

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

CANDI-LEE WEEKS,

Plaintiff,

vs.

BRADLEY F. JOHNSON; BILL DIAL;  
KRISTI CURTIS; KEVIN CONWAY;  
SHANE ERICKSON; CHASE GARNER;  
CHUCK STEARNS; BRIDGER KELCH;  
JOHN MUHFELD; BILL HILL; and  
BRIAN CARTER,

Defendants..

CV 16-161-M-DLC-JCL

FINDINGS &  
RECOMMENDATION

Before the Court is the Fed. R. Civ. P. 12(b)(6) motion of Defendant Brian Carter seeking dismissal of this action against him for failure to state a claim upon which relief may be granted. (Doc. 34). Review of the record reveals that Plaintiff Candi-Lee Weeks has not filed a response addressing the merits of

Carter's motion within the time prescribed by L.R. 7.1(d)(1)(B).<sup>1</sup>

**I. Background**

The facts underlying this case are well known to the parties and are repeated here as necessary to inform the analysis of the merits of Carter's motion. Weeks' action has its genesis in her arrest by a Whitefish, Montana police officer for operating an improperly licensed motor vehicle without a valid driver's license. Weeks invokes federal question jurisdiction under 28 U.S.C. § 1331 by asserting claims for relief under 42 U.S.C. § 1983. As best as can be ascertained from her Complaint, Weeks alleges her right to travel as guaranteed by the Due Process Clause of the Fourteenth Amendment has been violated by the various Defendants. In essence, Weeks contends she has an absolute and fundamental right of travel – via operation of a private vehicle – unencumbered by any restrictions by the State of Montana such as the requirement of a valid drivers license. From this premise, she asserts that her arrest and subsequent prosecution violated her right to travel.

So what did Carter do? Carter is a bailbondsman for Moonlighting Bail which Weeks contacted after her arrest for the purpose of seeking a \$500 bond

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<sup>1</sup> What Weeks did file is a document titled "Order Denying Motion Documents 34 & 35 AND Notice of Contempt of Court." (Doc. 39). The referenced document is another in a string of documents by which Weeks purports to be acting on behalf of a "tribunal" that exists in Weeks' alternate reality.

necessary to secure her release. Weeks signed the bond application prepared by Carter but interlined the statement “under duress threat coercion” on the signature line. Bond was ultimately posted by Carter on behalf of Moonlighting Bail and Weeks was released. Weeks subsequently failed to appear at her scheduled court date.

The only operative allegations of Weeks’ Complaint, as amended, as against Carter are as follows:

55. Claimant told Bondsman Brian Carter that she would only sign under Duress by threat and coercion, Carter stated that he did not care.
56. Claimant signed the bond under Duress, Threat, and coercion, this bond was extorted out of claimant by threat of arrest with no cause.

(Doc. 21, at 10).

When these allegations are read in the context of the entire Complaint, it is evident that the “duress, threat, and coercion” of which Weeks complains relate solely to the actions of Defendant Municipal Court Judge Bradley Johnson in setting bond as a condition of Weeks’ pretrial release.

## **II. Analysis**

In analyzing Carter’s Fed. R. Civ. P. 12(b)(6) motion to dismiss, the Court accepts all of the factual allegations in Weeks’ Complaint as true and construes them most favorably to her. *Knieval v. ESPN*, 393 F.3d 1068, 1072 (9<sup>th</sup> Cir. 2005). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege both (1) that she

was deprived of a federal right, and (3) that the person who deprived her of that right acted under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). And if a complaint fails to allege these essential elements of a § 1983 claim, it is subject to dismissal under Fed. R. Civ. P. 12(b)(6).

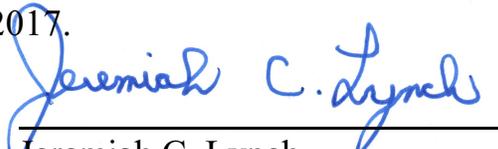
Weeks' complaint fails to allege that Carter was acting under color of state law. And in this regard, the Ninth Circuit decisional law supports the conclusion that a bailbondsman – like Carter here – who merely posts a bond to secure the release of a detainee is not acting under color of state law for purposes of § 1983. *Ouzts v. Maryland National Ins. Co.*, 505 F.2d 547, 555 (9<sup>th</sup> Cir. 1974) (en banc). Weeks presents no argument to the contrary.

### **III. Conclusion**

Weeks' Complaint, as amended, fails to state a claim for relief against Carter for which relief may be granted. Therefore,

IT IS RECOMMENDED that Carter's Fed. R. Civ. P. 12(b)(6) motion to dismiss be GRANTED.

DATED this 27<sup>th</sup> day of July, 2017.

  
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Jeremiah C. Lynch  
United States Magistrate Judge