IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

MAURICE WALKER, on
behalf of himself and others
similarly situated,

Plaintiff,

v. CIVIL ACTION FILE NO.:
4:15-CV-0170-HLM

CITY OF CALHOUN, GEORGIA,

Defendant.

ORDER

This case is before the Court on Defendant's Motion to Dismiss for Failure to State a Claim, or, in the Alternative, Motion for More Definite Statement ("Motion to Dismiss").

I. Background

A. Plaintiff's Allegations

Plaintiff has sued Defendant, alleging that Defendant jails "the poor because they cannot pay a small amount of money." (Compl. (Docket Entry No. 1) ¶ 1.) Plaintiff is a recent arrestee who is imprisoned because he cannot afford to pay the money set by Defendant's bail schedule. (Id. ¶ 2.) Plaintiff alleges that Defendant releases "many people arrested for minor traffic or misdemeanor offenses . . . almost immediately upon payment of money." (Id.) However, those "who are too poor to purchase their release remain in jail because of their poverty for up to seven days before a first court appearance." (Id.) Plaintiff "challenges in this action the use of fixed amounts of secured money bail that results in the detention of only the poorest of those arrested for petty offenses," and "seeks a declaration that [Defendant's] conduct is unlawful, and injunctive relief assuring that his rights and the rights of the other class members will not continue to be violated." (Id. ¶ 3.)

Plaintiff alleges that Defendant has a policy and practice of refusing "to release traffic and misdemeanor arrestees from jail unless they pay a generically set bond amount," which varies by offense but usually ranges from $90 to $1,000. (Compl. ¶ 4.) According to Plaintiff, Defendant does not consider individualized factors when setting bonds, and "anyone who cannot afford to pay is held in jail for up to seven days before [Defendant] brings its arrestees before the municipal court." (Id.)

Defendant is a Georgia municipal corporation and is the seat of Gordon County, Georgia. (Compl. ¶ 9.) Defendant operates the Calhoun Police Department (the "CPD") and contracts with the sheriff of Gordon County to hold its arrestees in the Gordon County Jail (the "Jail"). (Id.)

Plaintiff is fifty-four years old and has a serious mental disorder that causes him to be disabled. (Compl. ¶ 10.) Plaintiff alleges that his only income consists of $530 per month in Social Security disability payments, which his sister receives and manages. (Id.) Plaintiff lives with his sister and has no property or assets. (Id.) Plaintiff has been unable to work for the past five years. (Id.)

On September 3, 2015, the CPD arrested Plaintiff and charged him with being a pedestrian under the influence.

(Compl. ¶ 11.) CPD officers brought Plaintiff to the Jail, where he was booked and placed in a holding cell. (Id. ¶ 12.) An officer told Plaintiff "that he would not be released unless he paid the standard $160 cash bond that [Defendant] requires for people charged with being a pedestrian under the influence." (Id.)

Plaintiff is indigent and cannot afford to post the bond. (Compl. ¶ 13.) Plaintiff's family cannot afford to post the bond. (Id.) Plaintiff has asked officers at the Jail when he will go to court, and has received three different answers. (Id. ¶ 14.) Defendant holds weekly court sessions on Mondays, and new arrestees who cannot post bond must wait until the following Monday to see the judge. (Id.) Defendant did not hold court on September 7, 2015, due to the Labor Day holiday, and Plaintiff will not appear in court until September 14, 2015. (Id.)

Plaintiff has a prescription for medication for his mental disorder and must take the medication every day. (Compl. ¶ 15.) In August 2015, Plaintiff spent eight days in the hospital because he had stopped taking his medication. (Id.) Plaintiff alleges that he has not received his medication while in the Jail, that he is assigned to a single-person cell, and that he is allowed out of the cell for one hour each day. (Id.)

Plaintiff alleges that, under Georgia law, most arrestees who are charged with misdemeanors are entitled to pretrial release. (Compl. ¶ 16.) Plaintiff contends that Defendant would release him immediately if he or a family member paid the bond amount. (Id. ¶ 17.) According to Plaintiff, his treatment, and that of other class members, results from and is representative of Defendant's post-arrest detention policies and practices. (Id. ¶ 18.) Plaintiff alleges that under Defendant's policy and practice,

> when the [CPD] makes an arrest for a minor traffic or misdemeanor offense, officers inform the arrestee that the arrestee will be released immediately if he or she pays the bond amount set for each charge of arrest pursuant to an offense-based and pre-set bail schedule. The arrestee is told that he or she will remain in jail if unable to make that payment.

(Id. ¶ 19 (footnote omitted).) According to Plaintiff, those who remain in Defendant's custody typically cannot afford to pay a third-party bonding agent the ten to twenty percent required to obtain a commercial bail bond. (Id. at 6 n.2.) Plaintiff states that he cannot afford such a bond. (Id.)

According to Plaintiff, "[b]ecause [Defendant] does not deviate from secured money bail and holds court only once per week, any arrestee too poor to pay the pre-set secured bail could spend as many as seven days in jail prior to a first court appearance." (Compl. ¶ 20.) Plaintiff alleges that Defendant, unlike many other cities, "does not allow post-arrest release on recognizance or with an unsecured bond (in which a person would be released by promising to pay the scheduled amount if the person later does not appear)." (Id. ¶ 21.) Defendant instead requires payment up front. (Id.)

Plaintiff alleges:

> After arrest, [J]ail employees inform arrestees of the secured bond amount based on their training and [Defendant] policies. Many of [Defendant's] minor misdemeanor arrestees are thus released

> soon after arrest upon payment of the scheduled amount of cash. Some remain detained for varying lengths of time until they or their families are able to borrow sufficient amounts of money or arrange for third-party payment. Others, like [Plaintiff], who are too poor even to find anyone to pay the money bond for them, are kept in jail.

(Compl. ¶ 22.) According to Plaintiff, "[e]ach Monday, there are commonly about four to six indigent defendants who were not able to pay enough money to secure their release." (Id. ¶ 23.)

Plaintiff has brought this action on behalf of a class, alleging that "[a] class action is a superior means, and the only practicable means, by which [Plaintiff] and other class members can challenge [Defendant's] unlawful detention scheme." (Compl. ¶ 25.) Plaintiff proposes a class for declaratory and injunctive relief, defined as "[a]ll arrestees unable to pay for their release who are or will be in the custody of [Defendant] as a result of an arrest involving a misdemeanor, traffic offense, or ordinance violation." (Id. ¶ 28.) Plaintiff alleges that the class satisfies the numerosity requirement. (Id. ¶¶ 29-31.) Plaintiff further contends that the class satisfies the commonality requirement. (Id. ¶¶ 32-35.) Additionally, Plaintiff alleges that the class satisfies the typicality requirement. (Id. ¶¶ 36-37.) Plaintiff argues that he is an adequate representative of the class, that his counsel can adequately represent the class, and that the class satisfies the adequacy requirement. (Id. ¶¶ 38-41.) According to Plaintiff:

> Class action status is appropriate because [Defendant], through the policies, practices, and procedures that make up its post-arrest detention scheme, has acted in the same unconstitutional

> manner with respect to all class members. [Defendant] has created and applied a simple scheme of post-arrest detention and release: it charges standard secured money amounts for every misdemeanor or ordinance-violation arrestee. [Defendant] releases those who can pay and detains those who cannot. The detained arrestees are eventually taken to court the following week for a first appearance, up to seven days after arrest.

(Id. ¶ 42.)

Plaintiff alleges that Defendant violated his Fourteenth Amendment rights by jailing him because he cannot afford to pay the cash bond. (Compl. ¶¶ 46-47.) Plaintiff seeks a declaratory judgment that Defendant violated his rights, and those of the class members, "by jailing them because of their inability to pay a generically set amount of money to secure release after an arrest" (id. at 13), as well as an Order preliminarily and permanently enjoining Defendant from enforcing its post-arrest money-based detention policies against Plaintiff and the class (id. at 13-14), monetary damages (id. at 14), and attorneys' fees and costs (id.).

B. Procedural Background

On September 8, 2015, Plaintiff filed this lawsuit. (Docket Entry No. 1.) Plaintiff also filed a Motion for Temporary Restraining Order or, in the Alternative, for Preliminary Injunction (Docket Entry No. 4), and a Motion to Certify Class (Docket Entry No. 10). Plaintiff withdrew his request for a temporary restraining order after Defendant released Plaintiff from jail. (Docket Entry No. 11.) The Court has extended Defendant's deadline to respond to the Motion for Preliminary Injunction through December 2, 2015, and has extended the deadline for Defendant to respond to the Motion to Certify Class through January 4, 2016. (Order of Oct. 21, 2015 (Docket Entry No. 21).)

On November 2, 2015, Defendant filed its Motion to Dismiss. (Docket Entry No. 22.) The briefing process for that Motion is complete, and the Court finds that the matter is ripe for resolution.

II. Discussion

A. Motion to Dismiss

Defendant complains that "Plaintiff has failed to even conclusorily allege what type of Due Process or Equal Protection claim he intends to assert, and, moreover, has thus failed to show a plausible claim for relief." (Br. Supp. Mot. Dismiss (Docket Entry No. 22-1) at 8.) Defendant also argues that "[i]n turn, Plaintiff has not alleged sufficient facts to show that the type of claim he is alleging is plausible." (Id. at 9.)

Federal Rule of Civil Procedure 12(b)(6) allows the Court to dismiss a complaint, or portions of a complaint, for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). When reviewing a motion to dismiss, the Court must take the allegations of the complaint as true and must construe those allegations in the light most favorable to the plaintiff. Alvarez v. Attorney Gen. for Fla., 679 F.3d 1257, 1261 (11th Cir. 2012).

Although a court is required to accept well-pleaded facts as true when evaluating a motion to dismiss, it is not required to accept the plaintiff's legal conclusions. Chandler

v. Sec'y of Fla. Dep't of Transp., 695 F.3d 1194, 1199 (11th Cir. 2012) (citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)). The Court also does not accept as true "unwarranted deductions of fact or legal conclusions masquerading as facts." Snow v. DirecTV, Inc., 450 F.3d 1314, 1320 (11th Cir. 2006) (internal quotation marks and citation omitted).

Finally, the Court may dismiss a complaint if it does not plead "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Simpson v. Sanderson Farms, Inc., 744 F. 3d 702, 708 (11th Cir. 2014) (internal quotation marks omitted) (quoting Iqbal, 556 U.S. at 678). In Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), the Supreme Court observed that a complaint "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." 550 U.S. at 555. Although factual allegations in a complaint need not be detailed, those allegations "must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." Id. Moreover, "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678. The mere possibility that the defendant might have acted unlawfully is not sufficient to allow a claim to survive a motion to dismiss. Id. Instead, the well-pleaded allegations of the complaint must move the claim "across the line from conceivable to plausible." Twombly, 550 U.S. at 570.

Defendant cannot seriously contend that Plaintiff's allegations fail to state a constitutional violation. To the extent that Defendant makes this argument, the Court rejects it and observes that Plaintiff certainly has set forth sufficient non-conclusory factual allegations to state a claim for relief. Even if Defendant is correct in its contention that Plaintiff should have specified the type of Equal Protection or Due Process claim that Plaintiff intended to assert, any such "deficiency" can be remedied via requiring Plaintiff to provide a more definite statement of his claims. Dismissal is not the appropriate remedy for that alleged deficiency. The Court therefore denies the Motion to Dismiss.

B. Motion for More Definite Statement

Alternatively, Defendant requests that the Court "order Plaintiff to re-plead [his] claim or claims with such specificity–including what type of Equal Protection or Due Process claim he is attempting to allege–so that [Defendant] can provide a responsive pleading." (Br. Supp. Mot. Dismiss at 9.) In support of this argument, Defendant notes that "there are multiple types of claims that can be brought under either the Due Process Clause or the Equal Protection Clause." (Id. at 11.)

Federal Rule of Civil Procedure 12(e) provides:

> A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a

> responsive pleading and must point out the defects complained of and the details desired.

Fed. R. Civ. P. 12(e). "Rule 12(e) motions are greatly disfavored by the courts. A motion for a more definite statement is properly made only if a pleading is so vague or ambiguous that a party is not reasonably able to frame a responsive pleading." Duracell Inc. v. SW Consultants, Inc., 126 F.R.D. 571, 576 (N.D. Ga. May 12, 1989) (citations omitted).

Here, the Court cannot find that Plaintiff's Complaint is so vague or ambiguous that Defendant cannot reasonably frame a responsive pleading. On its face, Plaintiff's Complaint is pleaded with sufficient specificity and clarity to put Defendant on notice of the claims that Plaintiff asserts, and Defendant should be able to frame a responsive pleading. See Reid v. Selma City Sch. Bd., Civil Action No. 13-0379-WS-C, 2013 WL 5295871, at *4 (S.D. Ala. Sept. 19, 2013) (denying a motion for more definite statement where the Complaint, on its face, was "pleaded with sufficient specificity and clarity that defendants are sufficiently on notice of the claims that they are capable of framing a responsive pleading"). Any additional detail that Defendant may want about the specific types of Equal Protection or Due Process claims at issue is readily obtainable through the discovery process, and this information is not necessary to allow Defendant to frame a responsive pleading. See id. (denying a motion for more definite statement and noting that "[a]ny additional detail that defendants might desire about the specific statutes and/or constitutional provisions at issue can be readily obtained via the discovery process after filing answers" (internal quotation marks and citation omitted)). The Court finds that "a more definite statement is not reasonably necessary to safeguard [Defendant's] interests or facilitate [its] ability to fashion a responsive pleading." Id. The Court therefore denies Defendant's Motion for More Definite Statement.

III. Conclusion

ACCORDINGLY, the Court **DENIES** Defendant's Motion to Dismiss [22].

IT IS SO ORDERED, this the 2d day of December, 2015.

Harold L. Murphy
UNITED STATES DISTRICT JUDGE