

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-1331

WILLIAM E. VUKICH,
Appellant

v.

PENNSYLVANIA JUDICIAL SYSTEM

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 2:18-cv-00805)
District Judge: Honorable Mark R. Hornak

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 17, 2019

Before: CHAGARES, BIBAS and GREENBERG, Circuit Judges

(Opinion filed October 3, 2019)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

William Vukich appeals pro se from the District Court's dismissal of his civil action. For the reasons that follow, we will affirm that judgment.

I.

In 2008, Vukich pleaded guilty in the Court of Common Pleas of Beaver County, Pennsylvania, to multiple offenses. He was sentenced to an aggregate prison term of two to four years, to be followed by a term of probation. In 2013, he violated his probation and was sentenced to an additional prison term of one to three years.

In 2018, Vukich filed a pro se action in the District Court against the "Judicial System of Pennsylvania," appearing to take issue with both of his sentences.¹ In January 2019, the District Court dismissed this action pursuant to 28 U.S.C. § 1915(e)(2)(B), stating that his complaint, which was titled "Motion Illegal Action bestowed upon Petitioner," was barred by the Eleventh Amendment. This timely appeal followed.²

II.

Vukich's District Court filings were not models of clarity. But he indicates in his appellate brief that he is seeking "[c]ompensat[ion]" for "the seven illegal years he spent

¹ Although one of Vukich's District Court filings referred to the defendant as the "Judicial Systems of the United States," his allegations were directed at the Pennsylvania judicial system only.

² We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We exercise plenary review over the District Court's dismissal order, *see Allah v. Seiverling*, 229 F.3d 220, 223 (3d Cir. 2000), and we may affirm that order on any basis supported by the record, *see Murray v. Bledsoe*, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam).

incarcerated.” (Vukich’s Br. 17.) We agree with the District Court that the Eleventh Amendment (among other things) bars a claim for damages against the Pennsylvania state courts. See Haybarger v. Lawrence Cty. Adult Prob. & Parole, 551 F.3d 193, 198 (3d Cir. 2008). To the extent that Vukich’s appellate brief indicates that he also intended to seek damages against a state-court judge and the attorneys who were involved in his state-court proceedings, that claim is barred by, among other things, Heck v. Humphrey, 512 U.S. 477, 486-87 (1994) (holding that, in order for a 42 U.S.C. § 1983 plaintiff “to recover damages for allegedly unconstitutional conviction or imprisonment,” he “must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus”).

In view of the above, we will affirm the District Court’s dismissal of Vukich’s case.³ His request for appointment of counsel is denied. See Tabron v. Grace, 6 F.3d 147, 155 (3d Cir. 1993).

³ To the extent that Vukich intended to attack the validity of one or both of his sentences, the proper vehicle for doing so is a habeas petition, not a civil complaint. See Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). Although the District Court could have liberally construed his filings in this case as a habeas petition, we see no reason to remand on this basis. Even if Vukich were still “in custody” with respect to either of these sentences when he brought this case, see Maleng v. Cook, 490 U.S. 488, 490-91 (1989) (per curiam) (explaining that a district court has jurisdiction to entertain a habeas petition only if the petitioner is “‘in custody’ under the conviction or sentence under attack at the time his petition is filed”), a habeas challenge to his original sentence clearly would have been

time-barred, see 28 U.S.C. § 2244(d)(1), and the District Court would have lacked jurisdiction over a habeas challenge to his probation-violation sentence because he had attacked that sentence in a prior habeas petition, see Robinson v. Johnson, 313 F.3d 128, 139 (3d Cir. 2002).

CLOSED

**U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CIVIL DOCKET FOR CASE #: 2:18-cv-00805-MRH**

VUKICH v. JUDICIAL SYSTEM OF PENNSYLVANIA

Assigned to: Chief Judge Mark R. Hornak

Case in other court: Third Circuit, 19-01331

Cause: 42:1983 Civil Rights Act

Date Filed: 06/05/2018

Date Terminated: 06/21/2018

Jury Demand: None

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: Federal Question

Plaintiff**WILLIAM E. VUKICH**represented by **WILLIAM E. VUKICH**

P.O. Box 386

New Brighton, PA 15066

PRO SE

V.

Defendant**JUDICIAL SYSTEM OF
PENNSYLVANIA**

Date Filed	#	Docket Text
06/05/2018	<u>1</u>	Remark: COMPLAINT received without Motion for IFP or Filing Fee. (Attachments: # <u>1</u> Envelope) (plh) (Entered: 06/21/2018)
06/21/2018	<u>2</u>	ORDER. It appearing from the docket that the Plaintiff has neither paid the required filing fee, nor filed a motion for in forma pauperis treatment, this civil action is STAYED and administratively CLOSED on the docket, pending further Order of the Court and subject to the payment of such filing fee or the grant of in forma pauperis status. Signed by Judge Mark R. Hornak on 6/21/18. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (bdb) (Entered: 06/21/2018)
06/22/2018		Remark: A letter enclosing 2 Text Order / ECF filing receipt filed on 6/21/18 were mailed via regular mail to William E. Vukich on 6/22/18. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jad) (Entered: 06/22/2018)
12/27/2018	<u>3</u>	MOTION for Leave to Proceed in forma pauperis by WILLIAM E. VUKICH. (Attachments: # <u>1</u> Envelope) (ept) (Entered: 12/27/2018)
12/27/2018	<u>4</u>	MOTION illegal action bestowed upon petitioner by WILLIAM E. VUKICH. (Attachments: # <u>1</u> Envelope) (ept) (Entered: 12/27/2018)

01/25/2019	<u>5</u>	ORDER GRANTING <u>3</u> Motion for In Forma Pauperis Status and Dismissing the Action. The Plaintiff's Motion for in forma pauperis status <u>3</u> is granted. Upon the review by the Court directed by 28 U.S.C. 1915, the Court concludes that the Complaint, styled as a "Motion Illegal Action Bestowed Upon Petitioner!", <u>4</u> fails to state a claim for relief, in that the claims brought as against the "Judicial System of Pennsylvania" are barred by the immunity to suit in this Court provided by the Eleventh Amendment. <i>Benn v. First Judicial Dist. of Pennsylvania</i> , 426 F. 2d 233, 239-41 (3d Cir. 2005). Because the Complaint fails to state a claim for relief cognizable in this Court, the action is hereby dismissed. The Clerk shall mark the case closed. Signed by Chief Judge Mark R. Hornak on 1/25/19. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (bdb) (Entered: 01/25/2019)
01/29/2019		Remark: A letter enclosing 5 Text Order / ECF filing receipt filed on 1/25/19 were mailed via regular mail to William E. Vukich on 1/29/19. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jad) (Entered: 01/29/2019)
02/06/2019	<u>6</u>	NOTICE OF APPEAL as to 5 Order, Set/Clear Flags, by WILLIAM E. VUKICH. Motion for IFP Granted. Certificate of Appealability N/A. Court Reporter(s): N/A. The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. The Transcript Purchase Order form will NOT be mailed to the parties. The form is available on the Court's internet site. (Attachments: # <u>1</u> Envelope) (ept) (Entered: 02/06/2019)
02/07/2019	<u>7</u>	USCA Case Number 19-1331 for <u>6</u> Notice of Appeal, filed by WILLIAM E. VUKICH. USCA Case Manager Caitlyn (CJG) (DOCUMENT IS RESTRICTED AND CAN ONLY BE VIEWED BY COURT STAFF) (cjb3) (Entered: 02/07/2019)
10/03/2019	<u>8</u>	JUDGMENT OF USCA as to <u>6</u> Notice of Appeal, filed by WILLIAM E. VUKICH Affirming judgment/order of the district court. Mandate will follow. (lr) (Entered: 10/03/2019)
10/25/2019	<u>9</u>	MANDATE of USCA as to <u>6</u> Notice of Appeal, filed by WILLIAM E. VUKICH Affirming judgment/order of the district court. (Attachments: # <u>1</u> USCA Opinion) (cjb3) (Entered: 10/25/2019)

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