of the record and consideration of the arguments Boyd presents to this Court, we agree with the District Court's dismissal of the case for failure to state a viable claim. The record is devoid of any suggestion that Wachovia was involved in any wrongdoing. Aside from being named in the caption, Wachovia is not mentioned at all in Boyd's pleading.

Because no substantial question is presented by this appeal, we will summarily affirm the order of the District Court pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6.

¹ Boyd also initiated another action in District Court, E.D. Pa. Civ. No. 07-cv-02032, which has resulted in another appeal before this Court, C.A. No. 07-2949. The matter was consolidated for disposition by Clerk's Order entered September 26, 2007, but we will address the matter separately.