

NOTICE: Summary decisions issued by the Appeals Court pursuant to M.A.C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as rule 1:28, as amended by 73 Mass. App. Ct. 1001 [2009]), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 23.0 or rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

21-P-595

MONNIE KOU NYAHN

vs.

MAMA MANDA COOPER-NYAHN.

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

The plaintiff filed a seventeen-page, largely indecipherable, complaint against the defendant. In her answer the defendant requested that the complaint be dismissed under Mass. R. Civ. P. 12 (b) (6), 365 Mass. 754 (1974), asserting that it was "a rambling manifesto" that failed to "specifically allege any tortious behavior on [the defendant's] part." After a hearing, at which the plaintiff represented that she was suing because of "the change of [her] birth certificate," a Superior Court judge (first judge) dismissed the complaint under rule 12 (b) (6). At the same time, the first judge granted the plaintiff leave to amend, but ordered that any amended complaint "shall be limited to the claim that the defendant changed the plaintiff's birth certificate," "shall contain specific allegations about the defendant's conduct relevant to the birth

certificate," and "shall specifically state the tort claim(s) for which the plaintiff seeks relief." The first judge also stated that any amended complaint would be screened by the court "to determine whether it substantially complies with this [order]."

After the plaintiff filed an amended complaint, a different judge (second judge) held a hearing to determine whether it substantially complied with the first judge's order.¹ Concluding that it did not, the second judge issued an order dismissing the amended complaint. Judgment entered accordingly, and the plaintiff appeals.

As the defendant accurately observes, the plaintiff's brief is bereft of citations to legal authority, page references to the record appendix, and any discernible argument as to why the judgment should be vacated. See Mass. R.A.P. 16 (a) (9), as appearing in 481 Mass. 1628 (2019). Although "some leniency is appropriate in determining whether pro se litigants have complied with rules of procedure, the rules nevertheless bind pro se litigants as all other litigants." Brown v. Chicopee

¹ Meanwhile, although the first judge's order stated that "[t]he defendant may wait for written notice of the Court's ruling [on the issue of substantial compliance] before responding," a default entered against the defendant for failure to answer the amended complaint. The defendant filed an emergency motion to vacate the default, which the second judge allowed. That ruling is not at issue on appeal.

Fire Fighters Ass'n, Local 1710, IAFF, 408 Mass. 1003, 1004 n.4 (1990). Nonetheless, despite the deficiencies in the plaintiff's brief, we exercise our discretion to address the merits.

The first judge correctly dismissed the original complaint under rule 12 (b) (6). As the first judge described it, the original complaint is a stream-of-consciousness narrative consisting of "comments about childhood events, school events, and political events in Liberia" and "crimes committed years ago by unknown persons against unspecified children in Liberia." Even viewed indulgently, the original complaint does not plausibly allege a cognizable claim against the defendant. See Iannacchino v. Ford Motor Co., 451 Mass. 623, 636 (2008).

Likewise, the second judge correctly dismissed the amended complaint. The amended complaint appears to allege that the defendant committed fraud by changing the plaintiff's birth certificate to reflect that the defendant is the plaintiff's mother; that the plaintiff has witnesses, including in Liberia, who can attest to this; and that the defendant plotted the plaintiff's death. These allegations are inadequate to state a claim of fraud, which must be pleaded "with particularity." Mass. R. Civ. P. 9 (b), 365 Mass. 751 (1974). "At a minimum, a plaintiff alleging fraud must particularize the identity of the person(s) making the representation, the contents of the

misrepresentation, and where and when it took place. In addition, the plaintiff should specify the materiality of the misrepresentation, [her] reliance thereon, and resulting harm." Equipment & Sys. for Indus., Inc. v. Northmeadows Constr. Co., 59 Mass. App. Ct. 931, 931-932 (2003). The amended complaint does not comply with these requirements, nor does it plausibly suggest an entitlement to relief under some other cause of action. Dismissal was therefore proper.

Judgment affirmed.

By the Court (Meade, Shin & Hershfang, JJ.²),



Clerk

Entered: May 20, 2022.

² The panelists are listed in order of seniority.