UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MARK VILLENEUVE	**:**	
PLAINTIFF,	**:**	
	:	**CIVIL ACTION NO. 3:12cv815(VLB)**
	:	
v.	**:**	**FEBRUARY 13, 2013**
	:	
STATE OF CONNECTICUT, ET AL.	**:**	
DEFENDANTS.	**:**	

MEMORANDUM OF DECISION GRANTING DEFENDANTS' [DKT. #14] MOTION TO DISMISS AND DISMISSING THE ACTION

The Plaintiff, Mark Villeneuve ("Villeneuve"), proceeding *pro se*, has brought suit against numerous federal and state officials. The Federal Defendants, include President Barack Obama, United States Attorney General Eric Holder,[1] the Honorable Judge Alvin Thompson, and the Honorable Judge Janet Bond Arterton. The State Defendants include Governor Dannel P. Malloy, Connecticut Attorney General George Jepsen, the Connecticut Judicial Review Counsel, the Honorable Judge Julia L. Aurigemma, the Honorable Judge Barbara M. Quinn, the Honorable Judge Douglas S. Laving, the Honorable Judge Bethany J. Alvord, Mark Dubois, Patricia King and the State of Connecticut. Villeneuve, who was admitted to practice law in the state of Connecticut, alleges that he was deprived of his constitutional rights and access to the courts in connection with state and federal grievance proceedings against him for violations of the Connecticut Rules of Professional Conduct as well as in connection with his prior civil rights lawsuit before the Honorable Judge Arterton. Because of these alleged deprivations, Villeneuve requests that the Court issue an injunction

[1] Plaintiff improperly named Eric Cantor as the United States Attorney General.

against the State of Connecticut and the Federal Government of the United States "enjoining them from interfering with a planned public protest pursuant to the First Amendment" at which Villeneuve indicates he will end his own life "in protest of the state and federal courts egregious deprivation of his constitutional rights and access to the courts." The State Defendants have moved to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) on the basis that Villeneuve's injunctive request is inappropriate, that Villeneuve lacks standing to seek an injunction and that the *Rooker-Feldman* doctrine requires the Court to abstain from deciding the case.

Background

On May 31, 2012, Villeneuve filed his one-count complaint seeking injunctive relief before this Court. On August 16, 2012, the State Defendants moved to dismiss the complaint. [Dkt. #14].

On August 23, 2012, the Court ordered the Plaintiff to show cause by September 6, 2012 why this case should proceed against the federal judicial defendants in the event that these defendants are properly and timely served in light of the doctrine of judicial immunity. [Dkt.# 18]. The Court also ordered the Plaintiff to show cause by September 6, 2012 why this case should proceed against President Obama and Attorney General Holder in the event that these defendants are properly and timely served for lack of personal involvement. [Dkt. #19]. To date, the Plaintiff has failed to respond to the Court's order to show cause and has failed to serve the Federal Defendants.

On September 6, 2012, the Plaintiff moved to strike the State Defendant's motion to dismiss on essentially the same grounds he put forth in opposition to the State Defendant's motion to dismiss. [Dkt.# 21].

Villeneuve alleges that as a result of the "state and federal courts egregious deprivation of his constitutional rights" in connection with his state grievance proceeding, his federal reciprocal grievance proceeding and his prior civil lawsuit regarding his state proceeding, s*ee Villeneuve v. Connecticut*, Civ. No., 3:10-cv-296(JBA), he requests that an injunction issue against the State of Connecticut and the Federal Government of the United State enjoining "them from interfering with a planned public protest pursuant to the Plaintiff's First Amendment rights…[a]t which protest, the Plaintiff intends to end his own life." [Dkt. #1, Compl. p. 21]. Plaintiff specifically alleges that he "intends to end his own life, on public property, in full view of the general public, in protest of the heinous and outrageous actions of both the State of Connecticut and the Federal Government." *Id.*

Legal Standard

The standards of review for a motion to dismiss under Rule 12(b)(1) for lack of subject matter jurisdiction and under 12(b)(6) for failure to state a claim are "substantively identical." *Lerner v. Fleet Bank, N.A.*, 318 F.3d 113, 128 (2d. Cir. 2003). However, on a motion to dismiss under Rule 12(b)(1), the party invoking the Court's jurisdiction bears the burden of proof to demonstrate that subject matter jurisdiction exists, whereas the movant bears the burden of proof on a

motion to dismiss under Rule 12(b)(6). *Id.* In deciding both types of motions, the Court "must accept all factual allegations in the complaint as true, and draw inferences from those allegations in the light most favorable to the plaintiff." *In re AIG Advisor Group Sec. Litig.*, 309 Fed. App'x. 495, 497 (2d Cir. 2009). "To survive a motion to dismiss [under Rule 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (internal quotation marks omitted). "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." *Id.*

The Court's review on a motion to dismiss pursuant to Rule 12(b)(6) is generally limited to "the facts as asserted within the four corners of the complaint, the documents attached to the complaint as exhibits, and any documents incorporated in the complaint by reference." *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 191 (2d Cir. 2007). In addition, the Court may also consider "matters of which judicial notice may be taken" and "documents either in plaintiffs' possession or of which plaintiffs had knowledge and relied on in bringing suit." *Brass v. Am. Film Techs., Inc.*, 987 F.2d 142, 150 (2d Cir. 1993). In deciding a motion to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), however, the Court "may resolve disputed factual issues by reference to evidence outside the pleadings, including affidavits." *State Employees Bargaining Agent Coal. v. Rowland*, 494 F.3d 71, 77 n.4 (2d Cir. 2007).

Analysis

Villeneuve has clarified in his opposition to the motion to dismiss that he does not seek an injunction for any due process violations, nor does he seek a rejection of the state court judgment, but is instead merely seeking to protest the actions of the state court. [Dkt. #6, p.5-6]. Villeneuve argues in his opposition memorandum that he has the right under the First Amendment to commit suicide as a means of protest. *Id.* at 4. To the extent that Villeneuve is asking this Court to declare his legal rights, such a request would amount to an impermissible advisory opinion. *Aetna Life Ins. Co. v. Hartford, Conn. v. Haworth,* 300 U.S. 227, 240 (1937) (holding federal courts have no power to render advisory opinions as to what the law ought to be or affecting a dispute that has not yet arisen); *Flast v. Cohen*, 392 U.S. 83, 95 (1968) ("Thus, no justiciable controversy is presented when… the parties are asking for an advisory opinion."). As the Supreme Court explained the "requirements of Art. III are not satisfied merely because a party requests a court of the United States to declare its legal rights, and has couched that request for forms of relief historically associated with courts of law in terms that have a familiar ring to those trained in the legal process. The judicial power of the United States defined by Art. III is not an unconditioned authority to determine the constitutionality of legislative or executive acts. The power to declare the rights of individuals and to measure the authority of governments, this Court said 90 years ago, is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy. Otherwise, the power is not judicial ... in the sense in which judicial power is granted by the

Constitution to the courts of the United States." *Valley Forge Christian College v. Americans United for Separation of Church and State*, 454 U.S. 464, 471 (1982) (internal quotation marks and citations omitted). Here, Villeneuve has not satisfied the requirements of Article III as he has sought a court of the United States to declare his legal rights and has couched that request for forms of relief historically associated with courts at law and in familiar legal terms.

Even if Villeneuve has satisfied the requirements of Article III, the Court has no authority to grant the relief that Villeneuve seeks. As the Supreme Court explained although an individual has a constitutionally protected right to refuse lifesaving hydration and nutrition, the state has an "'unqualified interest in the preservation of human life.'" *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997) (quoting Cruzan v. Dir., Mo. Dep't of Health, 497 U.S. 261, 282 (1990)). In *Glucksberg*, the Supreme Court held that the "right to commit suicide which itself includes a right to assistance in doing so" was not a constitutionally protected right. *Id.* at 723. In addition, the Connecticut Supreme Court has unequivocally stated that "Connecticut has a policy of preserving life" as well as the" state's interest in preserving life when such life and health are at risk, including situations wherein the preservation of life required other constitutional rights to be subject to state intrusion." *Comm'r of Corr. v. Coleman*, 303 Conn. 800, 819 (2012). As Defendants point out, the State's interest in preventing suicides is reflected in the fact that the State has made assisting in a suicide a criminal offense. See Conn. Gen. Stat. § 53a-54a ("A person is guilty of murder when, with intent to cause the death of another person, he causes the death of such

person or of a third person or causes a suicide by force, duress or deception .... "); Conn. Gen. Stat. § 53a-56(a) ("A person is guilty of manslaughter in the second degree when: (1) He recklessly causes the death of another person; or (2) he intentionally causes or aids another person, other than by force, duress or deception, to commit suicide."). In addition to criminalizing assisting in a suicide, the Connecticut Legislature has established involuntary commitment proceedings to provide immediate care and treatment for suicidal individuals. See Conn. Gen. Stat. § 17a-502 (a); as well as exceptions to criminal liability for using force against another person in order to thwart a suicide attempt. Conn. Gen. Stat. § 53a-18 (4).

Here given the State and Federal governments' incontrovertible interest in the preservation of life in addition to Connecticut's criminalization of assisting in suicide, this Court has no authority to issue an injunction, which would enjoin the State and the Federal Government from preventing the Plaintiff from committing suicide on public property as an act of protest. In sum, this action does not present a justiciable controversy and seeks relief beyond this Court's authority.

Conclusion

Based upon the above reasoning, Defendants' [Dkt. #14] motion to dismiss is GRANTED and the Court dismisses the action. The Clerk is directed to close the case.

IT IS SO ORDERED.

_____/s/_____
Hon. Vanessa L. Bryant
United States District Judge

Dated at Hartford, Connecticut: February 13, 2013