Appendix A

No. 16-3565

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PEYTON JOHN WESLEY HOPSON,

Plaintiff-Appellant,

v.

STARK COUNTY, et al.,

Defendants-Appellees.

ORDER

Peyton John Wesley Hopson, an Ohio prisoner, appeals a district court judgment dismissing his civil rights complaint filed pursuant to 42 U.S.C. § 1983. He moves to proceed in forma pauperis ("IFP"), *see* Fed. R. App. P. 24(a)(5), and for the appointment of counsel.

Seeking monetary relief, Hopson sued Stark County and Deputy Sheriff Harvey Emery for violating his Fourth, Fifth, Eighth, and Fourteenth Amendments by falsifying information in the county sex offender registration database and by placing him in a secured area in the Sheriff's Office each time he came to register. Allegedly, Hopson was convicted of "F3 attempted rape" and was required to register annually for ten years, but Emery entered false information in the database indicating that Hopson had been convicted of "F1 rape" and was required to register every 90 days for life.

The district court sua sponte dismissed the complaint pursuant to 28 U.S.C. § 1915A for failure to state a claim. The court reasoned that the action was barred by the doctrine of res judicata because of a prior similar suit, *Hopson v. Stark County Sheriff's Office*, No. 5:15-cv-00992-sl (N.D. Ohio Oct. 16, 2015). The district court certified that an appeal could not be taken in good faith.

Despite a district court's certification that an appeal would not be taken in good faith, a prisoner may seek leave to proceed IFP in this court. *See* Fed. R. App. P. 24(a)(5); *Owens v. Keeling*, 461 F.3d 763, 774-75 (6th Cir. 2006). This court may grant the IFP motion if it determines that an appeal would in fact be taken in good faith and that the prisoner is indigent. *Owens*, 461 F.3d at 776. An appeal is not in good faith if it is frivolous and thus "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Hopson's appeal lacks an arguable basis in law because the action is barred under the doctrine of claim preclusion (res judicata). Under claim preclusion, a final judgment on the merits bars any and all claims by the parties or their privies based on the same cause of action, as to every matter actually litigated as well as every theory of recovery that could have been presented. *J.Z.G. Res., Inc. v. Shelby Ins. Co.*, 84 F.3d 211, 214 (6th Cir. 1996).

In the prior action, Hopson sued Emery and the Stark County Sheriff's Office, asserting that Emery had falsified the aforementioned information in the county sex offender registration database. The district court sua sponte dismissed the complaint for failure to state a claim under § 1983 because Hopson did not allege any constitutional violations. Thus, the doctrine of claim preclusion bars all claims in the current action and an appeal would be frivolous.

Accordingly, the court **DENIES** the IFP motion and the motion for appointed counsel. Unless Hopson pays the $505 appellate filing fee to the district court within thirty days of the entry of this order, this appeal will be dismissed for want of prosecution.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

Appendix C

No. 16-3565

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PEYTON JOHN WESLEY HOPSON,)
)
Plaintiff-Appellant,)
)
v.) ORDER
)
STARK COUNTY, et al.,)
)
Defendants-Appellees.)

Before: COLE, Chief Judge; GUY and GILMAN, Circuit Judges.

Peyton John Wesley Hopson, an Ohio prisoner, moves the court to reconsider its order of April 11, 2017, denying Hopson's motion to proceed in forma pauperis ("IFP") on appeal. *See* Fed. R. App. P. 24(a); 6 Cir. R. 27(g).

Upon careful consideration, this court concludes that it did not misapprehend or overlook any point of law or fact when it issued its order denying the motion. *See* Fed. R. App. P. 40(a). Thus, we **DENY** the motion for reconsideration.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

Appendix B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PEYTON J. W. HOPSON,	)	CASE NO. 5:16-cv-621
	)	
PLAINTIFF,	)	JUDGE SARA LIOI
vs.	)	
	)	MEMORANDUM OF OPINION AND ORDER
STARK COUNTY, et al,	)	
DEFENDANTS.	)	

Pro se plaintiff Peyton John Wesley Hopson, a state prisoner incarcerated in the Belmont Correctional Institution, brings this civil rights action pursuant to 42 U.S.C. § 1983, seeking damages from defendants Stark County, Ohio and Stark County Deputy Harvey Emery. He alleges in the complaint that he was convicted of attempted rape in Mahoning County, and was required under Ohio law to register as a "sexually oriented offender." He further alleges that Deputy Emery placed false information into the Stark County Sex Offender Registration database, categorizing Hopson as an "habitual sex offender."

The instant case mirrors a previous action recently filed in this Court by plaintiff against these defendants. That case was summarily dismissed, for failure to state a claim, on October 16, 2015. *Hopson v. Stark Cnty. Sheriff's Dep't*, N.D. Ohio Case No. 5:15-cv-992.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if

the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; *Siller v. Dean*, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

The doctrine of *res judicata* bars a claim "when (1) the same party or parties in privity with them were present in the prior litigation; (2) a court of competent jurisdiction has entered a valid, final judgment on the merits; and (3) the present action concerns the same subject matter or cause of action as the prior suit." *Anchor Motor Freight, Inc. v. Int'l Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of Am., Local Union No. 377*, 700 F.2d 1067, 1069-70 (6th Cir. 1983) (citing *Sea-Land Servs., Inc. v. Gaudet*, 414 U.S. 573, 579, 94 S. Ct. 806, 39 L. Ed. 2d 9 (1974); *Harrison v. Bloomfield Bldg. Indus., Inc.*, 435 F.2d 1192 (6th Cir. 1970)).

The fundamental concept embodied in this doctrine is that a "right, question or fact distinctly put in issue, and directly determined by a court of competent jurisdiction ... cannot be disputed in a subsequent suit between the same parties or their privies[.]" *S. Pac. R. Co. v. United States*, 168 U.S. 1, 48-49, 18 S. Ct. 18, 42 L. Ed. 355 (1897). Once having a fair and full opportunity to litigate a matter, *res judicata* protects parties from expense of multiple lawsuits, conserves judicial resources and protects the integrity of the judicial system. *See United States v. Stauffer Chem. Co.*, 684 F.2d 1174, 1180 (6th Cir. 1982).

This action contains essentially the same subject matter as the previous case filed by plaintiff against defendants,[1] which is already dismissed. It is thus barred by the doctrine *res judicata*.

[1] In the previous case, plaintiff sued Deputy Emory and the Stark County Sheriff's Department.

Accordingly, this case is dismissed pursuant to 28 U.S.C. § 1915A. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: May 3, 2016

HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE

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