

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
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ORDER

Submitted September 29, 2017
Decided October 11, 2017

Before

DIANE P. WOOD, *Chief Judge*
FRANK H. EASTERBROOK, *Circuit Judge*
DANIEL A. MANION, *Circuit Judge*

No. 17-2684	LEFLORIS LYON, Plaintiff - Appellant v. CANADIAN NATIONAL RAILWAY COMPANY, et al., Defendants - Appellees
Originating Case Information	
District Court No: 1:14-cv-03421 Northern District of Illinois, Eastern Division District Judge Robert M. Dow	

The following are before the court:

1. **APPELLANT'S MOTION FOR RECRUITMENT OF COUNSEL**, filed on August 23, 2017, by the pro se appellant.
2. **APPELLANT'S EMERGENCY MOTION FOR STAY PENDING APPEAL**, filed on September 26, 2017, by the pro se appellant.
3. **RESPONSE TO APPELLANT'S EMERGENCY MOTION FOR STAY PENDING APPEAL**, filed on October 10, 2017, by counsel for the appellees.

Appellant Lefloris Lyon asks the court to recruit counsel to represent him on appeal. After considering the motion, the district court's order being appealed, and the underlying proceedings, we conclude that briefing would not assist the court in resolving the appeal. See *Taylor v. City of New Albany*, 979 F.2d 87 (7th Cir. 1992); *Mather v. Village of Mundelein*, 869 F.2d 356, 357 (7th Cir. 1989) (per curiam). The appeal is timely only with respect to the district court order denying two motions for recusal and Lyon's motion for relief pursuant to Federal Rule of Civil Procedure 60(b).

In 2014 the district court dismissed Lyon's complaint with prejudice because he filed it in violation of an order entered by the United States District Court for the Southern District of Mississippi, which required Lyon to receive leave of that court before he filed any new civil action related to the complaint in that case or any claims he could have brought in that case. See *Lyon v. Canadian Nat. Railway Co.*, 4:10-cv-00185-CWR-MTP (S.D. Miss. May 21, 2013). In 2017 Lyon filed a Rule 60(b) motion and tendered an amended complaint. As the district court concluded, nothing in the proposed amended complaint overcomes the fundamental problem that the case was filed in violation of a valid order issued by the Southern District of Mississippi, and Lyon may not proceed unless he obtains leave of court before filing a new action.

Lyon also appeals from the denial of two motions to disqualify the district court judge. In the first motion, Lyon alleged that Judge Dow engaged in secret and ex parte communications with the district court in the Southern District of Mississippi when that court's staff notified Judge Dow of its order and Judge Dow sent a copy of his dismissal order to that court. As he explained, Judge Dow's order explicitly provided that it was being sent to the Southern District of Mississippi and this type of communication between judges handling related cases is in no way prohibited. Lyon also sought Judge Dow's recusal based on his former employment, but that law firm never appeared in this case or the Mississippi case. Lyon alleged only generally that the law firm represented one of the defendants, but he offered no details about the capacity of the representation, and the distant relationship Lyon suggested is too removed to be a concern under 28 U.S.C. § 455(b)(2). In the other recusal motion, Lyon suggested that a reasonable observer would question Judge Dow's impartiality based on his rulings, but as Judge Dow explained, any judge applying the law to the circumstances of Lyon's complaint would have reached the same decision and his decision was based on the law not any bias against Lyon. There is no reasonable basis for finding that the district court resolved this case on any ground other than the merits. *In re United States*, 572 F.3d 301, 308 (7th Cir. 2009).

Because there are no non-frivolous arguments Lyon can raise on appeal, **IT IS ORDERED** that the motion for recruitment of counsel and the motion for stay are **DENIED**, and the decision of the district court is summarily **AFFIRMED**.

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

November 8, 2017

Before

DIANE P. WOOD, *Chief Judge*

FRANK H. EASTERBROOK, *Circuit Judge*

DANIEL A. MANION, *Circuit Judge*

No. 17-2684

LEFLORIS LYON,
Plaintiff-Appellant,
v.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

CANADIAN NATIONAL RAILWAY
COMPANY, et al.,
Defendants-Appellees.

No. 1:14-cv-03421

Robert M. Dow, Jr.,
Judge.

ORDER

On consideration of the motion filed by plaintiff-appellant on October 24, 2017, and construed as a petition for rehearing, all members of the original panel have voted to deny the petition for panel rehearing.

Accordingly, the petition for rehearing is hereby DENIED.