

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

March 5, 2018

Before

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

Nos. 17-3340 and 18-1066	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 November 27, 2017, by pro se Appellant Lefloris Lyon.
2. **RENEWED MOTION FOR RECRUITMENT OF COUNSEL OR IN THE ALTERNATIVE LEAVE TO SEEK COUNSEL**, filed on February 8, 2018, by pro se Appellant Lefloris Lyon.

Nos. 17-3340 and 18-1066

Page 2

Lefloris Lyon asks the court to recruit counsel to represent him on appeal from two district court orders resolving a number of post-judgment motions, including granting the defendant's emergency motion to reseal the record, denying Lyon's motion to unseal the entire docket, and denying Lyon's motion to remove emails between the district court staff and the staff of the district court in the Southern District of Mississippi regarding filing restrictions imposed on Lyon. The district court ordered that the record before it remain "permanently under seal until further order of the Court." In its most recent order, the district court also warned Lyon that any further frivolous filings may lead to filing restrictions in the Northern District of Illinois, in addition to the filing restrictions already imposed by the Southern District of Mississippi. After considering the motions, the district court's orders 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 district court originally sealed this case because it is related to two cases that have been sealed by the United States District Court for the Southern District of Mississippi. See *Lyon v. Canadian Nat. Railway Co.*, 4:10-cv-00185-CWR-MTP (S.D. Miss.); *Lyon v. Canadian Nat. Railway Co.*, 3:13-cv-00913-CWR-MTP (S.D. Miss.) (sealed on December 29, 2010). In 2014 the district court dismissed the underlying case with prejudice because Lyon failed seek permission to file this action, as required by order of the Southern District of Mississippi. See *Lyon*, 4:10-cv-00185-CWR-MTP (S.D. Miss. May 21, 2013). We affirmed. Over a year later, Lyon filed what he titled an "unopposed" motion to unseal the entire record in this case, which the district court granted based on the representation that it was unopposed. But after discovering that the case had been unsealed, the defendant filed an emergency motion to reseal the record. The district court considered the parties' written arguments regarding the propriety of sealing the case and then resealed the entire record before it.

We have held that the strong presumption of public disclosure applies only to "materials that affect judicial decisions." *City of Greenville, Ill. v. Syngenta Crop Protection, LLC*, 764 F.3d 695, 967 (7th Cir. 2014), citing *Goesel v. Boley Int'l (H.K.) Ltd.*, 738 F.3d 831, 833 (7th Cir. 2013) (Posner, J., in chambers) (collecting citations). The district court dismissed the underlying action because Lyon filed it without obtaining the necessary leave of the Mississippi court, and the court reasoned that the action was a nullity from its outset. In addition, the presumption of public disclosure can be rebutted based on findings that closure is necessary "to preserve higher values." *Press-Enterprise Co. v. Superior Court of Cal., Riverside County*, 464 U.S. 501, 510 (1984); *United States v. Ladd*, 218 F.3d 701, 702 (7th Cir. 2000). Here, the district court record had been sealed until Lyon filed a misleading motion to unseal over two years after the final judgment issued and

Nos. 17-3340 and 18-1066

Page 2

after the Mississippi court went through a lengthy contempt proceeding that required Lyon to purge himself of the confidential documents related to these cases. Lyon's initiation of this action and his post-judgment attempt to unseal the record in this case violated the orders of the Southern District of Mississippi. In light of Lyon's litigation history, resealing the record serves to preserve "higher values."

Nor did the district court abuse its discretion in denying Lyon's motion to remove the emails between its staff and staff in the Southern District of Mississippi and in warning that further frivolous filings may lead to a filing bar. The court previously denied Lyon's request to remove the emails, and the court explained that it had placed the emails on the docket to refute Lyon's suggestion of improper contact between the two judges and their staff. Lyon offered no reason why he continues to request the same relief that already has been denied.

In his motions for counsel, Lyon asserts that counsel is necessary because the defendant's emergency motion to reseal the record asked the district court to find Lyon in contempt of court. The district court explained that no contempt proceedings were contemplated, and proceedings in the district court have concluded. Lyon paid the appellate filing fees and has not attempted to demonstrate that he is unable to retain counsel or that he made efforts to secure counsel on his own. Although he also asks for additional time to seek counsel, counsel would not assist in the resolution of the appeal. There are no non-frivolous arguments Lyon can raise on appeal. Accordingly, **IT IS ORDERED** that the motions for recruitment of counsel are **DENIED**, and the post-judgment orders of the district court are summarily **AFFIRMED**. Further frivolous filings by the appellant will result in the imposition of sanctions and a filing bar.

form name: **c7_Order_3J**(form ID: 177)

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

April 4, 2018

Before

DIANE P. WOOD, *Chief Judge*

FRANK H. EASTERBROOK, *Circuit Judge*

DANIEL A. MANION, *Circuit Judge*

Nos. 17-3340 & 18-1066

LEFLORIS LYON,

Plaintiff-Appellant,

v.

Appeals 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.

O R D E R

Plaintiff-appellant filed a petition for rehearing and rehearing *en banc* on March 19, 2018. No judge in regular active service has requested a vote on the petition for rehearing *en banc*, and all members of the original panel have voted to deny panel rehearing. The petition for rehearing is therefore DENIED.