NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 17, 2019*
Decided May 20, 2019

Before

MICHAEL S. KANNE, *Circuit Judge*

AMY C. BARRETT, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 18-3694

LYLE R. HARRISON,
Plaintiff-Appellant,

v.

MOULTRIE COUNTY, ILLINOIS, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 18-C-0957

Lynn Adelman,
Judge.

ORDER

Lyle Harrison has been entangled in two land disputes that have spawned several civil and criminal proceedings in Illinois state courts. He brought this suit in the Eastern District of Wisconsin, alleging a conspiracy among farm owners, several Illinois state-court judges, and others to deprive him of his property. The district court dismissed Harrison's suit for lack of subject-matter jurisdiction and for failure to state a

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* The defendants were not served with process in the district court and are not participating in this appeal. We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. *See* FED. R. APP. P. 34(a)(2)(C).

claim. We vacate in part, affirm in part, and remand with instructions to stay some of Harrison's claims.

As best as we can tell, Harrison's legal troubles can be traced to two state-court actions against him. The first involved a farm co-owned by Harrison's father and distant relatives ("Harrison Family Farm"). The families formed a partnership in 1983 to oversee the farm's management. But the partnership started to unravel in 2011 when Harrison's father unilaterally gave Harrison full management responsibilities over the farm. For the next few years, Harrison and his immediate family collected substantial profits without accounting for the farm's proceeds. The co-owners brought a civil suit, and ultimately an Illinois state court entered a substantial judgment against Harrison.

Meanwhile, in 2012, Harrison sent a demand letter to some other relatives, claiming that he owned their plot of land ("Willoughby Farm"), too. In fact, he did not own the land, but that did not stop him from harvesting its corn without permission. He was convicted of theft, but on appeal his case was reversed and remanded because he had been denied the right to proceed pro se. According to Harrison, the case is still pending in state court.

Harrison then filed this federal suit, alleging several causes of action related to his state civil and criminal proceedings. The district court dismissed the complaint at screening, 28 U.S.C. § 1915(e)(2)(B), finding that most of Harrison's claims fall under the *Rooker-Feldman* doctrine and the rest fail to state a plausible claim for relief.

We agree with the district court that some of Harrison's claims—specifically those related to his rights in the Harrison Family Farm—are barred under the *Rooker-Feldman* doctrine. *See D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923). Harrison is an unsuccessful litigant who believes that the state judgment against him should be expunged and the disputed land, along with its profits and federal subsidies, should be awarded to him alone. But "cases brought by state-court losers complaining of injuries caused by state-court judgments" are not reviewable in federal court. *See Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). The state courts already adjudicated Harrison's interest in the family farm, and we cannot entertain his invitation to modify the judgment to his liking.

Harrison also asserts, as he did in state court, that the judge presiding over his state civil case had a conflict of interest because he owned stock in a bank that assumed managerial responsibilities over the family farm. To the extent that Harrison has

preserved this judicial-bias argument on appeal, it is barred by issue preclusion. A federal suit "to obtain damages for the unlawful conduct that misled the [state] court into issuing the judgment" falls outside the purview of the *Rooker–Feldman* doctrine. *See Iqbal v. Patel*, 780 F.3d 728, 730 (7th Cir. 2015) (quoting *Johnson v. Pushpin Holdings, LLC*, 748 F.3d 769, 773 (7th Cir. 2014)). But state preclusion laws still apply and may bar further consideration of the claim. *See Exxon*, 544 U.S. at 292–93; *GASH Assocs. v. Village of Rosemont*, 995 F.2d 726, 728 (7th Cir. 1993).

Harrison already argued judicial bias in state court, and the Illinois Appellate Court twice concluded that the presiding circuit-court judge did not have a conflict of interest. *See Huggins v. Harrison*, 2017 Ill. App. (4th) 170026-U, ¶ 54 (Aug. 18, 2017). Because Harrison had "a full and fair opportunity" to litigate the issue in state court, *see American Family Mutual Insurance Company v. Savickas*, 739 N.E.2d 445, 451 (Ill. 2000), he is barred from rehashing the same argument in federal court. *See Du Page Forklift Serv., Inc. v. Material Handling Servs., Inc.*, 744 N.E.2d 845, 849 (Ill. 2001).

But the *Rooker-Feldman* doctrine does not bar Harrison's claims regarding the Willoughby Farm—the subject of the state criminal proceeding—because the state court has not issued a final judgment. *See Mains v. Citibank, N.A.*, 852 F.3d 669, 675 (7th Cir. 2017) (prohibiting challenges to "state-court *judgments*" (emphasis added)). According to Harrison, the theft conviction was vacated and he is awaiting a retrial. Thus, Harrison's claims of malicious prosecution, obstruction of justice, and violations of his speedy-trial rights fall outside the purview of *Rooker-Feldman*.

But those claims are barred by the *Younger* abstention doctrine. *See Younger v. Harris*, 401 U.S. 37, 41 (1971). Federal courts must abstain from disturbing ongoing state litigation unless extraordinary circumstances warrant an intervention. *See Pennzoil Co. v. Texaco Inc.*, 481 U.S. 1 (1987). Here, there is no compelling reason to disrupt Harrison's criminal prosecution in Illinois; he can challenge the fairness of the proceedings and raise speedy-trial issues,[1] if any, in his ongoing state-court case.

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[1] A well-founded claim that a petitioner's right to a speedy trial has been violated can be an exceptional circumstance requiring immediate federal intervention. *See Sweeney v. Bartow*, 612 F.3d 571, 573 (7th Cir. 2010). But here, Harrison has not meaningfully developed any argument that his Sixth Amendment rights are being violated. *See Barker v. Wingo*, 407 U.S. 514, 530–33 (1972) (setting forth factors relevant to whether a delay violates a defendant's constitutional rights).

See Gakuba v. O'Brien, 711 F.3d 751, 753 (7th Cir. 2013). We note, however, that the proper disposition of the federal claims relating to the criminal prosecution would have been a stay, not a dismissal, so we must vacate the judgment. *See id.* Harrison may pursue these claims, if any remain, after the criminal case ends (although we do not opine on whether they are viable).

We VACATE the judgment and REMAND the case with instructions to stay the federal claims stemming from the criminal prosecution. Otherwise, we AFFIRM.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LYLE ROGER HARRISON,
Plaintiff,

v. Case No. 18-C-0957

MOULTRIE COUNTY ILLINOIS, et al.,
Defendants.

ORDER

When the plaintiff filed this case, the clerk's office randomly assigned it to Magistrate Judge William E. Duffin, who entered an order granting the plaintiff's motion to proceed in forma pauperis and recommending that the case be dismissed for improper venue. The recommendation was referred to me, but I rejected it and returned the case to Magistrate Judge Duffin. However, the plaintiff refused to consent to having a magistrate judge exercise jurisdiction. Thus, the clerk's office reassigned the case to me for all further proceedings.

Before the clerk's office reassigned the case to me, the plaintiff filed a motion for reconsideration of the part of my order returning the case to Magistrate Judge Duffin. Because the clerk's office has reassigned the case to me, that motion is now moot and will be denied.

However, I have reviewed the plaintiff's complaint and have determined that it must be dismissed. *See* 28 U.S.C. § 1915(e)(2)(B). The plaintiff sues an Illinois circuit-court judge (Richard Broch) and all of the judges of the 4th District of the Illinois Appellate Court (Peter C. Cavanagh, Craig H. DeArmond, Thomas M. Harris, James A. Knecht, Robert J. Steigmann, John W. Turner, and Lisa Holder White). He also sues Moultrie County,

Illinois, because he believes that the County is the employer of these judges. I have read the allegations against these defendants but cannot find any cognizable state or federal claims. Moreover, the complaint appears to be complaining, at least to some extent, about rulings made by the Illinois courts and therefore would fall within the *Rooker-Feldman* doctrine, which bars "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *See Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005).

Because a dismissal on *Rooker-Feldman* grounds is jurisdictional, I will dismiss the case for lack of subject-matter jurisdiction. However, to the extent *Rooker-Feldman* does not apply, the case is dismissed on the merits for failure to state a claim on which relief may be granted. Because it does not appear that the plaintiff could state a viable claim if granted leave to amend, I will not grant him such leave and will dismiss this action in its entirety.

For the reasons stated, **IT IS ORDERED** that the plaintiff's motion for reconsideration (ECF No. 8) is **DENIED** as **MOOT**.

IT IS FURTHER ORDERED that the complaint and this action are **DISMISSED** for lack of subject matter jurisdiction. The Clerk of Court shall enter judgment.

Dated at Milwaukee, Wisconsin, this 21st day of November, 2018.

s/Lynn Adelman
LYNN ADELMAN
District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LYLE ROGER HARRISON,
Plaintiff,

v. **Case No. 18-C-0957**

MOULTRIE COUNTY ILLINOIS, et al.,
Defendants.

ORDER

Magistrate Judge William E. Duffin has recommended that this action be dismissed without prejudice for improper venue. The plaintiff has filed an objection to the recommendation. The defendants have not appeared, and therefore they have not filed a response to the objection.

The magistrate judge raised the possibility of dismissing this case for improper venue *sua sponte*, that is, on his own motion. However, a defendant may waive or forfeit an objection to venue, and therefore a district court should not dismiss a lawsuit for lack of venue *sua sponte*. *See CPL, Inc. v. Fragchem Corp.*, 512 F.3d 389, 392–93 (7th Cir. 2008); *Automobile Mechanics Local 701 Welfare & Pension Funds*, 502 F.3d 740, 746 (7th Cir. 2007). Accordingly, I will not accept the magistrate judge's recommendation. Rather, the case cannot be dismissed for lack of venue unless the defendants first appear and move to dismiss based on improper venue.

For the reasons stated, **IT IS ORDERED** that the report and recommendation is **REJECTED** and this case is returned to the magistrate judge for further proceedings.

Dated at Milwaukee, Wisconsin, this 28th day of September, 2018.

s/Lynn Adelman
LYNN ADELMAN
District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LYLE ROGER HARRISON,

Plaintiff,

v. Case No. 18-CV-957

MOULTRIE COUNTY ILLINOIS, et al.,

Defendants.

RECOMMENDATION REGARDING PLAINTIFF'S REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FILING FEE

Currently pending before the court is the plaintiff's Request to Proceed in District Court without Prepaying the Filing Fee.

Having reviewed the plaintiff's request, the court concludes that the plaintiff lacks the financial resources to prepay the fees and costs associated with this action. Therefore, the plaintiff's Request to Proceed in District Court without Prepaying the Filing Fee will be granted.

However, that determination is only half of the court's inquiry. Because the court is granting the plaintiff's Request to Proceed in District Court without Prepaying the

Filing Fee, the court must determine whether the complaint is legally sufficient to proceed.

Venue must be proper in order for a case to proceed. As stated in 28 U.S.C. § 1391, a civil action may be brought in

> **(1)** a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
> **(2)** a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or
> **(3)** if there is no district in which any action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

All of the defendants named in this action reside in the Central District of Illinois. It also appears from the complaint that all the events giving rise to this claim occurred in the Central District of Illinois. Therefore, venue is not proper in the Eastern District of Wisconsin.

IT IS THEREFORE ORDERED that the plaintiff's Request to Proceed in District Court without Prepaying the Filing Fee (ECF No. 2) is **granted**.

IT IS FURTHER RECOMMENDED that this action be **dismissed** without prejudice for improper venue.

Your attention is directed to 28 U.S.C. § 636(b)(1)(B) and (C) and Fed. R. Civ. P. 72(b)(2) whereby written objections to any recommendation herein or part thereof may be filed within fourteen days of service of this recommendation. Failure to file a timely objection with the district court shall result in a waiver of your right to appeal.

Dated at Milwaukee, Wisconsin this 23rd day of August, 2018.

WILLIAM E. DUFFIN
U.S. Magistrate Judge