

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 7, 2021

Lyle W. Cayce
Clerk

No. 20-30412
Summary Calendar

STANLEY PRICE,

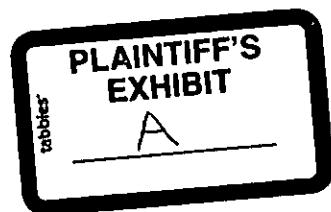
Plaintiff—Appellant,

versus

PAULETTE RILEY IRONS, *Officially and Individually*; DONALD T. JOHNSON; QUIANA M. HUNT; HUNT-CLARK LAW FIRM, L.L.C., *Officially*; SHARON K. HUNTER; ROBIN M. GIARRUSSO, *Officially and Individually*; CHRISTOPHER J. BRUNO, *Officially and Individually*; OFFICE OF DISCIPLINARY COUNSEL, *Officially*; SUSAN C. KALMBACH; JUDICIARY COMMISSION OF LOUISIANA, *Officially and Individually*; MICHELLE A. BEATY,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:19-CV-11451



Before JOLLY, ELROD, and GRAVES, *Circuit Judges*.

PER CURIAM:*

Stanley Price filed this lawsuit in the Eastern District of Louisiana alleging misconduct related to a separate set of proceedings that Price filed in Louisiana state court. He alleges that various judges committed judicial misconduct; that opposing counsel acted unethically; and that the Office of Disciplinary Counsel, Judiciary Commission of Louisiana, and their respective investigative officers failed to properly investigate his complaints of misconduct.

The district court dismissed Price's claims. It concluded that the claims brought against the defendants in their official capacities were barred by the Eleventh Amendment. It further concluded that Price's claims against the various judges in their personal capacities were barred by judicial immunity and that those brought against the investigative officers in their personal capacities were barred by absolute immunity. The district court dismissed Price's claims against the opposing counsel and their law firm because Price had failed to state a claim based on federal law. Price moved to have Judge Vance, who heard his case in federal court, disqualified, but that motion was denied as well.

On appeal, Price first argues that the district court should have given him leave to amend his complaint. However, “[i]t is within the district court's discretion to deny a motion to amend if it is futile.” *Stripling v. Jordan Prod. Co.*, 234 F.3d 863, 872–73 (5th Cir. 2000). The district court did not err in denying Price's motion to amend because Price's motion does not explain how he could cure the deficiencies in his claims. Amending the complaint would be futile.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

Second, Price argues that judicial immunity does not apply because the alleged misconduct related to the administrative responsibilities of the state judges, not their adjudicative responsibilities. We agree with the district court that the conduct complained of was judicial in nature because it involved the judicial administration of Price's case. *See Boyd v. Biggers*, 31 F.3d 279, 285 (5th Cir. 1994) ("A judge's acts are judicial in nature if they are 'normally performed by a judge' and the parties affected 'dealt with the judge in his judicial capacity.'") (quoting *Mireles v. Waco*, 502 U.S. 9, 12 (1991))).

Third, Price contends that the *Ex Parte Young* doctrine permits him to assert his claims despite the Eleventh Amendment's general grant of sovereign immunity to nonconsenting states against private suits in federal court. *Ex Parte Young* applies only where a plaintiff has sought prospective injunctive or declaratory relief. *Green Valley Special Util. Dist. v. City of Schertz*, 969 F.3d 460, 471 (5th Cir. 2020) (*en banc*). Price's complaint asked the district court to award damages, not prospective relief, so the district court was correct in its determination that the Eleventh Amendment bars his suit against the defendants in their official capacities.

Fourth, Price asserts that he has stated a federal claim against the opposing counsel and their law firm because he asserted a claim under 42 U.S.C. § 1983. However, as the district court noted, § 1983 applies only where an individual acts under color of state law. *See Cornish v. Corr. Servs. Corp.*, 402 F.3d 545, 549 (5th Cir. 2005). We agree with the district court that these defendants did not act with state authority or under the color of state law.

Finally, Price asks this court to reverse the denial of his motion for disqualification. However, Price provides us with no basis to disqualify Judge Vance.

For these reasons, and for the reasons outlined by the district court, we AFFIRM the district court's dismissal of Price's claims. We also AFFIRM the denial of Price's motion for disqualification.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

STANLEY PRICE

CIVIL ACTION

VERSUS

NO. 19-11451

PAULETTE RILEY IRONS, ET AL.

SECTION "R" (2)

JUDGMENT

Considering the Court's orders and reasons¹ on file herein,

IT IS ORDERED ADJUDGED AND DECREED that plaintiff's claims against Judges Giarrusso, Bruno, and Irons, in their official capacities, are dismissed without prejudice and, in their individual capacities, with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's claims against Judge Johnson, in his official capacity, are dismissed without prejudice and, in his individual capacity, with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's claims against the Louisiana Office of Disciplinary Counsel and Susan Kalmbach, in her official capacity, are dismissed without prejudice and against Kalmbach, in her individual capacity, with prejudice.

¹ R. Docs. 58, 59, 64, 66, 67 and 68.



IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's claims against the Judiciary Commission of Louisiana are dismissed without prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's claims against Michelle Beaty, in her official capacity, are dismissed without prejudice and, in her individual capacity, with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's federal claims against Quiana Hunt, the Hunt-Clark Law Firm, and Sharon Hunter are dismissed with prejudice, and plaintiff's state claims are dismissed without prejudice.

New Orleans, Louisiana, this 8th day of June, 2020.

Sarah Vance
SARAH S. VANCE
UNITED STATES DISTRICT JUDGE

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

January 29, 2021

Ms. Carol L. Michel
U.S. District Court, Eastern District of Louisiana
500 Poydras Street
Room C-151
New Orleans, LA 70130

No. 20-30412 Price v. Irons
USDC No. 2:19-CV-11451

Dear Ms. Michel,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk

Mary Stewart

By:

Mary C. Stewart, Deputy Clerk
504-310-7694

cc:

Mr. James Garrison Evans
Ms. Sharon Kaye Hunter
Mr. Stanley Price
Ms. Jacqueline Bordelon Wilson



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

STANLEY PRICE

CIVIL ACTION

VERSUS

NO. 19-11451

PAULETTE RILEY IRONS,
Officially and Individually, ET AL.

SECTION: "T" (2)

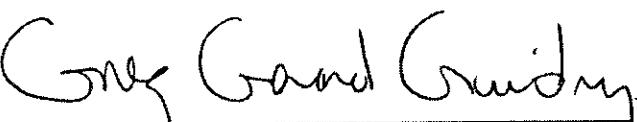
O R D E R

The undersigned United States District Judge recuses himself from further participation in this case pursuant to 28 U.S.C. § 455(a). The Clerk of Court is **ORDERED** to reallot the above-captioned case to another section of court. All dates remain in effect unless modified by the judge to whom this case is transferred.

New Orleans, Louisiana, this 7th day of October, 2019.

October 07, 2019

REALLOTTED TO
SECT. R



GREG GERARD GUIDRY
UNITED STATES DISTRICT JUDGE

