NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 18-1340 & 18-2841

JAMAAL GITTENS,
Appellant

v.

ELIZABETH KELLY; ERIE COUNTY DOMESTIC RELATIONS

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 1:17-cv-00309)
District Judge: Honorable Cathy Bissoon

Submitted Pursuant to Third Circuit LAR 34.1(a)
December 17, 2018
Before: MCKEE, COWEN, and ROTH, Circuit Judges

(Opinion filed November 4, 2019)

OPINION*

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

PER CURIAM

Jamaal Gittens appeals an order of the United States District Court for the Western District of Pennsylvania dismissing his civil rights action. For the following reasons, we will affirm the judgment of the District Court.

In September 2017, Gittens filed a complaint under 42 U.S.C. § 1983, challenging a state court order declaring him to be the biological father of a child and requiring him to pay child support. He sought monetary damages and vacatur of the state court order. Gittens named as defendants Judge Elizabeth K. Kelly and the Domestic Relations section of the Erie County Court of Common Pleas. By order entered November 16, 2017, the District Court sua sponte dismissed the complaint, holding that Gittens' claims were barred by the Rooker-Feldman doctrine, the Younger abstention doctrine, and Eleventh Amendment immunity. Gittens appealed.[1]

The Rooker-Feldman doctrine deprives a District Court of jurisdiction to review, directly or indirectly, a state court adjudication. The Supreme Court has emphasized the narrow scope of the doctrine, holding that it is confined to "cases brought by state-court

[1] We have appellate jurisdiction under 28 U.S.C. § 1291. Our review is plenary. See Allah v. Seiverling, 229 F.3d 220, 223 (3d Cir. 2000); cf. Turner v. Crawford Square Apartments III, L.P., 449 F.3d 542, 547 (3d Cir. 2006) (exercising plenary review over district court's invocation of the Rooker-Feldman doctrine); FOCUS v. Allegheny Cty. Court of Common Pleas, 75 F.3d 834, 843 (3d Cir. 1996) ("We exercise plenary review over the legal determinations of whether the requirements for Younger abstention have been met and, if so, we review the district court's decision to abstain for abuse of discretion").

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." Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005). "[F]our requirements ... must be met for the Rooker-Feldman doctrine to apply: (1) the federal plaintiff lost in state court; (2) the plaintiff 'complain[s] of injuries caused by [the] state-court judgments'; (3) those judgments were rendered before the federal suit was filed; and (4) the plaintiff is inviting the district court to review and reject the state judgments." Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d 159, 166 (3d Cir. 2010) (quoting Exxon Mobil, 544 U.S. at 284) (alterations in original). These requirements are met here. Gittens complained that he was injured by a state court judgment that required that he pay child support, the judgment predated his federal complaint, and he asked the District Court to invalidate that judgment.

To the extent that the state court proceeding regarding Gittens' child support obligations were ongoing, the District Court properly invoked the Younger abstention doctrine.[2] See Younger v. Harris, 401 U.S. 37 (1971). Younger abstention is required if there are continuing state proceedings which are judicial in nature, which implicate

[2] We grant Gitten's "Motion Amending Appellant Brief," wherein he explains that the Pennsylvania Supreme Court denied his petition for allowance of appeal on January 29, 2019. That decision by the Pennsylvania Supreme Court does not affect our determination that the District Court properly applied the Younger abstention doctrine. We also grant Appellant's "Motion for Consideration Amending Appellant's Brief" and his "Motion Amended Appellant's Brief" to the extent that he seeks to expand on arguments raised in his already filed-brief. In all other respects, the motions are denied.

important state interests, and which afford an adequate opportunity for the appellant to present his federal claims. See Lazaridis v. Wehmer, 591 F.3d 666, 670 (3d Cir. 2010). Here, the District Court correctly applied our decision in Anthony v. Council, 316 F.3d 412, 418 (3d Cir. 2003), where we concluded that abstention was proper where persons held in civil contempt for failing to comply with their child support orders alleged violations of their due process rights.

The District Court also properly held that Gittens' claims were barred by immunity. "A judicial officer in the performance of his duties has absolute immunity from suit and will not be liable for his judicial acts." Azubuko v. Royal, 443 F.3d 302, 303 (3d Cir. 2006). Although Gittens asserted that Judge Kelly acted "outside her judicial capacity," he principally complained that the child support order was entered in error because he had demonstrated that he did not know the child's mother and did not spend time in Pennsylvania. Such allegations are insufficient to overcome judicial immunity. See Capogrosso v. Supreme Court of N.J., 588 F.3d 180, 184 (3d Cir. 2009) (per curiam) (holding that judicial immunity extends to judicial officers, even if their actions were '"in error, w[ere] done maliciously, or w[ere] in excess of [their] authority,'" unless the officers acted in clear absence of all jurisdiction (quoting Azubuko, 443 F.3d at 303)). Furthermore, Pennsylvania's judicial districts, including the Erie County Court of Common Pleas and its Domestic Relations section, are entitled to Eleventh Amendment immunity. See Haybarger v. Lawrence Cty. Adult Prob. & Parole,

551 F.3d 193, 198 (3d Cir. 2008). Finally, we note that "all components of the judicial branch of the Pennsylvania government are state entities and thus are not persons for section 1983 purposes." Callahan v. City of Philadelphia, 207 F.3d 668, 674 (3d Cir. 2000).

For the foregoing reasons, we will affirm the judgment of the District Court.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMAAL GITTENS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 17-309
	)	
JUDGE ELIZABETH K. KELLY, et al.,	)	Judge Cathy Bissoon
	)	
Defendants.	)	

JUDGMENT ORDER

For the reasons set forth in the Order of Dismissal filed contemporaneously herewith, and pursuant to Rule 58 of the Federal Rules of Civil Procedure, FINAL JUDGMENT hereby is entered against Plaintiffs. The case will be marked closed.

November 16, 2017

s/ Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

JAMAAL GITTENS
1206 Marlene Street
Charlotte, NC 28208

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMAAL GITTENS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 17-309
	)	
JUDGE ELIZABETH K. KELLY, et al.,	)	Judge Cathy Bissoon
	)	
Defendants.	)	

ORDER OF DISMISSAL

For the reasons that follow, this case will be dismissed, with prejudice, *sua sponte*, pursuant to the provisions of 28 U.S.C. § 1915, for lack of subject matter jurisdiction and failure to state a claim.

Having been granted leave to proceed *in forma pauperis* ("IFP"), *pro se* Plaintiff Jamaal Gittens ("Plaintiff") is subject to the screening provisions in 28 U.S.C. § 1915(e). See Atamian v. Burns, 2007 WL 1512020, *1-2 (3d Cir. 2007) ("the screening procedures set forth in [Section] 1915(e) apply to [IFP] complaints filed by prisoners and non-prisoners alike") (citations omitted). Among other things, that statute requires the Court to dismiss any action in which subject matter jurisdiction is lacking and/or the plaintiff has failed to state a claim upon which relief may be granted. See Muchler v. Greenwald, 624 Fed. Appx. 794, 796-97 (3d Cir. 2015).

In his Complaint, Plaintiff alleges that Judge Elizabeth K. Kelly of the Erie County Court of Common Pleas exceeded her authority by declaring him to be the biological father of a child that was not his and by ordering him to pay child support when he refused to take a DNA test to establish paternity. (Doc. 3 at 9). Plaintiff seeks $500,000.00 in civil damages and a declaratory judgment vacating Judge Kelly's order. (Id. at 13).

Dismissal of Plaintiff's claims pursuant to Section 1915(e) is warranted for several reasons. First, Plaintiff's claims are barred by the Rooker-Feldman doctrine. Under Rooker-Feldman, "federal courts lack jurisdiction over suits that are essentially appeals from state-court judgments." Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d 159, 166 (3rd Cir. 2010). Application of the doctrine is narrowly restricted to "cases brought by state-court losers complaining of injuries caused by state-court judgments . . . and inviting district court review and rejection of those judgments." Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005). In determining whether Rooker-Feldman applies to a particular claim or claims, the Third Circuit has established the following test:

> [T]here are four requirements that must be met for the Rooker-Feldman doctrine to apply: (1) the federal plaintiff lost in state court; (2) the plaintiff "complain[s] of injuries caused by [the] state-court judgments; (3) those judgments were rendered before the federal suit was filed; and (4) the plaintiff is inviting the district court to review and reject the state judgments.

Great W. Mining, 615 F.3d at 166 (quoting Exxon Mobil, 544 U.S. at 284).

Plaintiff's complaints fall squarely within the scope of the Rooker-Feldman doctrine. His lone factual allegation is that Judge Kelly acted "outside her judicial capacity" in declaring him to be the biological father of a child and ordering him to pay child support. (Doc. 5 at 1). The injury alleged by Plaintiff – the deduction of child support payments from his paychecks – flows directly from Judge Kelly's child support order, and his attempt to induce this Court to reverse that order is a clear invitation to "review and reject the state judgments." Great W. Mining, 615 F.3d at 166. Such an invitation must be declined. See Middlebrook at Monmouth v. Liban, 419 Fed. Appx. 284, 285-86 (3rd Cir. 2011) (observing that federal courts "cannot review proceedings conducted by a state tribunal to determine whether it reached its result in accordance with law").

Plaintiff's claims are also barred by the Younger abstention doctrine. Derived from the United States Supreme Court's decision in Younger v. Harris, the Younger doctrine compels federal courts to abstain from exercising jurisdiction where the federal adjudication would disrupt an ongoing state court proceeding. Younger, 401 U.S. 37, 43-44 (1971). Abstention is proper when: 1) the federal proceeding would interfere with an ongoing judicial proceeding; 2) important state interests are implicated in the state action; and 3) the state proceedings offer sufficient opportunity to raise the claims asserted in federal court. Anthony v. Council, 316 F.3d 412, 418 (3d Cir. 2003).[1]

Based on the allegations in the complaint, it appears that Plaintiff's state court proceedings remain ongoing and that he may not yet have exhausted all of his state court appeals. It is beyond dispute that custody and child support matters involve important state interests. Id. at 421-22 (noting that the state has "an overriding interest in ordering, monitoring, enforcing and modifying child support obligations"). Federal courts have universally held that state court appellate proceedings offer a sufficient opportunity to appeal adverse child support decisions. Id. at 422 (observing that child support claims can be raised during child support hearings and appealed through the state appellate system). For these reasons, abstention pursuant to the Younger doctrine is warranted. Lyman, 2017 WL 2813228, at *5 ("[B]ecause Pennsylvania courts have ongoing oversight over child support orders, Younger abstention prevents this court from deciding [plaintiff's] claims seeking injunctive and declaratory relief.").

[1] Third Circuit jurisprudence suggests that federal claims arising out of state child custody proceedings may implicate both the Rooker-Feldman doctrine and Younger abstention. See Lyman v. Philadelphia Court of Common Pleas, 2017 WL 2813228, at *4 (E.D. Pa. June 29, 2017) (collecting cases).

Finally, it is axiomatic that suits against a state are barred by the Eleventh Amendment.[2] Alabama v. Pugh, 438 U.S. 781, 781-82 (1978). As a common pleas judge, Judge Kelly is considered to be an arm of the State of Pennsylvania and is entitled to Eleventh Amendment immunity with respect to any claims against her in her official capacity. Van Tassel v. Lawrence Co. Domestic Relations Section, 659 F.Supp.2d 672, 676-82 (W.D. Pa. 2009), *aff'd*, 390 Fed. Appx. 201 (2010) (recognizing that Pennsylvania common pleas judges are entitled to Eleventh Amendment immunity with respect to official capacity claims). Similarly, the Domestic Relations Section is a subunit of the Erie County Court of Common Pleas, and thus a subunit of the Commonwealth's unified judicial system. See 42 Pa.C.S.A.§ 961 ("Each court of common pleas shall have a domestic relations section . . ."); Geis v. Board of Educ. of Parsippany–Troy Hills, Morris Cnty., 774 F.2d 575, 580 (3d Cir.1985) ("Pennsylvania's judicial districts...are entitled to Eleventh Amendment immunity."). Because Eleventh Amendment immunity attaches to the actions taken by Judge Kelly in her official capacity and any claims against the Erie County Domestic Relations Section, Plaintiff's claims based on those actions must be dismissed.

To the extent that Plaintiff asserts a monetary claim against Judge Kelly in her individual capacity, "[i]t is a well-settled principle of law that judges are generally immune from a suit for money damages." Figueroa v. Blackburn, 208 F.3d 435, 440 (3rd Cir. 2000) (internal quotations omitted). Such immunity can only be overcome where a judge's actions are "nonjudicial in nature, or where such actions, while judicial in nature, are taken in the complete absence of all jurisdiction." Van Tassel, 659 F.Supp.2d at 695 (internal quotation omitted). Plaintiff's allegations against Judge Kelly concern actions undertaken while she was presiding over child

[2] Although a state may expressly waive Eleventh Amendment immunity, "Pennsylvania has not waived its immunity from suit in federal court." See Toth v. California Univ. of Pennsylvania, 844 F.Supp.2d 611, 648 (W.D. Pa. 2012) (citing 42 Pa.C.S.A. § 8521(b)). Nor did Congress intend to abrogate the traditional sovereign immunity afforded to the states by enacting 42 U.S.C. § 1983. Id. at 648.

support proceedings in the Erie County Court of Common Pleas, and each of those actions – such as ordering Plaintiff to take a paternity test and pay child support – are fundamental judicial acts that fall squarely within the jurisdiction of a Pennsylvania common pleas judge. Lyman, 2017 WL 2813228, at *7-8 (noting that claims arising from the adjudication of domestic relations proceedings pertain entirely to matters within the jurisdiction of a common pleas judge). Accordingly, Plaintiff's claims against Judge Kelly in her individual capacity must also be dismissed.

For the reasons stated above, this case is **DISMISSED** with prejudice under 28 U.S.C. § 1915(e)(2)(B).

IT IS SO ORDERED.

November 16, 2017

s/ Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via First-Class U.S. Mail):

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