A

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
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ORDER

January 2, 2020

Before

ILANA DIAMOND ROVNER, *Circuit Judge*
AMY C. BARRETT, *Circuit Judge*

No. 19-2799	WENDELL BROWN, also known as Menes Ankh El, Plaintiff - Appellant v. MARION COUNTY SUPERIOR COURT, et al., Defendants - Appellees

Originating Case Information:

District Court No: 1:18-cv-03453-JMS-MPB
Southern District of Indiana, Indianapolis Division
District Judge Jane Magnus-Stinson

Upon consideration of the **PETITION FOR PANEL REHEARING PER RULE 40,** filed on December 2, 2019, by pro se Appellant,

IT IS ORDERED that the motion is **DENIED.** Unless the appellant pays the filing fee by January 10, 2020, this appeal will be dismissed for failure to prosecute.

B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MENES ANKH-EL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-cv-03453-JMS-MPB
	)	
MARION COUNTY SUPERIOR COURT, *et al.*,	)	
	)	
	)	
Defendants.	)	

ENTRY DENYING DEMAND FOR ALTERATION OF JUDGMENT

On July 17, 2019, the Court dismissed this action as frivolous and for failure to state a claim upon which relief may be granted and entered final judgment against Plaintiff Menes Ankh-El. Dkt. 15. In short, Mr. Ankh-El's complaint raised claims against agencies and employees of the Indiana and Marion County governments who will not recognize him as "Menes Ankh-El" or accept documents bearing that signature. This, he says violates his rights because he has independently changed his name to "Menes Ankh-El" from "Wendell Brown," although he has not done so according to the process required by Indiana's laws.

Mr. Ankh-El now "demands" that the Court alter that judgment and permit his case to proceed. This motion, dkt. 17, is governed by Federal Rule of Civil Procedure 59(e).

To receive relief under Rule 59(e), the moving party "must clearly establish (1) that the court committed a manifest error of law or fact, or (2) that newly discovered evidence precluded entry of judgment." *Edgewood Manor Apartment Homes v. RSUI Indem.*, 733 F.3d 761, 770 (7th Cir. 2013) (internal quotation omitted). A "manifest error" means "the district court commits a wholesale disregard, misapplication, or failure to recognize controlling precedent." *Stragapede v.*

City of Evanston, Ill., 865 F.3d 861, 868 (7th Cir. 2017) (internal quotation omitted). "A 'manifest' error is not demonstrated by the disappointment of the losing party." *Oto v. Metropolitan Life Ins.*, 224 F.3d 601, 606 (7th Cir. 2000). Relief through a Rule 59(e) motion for reconsideration is an "extraordinary remed[y] reserved for the exceptional case." *Foster v. DeLuca*, 545 F.3d 582, 584 (7th Cir. 2008).

In support of his motion, Mr. Ankh-El calls the Court's attention to two Indiana state-court decisions. *See* dkt. 17 at 2 (citing *Leone v. Comm'r*, 933 N.E.2d 1244 (Ind. 2010); *In re Resnover*, 979 N.E.2d 668 (Ind. Ct. App 2012)). These decisions do not show a manifest error of law.

In fact, *Leone* reinforces the Court's conclusion the state defendants are not obligated to permit Mr. Ankh-El to use (or sign) the name of his choosing. For example:

- "Certainly . . . Indiana courts must grant a name change where no evidence of fraud exists, but this does not mean that the State must recognize an informal common-law name change. . . . Only after a court grants this imprimatur to the name must a state agency recognize it." 933 N.E.2d at 1253–1254 (citing *In re Hauptly*, 312 N.E.2d 857, 859 (Ind. 1974); Ind. Code § 34-28-2-5(a)).

- "While the courts have a unique power to certify a name change, Hoosiers still may refer to themselves by any name they like. *See* [*Hauptly*],312 N.E.2d at 859. They may not, however, demand that government agencies begin using their new names without a court order." *Id.* at 1254.

Meanwhile, *Resnover* is actually concerned with what forms of identification the state may require an individual to present in order to change his or her name through the legal process—a question wholly irrelevant to Mr. Ankh-El's claims. *See* 979 N.E.2d at 676. However, it quotes *Leone* extensively and recognizes its authority on the question of the government's power to require people engaged in the government's processes and services to use the government's process for formalizing name changes. *See id.* at 672.

Mr. Ankh-El's motion does not identify a manifest error of law or fact. Therefore, his demand for alteration of the judgment, dkt. [17], is **denied**, and this action remains closed.

IT IS SO ORDERED.

Date: 8/13/2019

Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

MENES ANKH-EL
Wendell Brown 233632
NEW CASTLE - CF
NEW CASTLE CORRECTIONAL FACILITY - Inmate Mail/Parcels
1000 Van Nuys Road
NEW CASTLE, IN 47362

C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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	)	
Plaintiff,	)	
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v.	)	No. 1:18-cv-03453-JMS-MPB
	)	
MARION COUNTY SUPERIOR COURT, *et al.*,	)	
	)	
	)	
Defendants.	)	

ENTRY SCREENING AMENDED COMPLAINT, DISMISSING ACTION, AND DIRECTING ENTRY OF FINAL JUDGMENT

On March 19, 2019, the Court dismissed Plaintiff Menes Ankh-El's complaint for failure to state a claim upon which relief may be granted. *See* dkt. 11. The Court granted Mr. Ankh-El an opportunity to show cause why this action should not be dismissed, and he has responded by filing an amended complaint, dkt. 14. Because Mr. Ankh-El is an inmate at New Castle Correctional Facility and therefore a "prisoner" as defined by 28 U.S.C. § 1915A(c), the Court has an obligation under § 1915A(b) to screen the amended complaint.

I. Screening Standard

Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the amended complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. In determining whether the amended complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). To survive dismissal,

> [the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015) (internal quotation omitted).

II. The Amended Complaint

The amended complaint asserts claims against six defendants under numerous legal theories, including the First, Ninth, Tenth, and Thirteenth Amendments, the Religious Land Use and Institutionalized Persons Act (RLUIPA), and 42 U.S.C. § 1985.

Mr. Ankh-El is also known by the name "Wendell Brown." The complaint indicates that the plaintiff's legal name, under the laws of Indiana, was Wendell Brown before his prosecution for the offense for which he is now incarcerated. The plaintiff states that he changed his name for religious reasons to Menes Ankh-El in 2011 "by public notice." *See* dkt. 14 at 4. However, "there is no indication that Ankh-El ever legally changed his name from Wendell Brown." *Brown v. State*, 64 N.E.3d 1219, 1235 (Ind. Ct. App. 2016).

Mr. Ankh-El alleges that the Marion County Superior Court wrongly entered his criminal judgment under the name of Wendell Brown. As a result, the staff at NCCF will not provide him with mail (including legal mail) that is not addressed to Wendell Brown. They will not send outgoing mail with Menes Ankh-El as the return addressee. They will not accept remittance slips signed by Menes Ankh-El. Because of these conditions, Mr. Ankh-El cannot send or receive mail, access the courts, or purchase items from the Commissary unless he uses a name he has abandoned due to his religious beliefs.

III. Discussion

Mr. Ankh-El's claims against the correctional defendants all begin from the same premise: He is entitled to use the name "Menes Ankh-El," and any time he is denied a service or accommodation because he uses that name (or because he does not use the name "Wendell Brown"), his legal rights have been violated.

The Seventh Circuit has rejected this premise time and time again. In *Azeez v. Fairman*, 795 F.2d 1296 (7th Cir. 1986), the court considered whether prison officials deprived two Muslim inmates "of their religious freedom by refusing to recognize their Islamic names." One, like Ankh-El, did not use any legal process to change his name. *Id.* at 1297. The Court found no "significant abridgment of his religious freedom; there may, indeed, have been no abridgment at all. For there is no evidence that requiring an Islamic prisoner to undergo a *nonburdensome* statutory procedure for changing his name imposes a religious hardship on him." *Id.* at 1300. In *Mutawakkil v. Huibregtse*, 735 F.3d 524 (7th Cir. 2013), the court considered a prison policy requiring an inmate to use his "committed name"—the name appearing on the judgment of his conviction—on prison documents (although it allowed an inmate to use other names in addition to his committed name). The court found no conflict between this policy and the First Amendment, the Equal Protection clause, or RLUIPA. *Id.* Similarly, in *Green v. Litscher*, 103 F. App'x 24 (7th Cir. 2004), the court found no right violated by a prison's rejection of grievances an inmate filed under a name other than his committed name. The Court finds no meaningful distinction between the allegations in Mr. Ankh-El's complaint and the precedents discussed above.

Mr. Ankh-El's claim that the Marion County Superior Court violated his rights by entering his criminal judgment in the name of Wendell Brown also cannot proceed in this Court. The Marion County Superior Court is not a suable entity under Indiana law and thus cannot be sued

for damages pursuant to 42 U.S.C. § 1983 for constitutional violations. *See* Ind. Code § 36–1–2–10; *Sow v. Fortville Police Dep't*, 636 F.3d 293, 300 (7th Cir. 2011). Additionally, "the lower federal courts lack jurisdiction to review state-court judgments except to the extent authorized by 28 U.S.C. § 2254." *Hadley v. Quinn*, 524 F. App'x 290, 293 (7th Cir. 2013) (citing *Sides v. City of Champaign*, 496 F.3d 820, 824 (7th Cir. 2007); *Buckley v. Ill. Judicial Inquiry Bd.*, 997 F.2d 224, 227 (7th Cir. 1993)).

IV. Dismissal, Warning, and Order to Enter Final Judgment

For the reasons set forth in Part III, this action is **dismissed** pursuant to 28 U.S.C. § 1915A(b) as **frivolous** and for **failure to state a claim upon which relief may be granted.**

Because the action is dismissed pursuant to § 1915A(b), the dismissal counts as a "strike" for purposes of § 1915(g). Mr. Ankh-El was previously assessed strikes in the following cases:

- 1:18-cv-03452-WTL-TAB, dkt. 14 (May 5, 2019) (dismissed pursuant to § 1915A(b) for failure to state a claim and as frivolous);
- 1:18-cv-03476-JRS-MPB, dkt. 25 (May 5, 2019) (dismissed pursuant to § 1915A(b) for failure to state a claim);
- 1:18-cv-03497-JRS-TAB, dkt. 11 (Apr. 25, 2019) (dismissed pursuant to § 1915A(b) for failure to state a claim and as frivolous).

As a result, Mr. Ankh-El will only be permitted to proceed *in forma pauperis* in future litigation if he is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g). If Mr. Ankh-El seeks leave to proceed *in forma pauperis* in such circumstances, he must "disclose to the court the fact that" he has struck out "or risk dismissal of [his] case as a sanction for misconduct." *Isby v. Brown*, 856 F.3d 508, 519 (7th Cir. 2017).

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 7/17/2019

Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

MENES ANKH-EL
Wendell Brown 233632
NEW CASTLE - CF
NEW CASTLE CORRECTIONAL FACILITY - Inmate Mail/Parcels
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ORDER

November 19, 2019

Before

ILANA DIAMOND ROVNER, *Circuit Judge*
AMY C. BARRETT, *Circuit Judge*

No. 19-2799	WENDELL BROWN, also known as Menes Ankh El, Plaintiff - Appellant v. MARION COUNTY SUPERIOR COURT, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 1:18-cv-03453-JMS-MPB Southern District of Indiana, Indianapolis Division District Judge Jane Magnus-Stinson	

The following are before the court:

1. **VERIFIED MOTION TO PROCEED ON APPEAL WITHOUT PAYING FILING FEES,** filed on October 24, 2019, by the pro se appellant.

2. **VERIFIED MEMORANDUM IN SUPPORT OF PLRA MOTION TO PROCEED ON APPEAL WITHOUT PAYING FILING FEES,** filed on October 24, 2019, by the pro se appellant.

IT IS ORDERED that the motion to proceed in forma pauperis is **DENIED**. The appellant has not identified a potentially meritorious argument for appeal. The appellant shall pay the required docketing fee within 14 days or else this appeal will be dismissed for failure to prosecute.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MENES ANKH-EL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-cv-03453-JMS-MPB
	)	
MARION COUNTY SUPERIOR COURT, *et al.*,	)	
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ENTRY SCREENING AMENDED COMPLAINT, DISMISSING ACTION, AND DIRECTING ENTRY OF FINAL JUDGMENT

On March 19, 2019, the Court dismissed Plaintiff Menes Ankh-El's complaint for failure to state a claim upon which relief may be granted. *See* dkt. 11. The Court granted Mr. Ankh-El an opportunity to show cause why this action should not be dismissed, and he has responded by filing an amended complaint, dkt. 14. Because Mr. Ankh-El is an inmate at New Castle Correctional Facility and therefore a "prisoner" as defined by 28 U.S.C. § 1915A(c), the Court has an obligation under § 1915A(b) to screen the amended complaint.

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Because the action is dismissed pursuant to § 1915A(b), the dismissal counts as a "strike" for purposes of § 1915(g). Mr. Ankh-El was previously assessed strikes in the following cases:

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Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 7/17/2019

Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

MENES ANKH-EL
Wendell Brown 233632
NEW CASTLE - CF
NEW CASTLE CORRECTIONAL FACILITY - Inmate Mail/Parcels
1000 Van Nuys Road
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MENES ANKH-EL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-cv-03453-JMS-MPB
	)	
MARION COUNTY SUPERIOR COURT, *et al.*,	)	
	)	
	)	
Defendants.	)	

FINAL JUDGMENT

The Court now enters **FINAL JUDGMENT**. The action is dismissed pursuant to 28 U.S.C. § 1915A(b) as frivolous and for failure to state a claim upon which relief may be granted.

Date: 7/17/2019

Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Laura Briggs, Clerk
United States District Court

By: Deputy Clerk

Distribution:

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Wendell Brown 233632
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UNITED STATES DISTRICT COURT
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Mr. Ankh-El's motion does not identify a manifest error of law or fact. Therefore, his demand for alteration of the judgment, dkt. [17], is **denied**, and this action remains closed.

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