

APP. 3

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 19-1166

Andrea Lee Sanders

Plaintiff - Appellant

v.

Hennepin County Human Service and Public Health Department Child Support; Denver Human Services of Child Support Enforcement; Mississippi Department of Human Services

Defendants - Appellees

Appeal from U.S. District Court for the District of Minnesota
(0:18-cv-01138-DWF)

JUDGMENT

Before LOKEN, SHEPHERD, and GRASZ, Circuit Judges.

The court has carefully reviewed the original file of the district court, and the district court's judgment in this matter is summarily affirmed. See 8th Cir. R. 47B. Appellant's "Motion for Summary Judgment" is denied as moot. The court's mandate shall issue in due course.

September 05, 2019

*Appellant Sanders made a request
for a certified copy to be sent
U.S. Postal Service.*

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

A TRUE COPY OF THE ORIGINAL
MICHAEL E. GANS, CLERK
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BY: Michael E. Gans
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SUPREME COURT, U.S.

APP.2

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Andrea Lee Sanders,

Civil No. 18-1138 (DWF/DTS)

Plaintiff,

v.

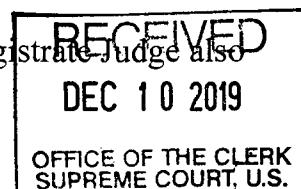
Denver Human Service of Child Support Enforcement; Hennepin County/Human Service and Public Health Department Child Support Enforcement; Mississippi Department of Human Service,

Defendants.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

This matter is before the Court upon Plaintiff Andrea Lee Sanders' objections (Doc. Nos. 12, 13, 14) to Magistrate Judge David T. Schultz's July 27, 2018 Report and Recommendation (Doc. No. 10) insofar as it recommends that this matter be remanded to Hennepin County District Court, Fourth Judicial District, State of Minnesota. Defendant Hennepin County filed a response to Plaintiff's objections on August 20, 2018. (Doc. Nos. 15, 16.) Plaintiff filed a self-styled motion to rebut on August 30, 2018. (Doc. No. 18.)

The background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. In the Report and Recommendation, the Magistrate Judge found that Plaintiff's attempt to remove a terminated state-court case to this Court is improper because he was not a defendant in the state-court case and the time for removal passed long ago. The Magistrate Judge also



noted that Plaintiff appears to seek to appeal the dismissal of the state-court case to this Court or, alternatively, to bring an independent lawsuit on the same grounds as the state-court case. The Magistrate Judge noted that any attempted appeal is foreclosed by the *Rooker-Feldman* doctrine and any attempt to revive an independent lawsuit is barred by the doctrine of *res judicata*. Finally, the Magistrate Judge noted that to the extent that Plaintiff seeks to bring claims that could not have been raised in previous litigation, those claims appear to be frivolous. The Magistrate Judge then recommended that the case be remanded, rather than dismissed, since this action was commenced with a notice of removal, rather than an independent pleading. Defendant Hennepin County objects to the Report and Recommendation only to the extent that it recommends remand, rather than dismissal with prejudice, noting that the lawsuit Plaintiff purports to remove has been dismissed with prejudice.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections. After carefully considering Plaintiff's objections, the Court finds no reason to depart from the Magistrate Judge's recommendation. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised, the Court enters the following:

ORDER

1. Plaintiff Andrea Lee Sanders' objections (Doc. Nos. [12], [13], [14]) to Magistrate Judge David T. Schultz's July 27, 2018 Report and Recommendation are

OVERRULED.

2. Magistrate Judge David T. Schultz's July 27, 2018 Report and Recommendation (Doc. No. [10]) is **ADOPTED**.

3. This matter is remanded to Hennepin County District Court, Fourth Judicial District, State of Minnesota.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 17, 2018

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge

UNITED STATES DISTRICT COURT

District of Minnesota

APP. 2

Andrea Lee Sanders,

JUDGMENT IN A CIVIL CASE

Plaintiff(s),

v.

Case Number: 18cv1138 DWF/DTS

Hennepin County/Human Service And Public
Health Department Child Support, Denver
Human Services Of Child Support
Enforcement, Mississippi Department Of
Human Services,

Defendant(s).

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

1. Plaintiff Andrea Lee Sanders' objections (Doc. Nos. [12], [13], [14]) to Magistrate Judge David T. Schultz's July 27, 2018 Report and Recommendation are OVERRULED.
2. Magistrate Judge David T. Schultz's July 27, 2018 Report and Recommendation (Doc. No. [10]) is ADOPTED.
3. This matter is remanded to Hennepin County District Court, Fourth Judicial District, State of Minnesota.

Date: 10/18/2018

KATE M. FOGARTY, CLERK

s/M. Giorgini

(By) M. Giorgini, Deputy Clerk

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

ANDREA LEE SANDERS,

Case No. 18-CV-1138 (DWF/DTS)

Plaintiff,

v.

REPORT AND RECOMMENDATION

HENNEPIN COUNTY/HUMAN
SERVICE AND PUBLIC HEALTH
DEPARTMENT CHILD SUPPORT;
DENVER HUMAN SERVICES OF
CHILD SUPPORT ENFORCEMENT;
and MISSISSIPPI DEPARTMENT OF
HUMAN SERVICES,

Defendants.

For years plaintiff Andrea Lee Sanders has been entangled in a child-support dispute that has spanned multiple rounds of litigation and involved enforcement agencies in three states. The latest salvo in that battle was fired by Sanders in the Minnesota state courts, where he filed an eight-count complaint against Hennepin County (Minnesota), Denver Human Services (Colorado), and the Mississippi Department of Human Services, seeking in essence to discharge his child-support obligations and the collateral consequences of previously having failed to meet those obligations. *See* ECF No. 1-1. The action was dismissed on March 9, 2018, partly on the basis of the res judicata doctrine and partly because Sanders had failed to state a claim on which relief may be granted. *See* ECF No. 3 at 41-49. More than a month after that dismissal, Sanders filed a notice of removal in this Court purporting to remove the terminated case to this venue.

The notice is plainly improper. First, Sanders was the plaintiff (or, as he styled it, petitioner) in the state-court lawsuit; only a *defendant* may remove an action from state court to federal court. *See* 28 U.S.C. § 1441(a). Second, the time for removal of this lawsuit long ago passed. *See* 28 U.S.C. § 1446(b). Sanders simply cannot remove this case to federal court.

In truth, though, what Sanders seems to seek is not so much *removal* of the now-terminated state-court action, but either an *appeal* of the dismissal to this Court or, alternatively, an independent lawsuit brought on largely or entirely the same grounds as the state-court lawsuit. Both would be equally impermissible. Regarding any attempted appeal, the *Rooker-Feldman*¹ doctrine “deprives federal courts of jurisdiction in ‘cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the [federal] district court proceedings commenced and inviting [federal] district court review and rejection of those judgments.’” *Banks v. Slay*, 789 F.3d 919, 922 (8th Cir. 2015) (quoting *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005)). Put plainly, a litigant may not appeal a non-habeas action from state court to federal district court. Regarding any attempt at reviving an independent lawsuit resting on the same grounds as the state lawsuit, the effort is squarely foreclosed by the doctrine of *res judicata*. *See Yankton Sioux Tribe v. U.S. Dep’t of Health and Human Services*, 533 F.3d 634, 639-40 (8th Cir. 2008) (outlining elements of *res judicata*). And to the extent that Sanders attempts to bring claims in his amended

¹ *See D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983); *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 416 (1923).

complaint [ECF No. 5] that could not have been raised in previous litigation against the defendants, this Court cannot discern a non-frivolous basis for relief pleaded by Sanders.

All of these would be reasons to dismiss an independent action filed by Sanders in this District. Because this action commenced with a notice of removal rather than an independent pleading, however, it is recommended that the action be remanded to state court, where the putatively removed lawsuit has already been dismissed.

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT this matter be REMANDED to Hennepin County District Court, Fourth Judicial District, State of Minnesota.

Dated: July 27, 2018

s/ David T. Schultz

David T. Schultz
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See Local Rule 72.2(b)(2).* All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-1166

Andrea Lee Sanders

Appellant

v.

Hennepin County Human Service and Public Health Department Child Support, et al.

Appellees

Appeal from U.S. District Court for the District of Minnesota
(0:18-cv-01138-DWF)

ORDER

The petition for rehearing by the panel is denied.

October 10, 2019

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans