

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GERALDINE MILLS, M.D., :
Plaintiff, :
 :
v. : CA 03-422L
 :
STEVE BROWN and :
JOYCE BROWN, :
Defendants. :

REPORT AND RECOMMENDATION

David L. Martin, United States Magistrate Judge

Before the court is the Motion to Dismiss of Defendants Steve Brown and Joyce Brown ("Defendants"). This matter has been referred to me for preliminary review, findings, and recommended disposition pursuant to 28 U.S.C. § 636(b)(1)(B) and D.R.I. Local R. 32(a). A hearing was held on March 8, 2004. At that time, Plaintiff Geraldine Mills, M.D. ("Plaintiff"), conceded that the Complaint which she had filed did not comply with Fed. R. Civ. P. 8 and indicated that she was seeking to file an Amended Complaint.

Plaintiff's acknowledgment of non-compliance with Rule 8 is appropriate as the Complaint does not contain: 1) a short and plain statement of the grounds upon which the Court's jurisdiction depends and 2) a short and plain statement of the claim showing that she is entitled to relief. See Fed. R. Civ. P. 8(a). As this Magistrate Judge has also concluded that the court lacks subject matter jurisdiction over Plaintiff's claims and those claims are barred because Defendants are not state actors and are protected by absolute immunity, see Memorandum and Order of 4/21/04 (denying Motion to Amend), I recommend that the Motion to Dismiss be granted and that this action be dismissed.

Any objections to this Report and Recommendation must be

specific and must be filed with the Clerk of Court within ten (10) days of its receipt. See Fed R. Civ. P. 72(b); D.R.I. Local R. 32. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district court and of the right to appeal the district court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

David L. Martin
United States Magistrate Judge
April 21, 2004