
IN THE
Supreme Court of the United States

LEFLORIS LYON,

Petitioner,

v.

CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS
CENTRAL RAILROAD COMPANY, WISE CARTER CHILD &
CARAWAY, P.A., AND CHARLES H. RUSSELL, III.

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

**APPENDIX VOLUME I TO THE
PETITION FOR A WRIT OF CERTIORARI**

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APPENDIX A
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
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

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.

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. Sygenta 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 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 postjudgment 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.

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APPENDIX B
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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.

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

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

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APPENDIX C
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
ORDER

October 11, 2017

Before

DIANE P. WOOD, *Chief Judge*

No. 17-2675

LEFLORIS LYON, Plaintiff - Appellant

v.

UNITED STATES OF AMERICA, et al.,
Defendants - Appellees

No. 17-2279

LEFLORIS LYON, Plaintiff - Appellant

v.

UNITED STATES OF AMERICA, et al.,
Defendants - Appellees

No. 17-2684

LEFLORIS LYON, Plaintiff - Appellant

v.

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

Originating Case Information for Appeal
Nos. 17-2675 and 17-2279:

District Court No: 1:16-cv-06833

Northern District of Illinois, Eastern Division

District Judge Robert M. Dow

Originating Case Information for Appeal
No. 17-2684:

District Court No: 1:14-cv-03421

Northern District of Illinois, Eastern Division

District Judge Robert M. Dow

Nos. 17-2675, 17-2279 and 17-2684

The following are before the court:

1. TO THE ATTENTION OF THE COURT BY APPELLANT, filed on September 13, 2017, by pro se Appellant.

2. APPELLANT MOTION FOR COPY OF FLASH DRIVE, filed on September 26, 2017, by pro se Appellant.

3. AMENDED NOTICE OF APPEAL AND MOTION TO CONSOLIDATE DOCKETS

NOS. 17-2279, 17-2675, 17-2684, filed on September 26, 2017, by pro se Appellant.

4. APPELLANT'S AMENDED JURISDICTIONAL MEMORANDUM SUPPORTING THE MOTION FOR RECRUITMENT OF COUNSEL, filed on September 26, 2017, by pro se Appellant.

5. MOTION FOR RECONSIDERATION OF THE SEPTEMBER 8, 2017 ORDER SUPPORTING THE MOTION FOR RECRUITMENT OF COUNSEL REQUESTING RELIEF, filed on September 26, 2017, by pro se Appellant.

6. MOTION TO TAKE JUDICIAL NOTICE SUPPORTING THE MOTION FOR RECRUITMENT OF COUNSEL, filed on September 26, 2017, by pro se Appellant.

7. RESPONSE TO APPELLANT'S MOTION FOR COPY OF FLASH DRIVE, filed on October 10, 2017, by counsel for Appellee Wise Carter Child & Caraway, P.A.

IT IS ORDERED that the motions to reconsider the court's order dated September 8, 2017, are **DENIED**. He requests reconsideration of the order severing appeal nos. 17-2675 and 17-2684 and asks that these appeals be consolidated with appeal no. 17-2279. He further argues that he should have to pay only one filing fee for all three appeals. Appeal no. 17-2279 was dismissed for lack of jurisdiction on July 28, 2017, and Lyon offers no argument why this appeal should be reopened. Appeal nos. 17-2675 and 17-2684 are from two distinct district court cases. These cases were not consolidated in the district court and were filed two years apart. The only joint filing made in the two cases was when Lyon filed a notice of appeal that listed both district court cases. His request to reconsider the denial of leave to become an electronic filer also is **DENIED**.

IT IS FURTHER ORDERED that the motion for copy of flash drive is **DENIED**. The district court has placed the items filed before it under seal and transmitted the record to this court under seal. The court therefore will not provide a copy of the record on appeal to the appellant unless these items are placed in the public record by the district court.

IT IS FINALLY ORDERED that the motion to take judicial notice is **DENIED**. These documents are not relevant to the issues on appeal.

APPENDIX D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI, CAUSE
NO. 4:10-CV-185-CWR-MTP
LEFLORIS LYON, PLAINTIFF

v.

WISE CARTER CHILD & CARAWAY
PA; CHARLES H. RUSSELL; GEORGE
H. RITTER, DEFENDANTS

FINAL JUDGMENT UNDER RULE 54(B)

For the reasons stated on the record at a hearing held this day by this Court, the plaintiff's claims against the defendants are dismissed with prejudice. Although the defendants' counterclaims remain pending, there is no just reason to delay entry of this Final Judgment on the plaintiff's claims. *See Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980) (describing considerations relevant to Rule 54(b) certification). Accordingly,

IT IS HEREBY ORDERED that the plaintiff's claims against the defendants are dismissed with prejudice.

IT IS FURTHER ORDERED that, for the reasons stated on the record this day, the plaintiff must receive leave of a District Judge of the United States District Court for the Southern District of Mississippi before he may file a new civil action which is related to his complaint in this case, his proposed amended complaint in this case, or any claims he could have brought in this case.

SO ORDERED AND ADJUDGED, this the 21st day of May, 2013.

s/ Carlton W. Reeves, U.S. DISTRICT JUDGE

APPENDIX E
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION
Civil Action No. 3:13-cv-913

LEFLORIS LYON, Plaintiff,
v.
CANADIAN NATIONAL RAILWAY COMPANY,
et al., Defendants.

FINAL JUDGMENT

This matter is before the Court on the *Renewed Motion for Contempt Sanctions* filed by Defendants Wise Carter Child & Caraway PA ("Wise Carter"), George H. Ritter, and Charles H. Russell, III (collectively the "Wise Carter Defendants"), and the Court, having found good cause for the default and injunctive relief requested therein, hereby enters this Final Judgment on the defendants' counterclaims pursuant to Rule 58 of the Federal Rules of Civil Procedure.

Accordingly, the Court **ORDERS** as follows:

FINAL JUDGMENT

IT IS HEREBY ORDERED that the defendants are awarded judgment on their counterclaims only to the extent that the counterclaims request permanent injunctive relief. Except for the injunctive relief expressly set forth below, the *defendants' counterclaims against the plaintiff are dismissed with prejudice.*

PERMANENT INJUNCTION

IT IS HEREBY ORDERED that a permanent injunction is entered in this civil action, with the following terms:

A. Definitions

1. This Order shall govern the following:

a. "Wise Carter Materials," which is defined as any information, document, material, or thing of any nature and form, tangible or intangible, that belongs to the Wise Carter law firm or any of its clients, that was created by Plaintiff LeFloris Lyon ("Lyon") in the course of his employment at the law firm of Wise Carter, or that was obtained by Lyon during his employment at the law firm of Wise Carter. The term "Wise Carter Materials" is not limited to information, documents, materials or things that are subject to the attorney-client privilege or the work product doctrine, but extends to any document covered under the definition set forth above. The term "Wise Carter Materials" specifically includes, but is not limited to, every file and document identified by Lyon in his "*Plaintiff's Notice Initial Disclosures*" (Doc. 347) and *Exhibit A to the Notice* (Doc. 347-1).

b. "Court Records," which is defined as any document, including all exhibits and attachments, filed in this civil action or submitted by any party to the *United States District Court for the Southern District of Mississippi*, including any of its judges, officers, or employees, in relation to this civil action.

c. "OSHA Records," which is defined as any document, including all exhibits and attachments, submitted by any party to the United States Department of Labor, Occupational Safety & Health Administration ("OSHA") related to Lyon's administrative

complaint against the Wise Carter Defendants and other parties, identified as OSHA Investigation No. 4-1220-09-008. The term "OSHA Records" specifically includes, but is not limited to, any documents submitted by any party to the Office of Administrative Law Judges, including any of its judges, officers, or employees, and the Office of Administrative Law Judge Theresa C. Timlin in Lyon's appeal of OSHA's decision, identified as Case No. 2010-SOX-00002.

B. Permanent Injunction

2. On August 1, 2014, before 5:00 p.m. Central Standard Time, Lyon shall deliver all copies of Wise Carter Materials in whatever form, including paper and electronic copies, *in his possession or under his control* to the custody of the United States Marshals at the United States Federal Courthouse, 501 East Court Street, Jackson, Mississippi, 39201.

3. On or before August 4, 2014, Lyon shall destroy or permanently delete all electronic copies of Wise Carter Materials *in his possession or under his control* that were not delivered to the Court pursuant to Paragraph 2.

4. Lyon is permanently prohibited from discussing, disseminating, sharing, or otherwise revealing in any way to any person or entity Wise Carter Materials, Court Records, or OSHA Records.

5. The Court shall retain jurisdiction to enforce the terms of this injunction and to modify the relief ordered herein if necessary.

SO ORDERED AND ADJUDGED, this 25th day of July, 2014.

s/ Carlton W. Reeves, UNITED STATES
DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**