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NOT RECOMMENDED FOR PUBLICATION

No. 21-5489

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Feb 07, 2022
DEBORAH S. HUNT, Clerk

M. STEPHEN MINIX, SR.,

Plaintiff-Appellant,

v.

CHARITY STONE, et al.,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

ORDER

Before: GUY, SUHRHEINRICH, and MOORE, Circuit Judges.

M. Stephen Minix, Sr., a pro se Kentucky resident, appeals a district court judgment dismissing his civil rights complaint. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

This action finds it roots in 2009, when defendant Charity Stone filed a lawsuit in state court (the State Court Action), alleging that Minix, a former optician, committed battery against her during an eye examination. Minix filed an answer and counterclaim to Stone's complaint but thereafter did not respond to any of Stone's various motions, including her motion for default judgment. Stone attempted to mail her motions to Minix at the address he provided to the court in his answer, but they were returned as undeliverable. As a result, the state court struck Minix's counterclaim and granted default judgment against Minix in 2013 in the amount of $40,000.

Over four years later, Minix filed a motion to void the default judgment, arguing that Stone did not properly notify him of her motions and that, because these pleadings were returned to her by the postal service, she had reason to know that he did not receive them. The trial court denied the motion, and the Kentucky Court of Appeals affirmed, concluding that Stone made a good faith

effort to serve Minix and that Minix did not get actual notice because he provided an incorrect address and took no action to correct it. The Kentucky Supreme Court affirmed.

While his appeal was pending, Minix filed for bankruptcy. Minix also filed a lawsuit in the district court, challenging the manner in which the State Court Action was adjudicated. The district court dismissed Minix's complaint without prejudice because, among other reasons, his claims were not ripe in view of his then-pending appeal in the State Court Action and were barred by the *Rooker-Feldman* doctrine.[1]

After the conclusion of the State Court Action, Minix filed this complaint in 2020 against Stone; the presiding trial court judge, John David Caudill; and various other participants in the State Court Action. Minix alleges that the defendants violated his right to due process and various other rights under the Constitution and state law.

A magistrate judge recommended that the defendants' motions to dismiss be granted based on judicial immunity and the *Rooker-Feldman* doctrine. The district court agreed and dismissed Minix's complaint accordingly. Minix appealed.

Judicial Immunity

Minix challenges the dismissal of his claims against Caudill, who he asserts denied him his right to be heard, acquiesced to the defendants' fraud, and failed to perform his judicial duties.

We review de novo a district court's dismissal of a complaint under the doctrine of judicial immunity. *See Leech v. DeWeese*, 689 F.3d 538, 542 (6th Cir. 2012); *see also Meitzner v. Young*, No. 16-1479, 2016 WL 11588383, at *2 (6th Cir. Oct. 25, 2016).

Judges are absolutely immune from suit "for their 'judicial acts,' unless performed 'in the clear absence of all jurisdiction.'" *Alexander v. Rosen*, 804 F.3d 1203, 1208 (6th Cir. 2015) (quoting *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978)).

Here, Caudill struck Minix's counterclaim and entered default judgment against him after he failed to respond to Stone's motions, apparently due to Minix's failure to provide the court with a valid address. Caudill also did not rule on a motion that Stone had filed to strike and to show

[1] *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923).

cause; instead, because Minix failed to respond to this motion (or any others), Caudill entered default judgment against Minix. All of these acts or omissions were performed in Caudill's judicial capacity and within his jurisdiction in the trial court; thus, the district court correctly concluded that Caudill is entitled to judicial immunity. *See Brookings v. Clunk*, 389 F.3d 614, 618 (6th Cir. 2004) (noting that acts "normally performed by a judge" include acts that "resolve[] disputes" or "adjudicate[] private rights").

Rooker-Feldman

Minix raises a host of federal constitutional and state law claims against all defendants based on the State Court Action, citing, for example, the failure to serve him court filings, "arbitrary" rulings, and alleged fraud upon the court.

We review de novo a district court's application of the *Rooker-Feldman* doctrine. *Hall v. Callahan*, 727 F.3d 450, 453 (6th Cir. 2013). This doctrine prohibits district courts from deciding "cases brought by state-court 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." *Larry E. Parrish, P.C. v. Bennett*, 989 F.3d 452, 455 (6th Cir. 2021) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)). To determine whether *Rooker-Feldman* applies, we look to the source of the plaintiff's alleged injury; if that source "is the state-court judgment itself, then *Rooker-Feldman* applies." *Id.* at 456 (citation omitted).

Here, the sole source of Minix's alleged injuries are the state-court judgments—namely, the trial court's striking of Minix's counterclaim and grant of default judgment against Minix, the trial court's denial of Minix's motion to void the default judgment, and the state appellate courts' judgments affirming the latter. Minix seeks to (1) void the foregoing state-court judgments, (2) reinstate the counterclaim that the trial court struck, (3) enjoin the defendants from enforcing the state-court judgments, and (4) recover damages based on the allegedly erroneous state-court judgments. There is no other alleged source of injury, such as a third party's actions, that would qualify as an independent claim sufficient to overcome the *Rooker-Feldman* bar. *Cf. McCormick v. Braverman*, 451 F.3d 382, 393 (6th Cir. 2006).

One final note regarding Minix's fraud allegations. It is true that, when the source of an alleged injury is something other than the adverse state-court judgment, such as fraud in procuring the state-court judgment, the plaintiff's claim is not barred by the *Rooker-Feldman* doctrine. *See id.* at 392-93. But here, Minix's fraud claims have already been rejected by the state courts, and he cannot circumvent the restraints of *Rooker-Feldman* by raising fraud claims that were raised and rejected in the state-court proceedings. *See Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 860 (9th Cir. 2008) (holding that the *Rooker-Feldman* doctrine barred review of a claim of extrinsic fraud because that claim "was *itself* separately litigated before and rejected by" the state court).

Accordingly, we **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

B

No. 21-5489

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Mar 14, 2022
DEBORAH S. HUNT, Clerk

M. STEPHEN MINIX, SR.,

Plaintiff-Appellant,

v.

CHARITY STONE, ET AL.,

Defendant-Appellees.

ORDER

BEFORE: GUY, SUHRHEINRICH, and MOORE, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT PIKEVILLE

CIVIL ACTION NO. 2020-135 - WOB-REW

M. STEPHEN MINIX, SR. PLAINTIFF

VS. JUDGMENT

CHARITY STONE, ET AL DEFENDANTS

Pursuant to the Order adopting the Report and Recommendation entered concurrently herewith, and the Court being advised,

IT IS ORDERED AND ADJUDGED that the within matter is **dismissed**, with prejudice, and **stricken** from the docket of this Court. No Certificate of Appealability shall issue herein.

This 26th day of April, 2021.

Signed By:
William O. Bertelsman WOB
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT PIKEVILLE

CIVIL ACTION NO. 2020-135 - WOB-HAI

M. STEPHEN MINIX, SR. **PLAINTIFF**

VS. **ORDER**

CHARITY STONE, ET AL **DEFENDANT**

This matter is before the Court on the Report and Recommendation of the United States Magistrate Judge (Doc. #63), and having considered *de novo* those objections filed thereto by plaintiff (Doc. #69), and the Court having sufficiently considered the matter, and being advised,

IT IS ORDERED that the objections be, and they hereby are, **overruled**; that the Report and Recommendation be, and it hereby is, **adopted** as the finding of fact and conclusions of law of this Court; that Defendants' motions to dismiss (Doc.##6,7,8,9,58) be, and hereby are **granted**; that Plaintiff's motions for partial summary judgment (Doc.## 25,40,62) be, and hereby are **denied**; that plaintiff's motion to hold certain Defendants in contempt (Doc. #23) and Plaintiff's motion for judicial estoppel (Doc. #56) be, and hereby are **denied**. That pro se Defendant Patricia Clevinger's motion to file late responsive pleading (Doc. #58) be, and hereby is **denied**. That plaintiff's motion for summary judgment on his claim II-alleged lack of judicial immunity (Doc. 64) be, and hereby is **denied**. That this matter is **dismissed**, **with prejudice**, and **stricken** from the docket of

this Court. No certificate of appealability shall issue herein. A separate judgment shall enter concurrently herewith.

This 26th day of April, 2021.

Signed By:
William O. Bertelsman WOB
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
PIKEVILLE

M. STEPHEN MINIX, SR., Plaintiff, v. CHARITY STONE, *et al.*, Defendants.	)	No. 7:20-CV-135-WOB-HAI RECOMMENDED DISPOSITION & ORDER

*** *** *** ***

On January 13, 2021, this *pro se* civil rights matter was referred to the undersigned "for all pretrial purposes, including preparation of a Report and Recommendation on any dispositive motions." D.E. 35. Motions to dismiss and for summary judgment are pending.

I. Background

This action was fomented by a 2009 state lawsuit against now-Plaintiff M. Stephen Minix, Sr. A similar set of claims was previously before the Court (specifically Judge Caldwell) in case number 7:17-CV-190-KKC, which was dismissed without prejudice in April 2018. Judge Caldwell explained the background (with references to the record in the 2017 case):[1]

> On December 22, 2009, a civil complaint was filed by Charity Stone against optometrist M. Stephen Minix in Floyd County Circuit Court. (DE 1-1 at 2; DE 8-2). The complaint alleged that Minix, in the course of performing an eye examination, committed a battery against Stone. *Id.* On February 17, 2010, Minix filed an answer to the complaint, which included counter-claims. (DE 1-1 at 11-17; DE 8-5). After filing his answer, Minix failed to respond to additional pleadings by Stone, including a motion to strike pleadings, a motion to dismiss counterclaims, and a motion for default judgment. (DE 1-1 at 28, 30, 32).

[1] Judge Caldwell's order (D.E. 58 of #7:17-CV-190-KKC) is in the record of this case at Docket Entry 8-15. Because the blue ECF numbers are illegible on that document, the Court will cite the order simply as "KKC Order," followed by the original page number at the bottom of the page. Otherwise, all page numbers in this document refer to the numbers generated by ECF.

> Having received no responsive pleadings, the Floyd Circuit Court struck Minix's previous filing and entered default judgment against Minix on May 10, 2013. (DE 1-1 at 35; DE 8-15). The default judgment was entered in the amount of Forty-Thousand Dollars ($40,000.00) plus costs. (DE 1-1 at 39).
>
> On May 30 2017, over four years after default judgment was entered, Minix filed a motion to void the judgment in Floyd County Circuit Court, arguing that, due to misrepresentations and fraudulent activity by Stone and her representation, Minix was not properly notified that proceedings had continued after he filed his answer. (DE 1-1 at 50-62; DE 8-23). Minix's motion to vacate the judgment was denied on June 19, 2017. (DE 1-1 at 115; DE 8-27). Subsequently, Minix filed an appeal in the Kentucky Court of Appeals and filed for bankruptcy. Minix indicates that an automatic bankruptcy stay has now stayed his currently pending appeal in state court. (DE 8 at 3).

KKC Order at 1-2. Judge Caldwell dismissed the action on several alternative grounds, the first of which was that the matter was not ripe because Minix's state appeal remained pending. *Id.* at 3-4. Judge Caldwell subsequently denied Minix's motion to alter or amend the judgment on October 19, 2018.

Since Judge Caldwell's dismissal order, the bankruptcy proceedings and the state appeal have concluded.

On September 20, 2019, the Kentucky Court of Appeals affirmed the denial of Minix's Rule 60.02 motion, thereby upholding the default judgment against him. D.E. 5-2. As the appellate court explained, Minix's "principal contention" was that he "did not receive multiple motions filed by [Stone] and various orders entered by the trial court." The court found that "[Minix's] lack of notice was due to his own failure to provide a correct address in his pleadings." D.E. 5-2 at 1-2. The court found that when Minix filed his answer and counterclaim in February 2010, he included on the final page an invalid Lexington P.O. box address. That filing "represent[ed] [Minix's] sole participation in the litigation" until his May 2017 Rule 60.02 motion. *Id.* at 2. Because the invalid address prevented him from receiving mail from the

plaintiff and the court, Minix was unaware when Stone moved to have his answer/counterclaim stricken and default judgment entered. As noted by the Kentucky Court of Appeals:

> [O]n April 23, 2013, [Stone] filed a motion for default judgment and a motion to dismiss counterclaim. Both of these motions were granted by the trial court, and on May 10, 2013, a default judgment was entered. In the circuit court's order, the court notes that [Minix's] response and counterclaim were subsequently stricken from the record. On June 11, 2013, the trial court held a hearing on the issue of damages, and on August 4, 2014, entered findings of fact, conclusions of law, and judgment.

Id. at 3.

The next key date, as noted by the Court of Appeals, is December 12, 2014, when Minix "paid for and received photocopies of the Circuit Court record." D.E. 5-2 at 3 n.3.

Almost two-and-a-half years after obtaining the trial court record, on May 23, 2017, Minix moved under Rule 60.02 to vacate the judgment against him. D.E. 5-2 at 2. That motion was denied. The Court of Appeals upheld the trial court's finding that, under the rules of civil procedure as they existed at the time, Stone had made an adequate "good faith effort" to serve Minix by serving him at his "last known address," which was the address Minix included on his answer/counterclaim. *Id.* at 6, 8, 10. "The reason why [Minix] did not get actual notice," the court explained, "is because he gave an incorrect address and never took any action to correct that mistake." *Id.* at 10.

The Kentucky Supreme Court denied discretionary review on September 16, 2020. D.E. 5-4.

Meanwhile, on September 28, 2017, Minix filed for Chapter 7 bankruptcy. Bankr. E.D. Ky. No. 17-51915-TNW. The bankruptcy court ultimately found that the state court judgment against Minix was non-dischargeable. Minix appealed that decision, and on July 25, 2019, Chief Judge Reeves affirmed in case #5:19-CV-93-DCR, D.E. 15.

H. Procedural History

Minix first brought this action via Complaint docketed on October 30, 2020. D.E. 1. On November 16, 2020, Minix filed an Amended Complaint, which superseded the original Complaint. D.E. 5. The Amended Complaint alleges several federal civil rights claims and state tort claims and seeks declaratory and injunctive relief. *Id.* It names twelve Defendants. *Id.*

Defendants have filed five motions to dismiss. D.E. 6, 7, 8, 9, 58.

First, on November 23, 2020, Defendants Douglas Ray Hall, Denise Porter, and John David Caudill, through counsel, filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. D.E. 6.

Second, on November 30, 2020, Defendant Joseph L. Goff filed a *pro se* motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. D.E. 7.

Third, also on November 30, Defendants Charity Stone, Robin Simpson Smith Esq., William P. Harbison Esq., David M. Cantor Esq., Keith J. Larson Esq., and Seiller Waterman LLC, through counsel, filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. D.E. 8.

Fourth, also on November 30, Defendant Jim Webb filed a *pro se* motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. D.E. 9.

Fifth, Defendant Patricia (Thacker) Clevinger was served relatively late in in this litigation. *See* D.E. 41, 42, 47. On March 4, 2021, she moved *pro se* for leave to file a late responsive pleading and to dismiss her as a defendant for failure to state a valid claim against her. D.E. 58. The Court construes this filing as a combined motion to file a late responsive

pleading and motion to dismiss on the grounds discussed in her codefendants' motions. Minix opposes Clevinger's motion. D.E. 61.

On December 21, 2020, the Court received Minix's combined response to the first four motions to dismiss. D.E. 26. The Defendants have also filed replies on three of the four motions to dismiss. D.E. 31, 32, 33. Defendant Goff's motion at Docket Entry 7 does not have a reply.

Minix also has five motions pending. First, on December 11, 2020, the Court received Minix's motion asking the Court to hold in contempt six of the Defendants "for perpetrating the fraud on this Court by the fabrication of evidence." D.E. 23. The six Defendants filed a response. D.E. 27. The Court received Minix's reply on January 12. D.E. 34.

Second, on December 28, 2020, the Court received from Minix a motion for partial summary judgment. D.E. 25. This motion asks the Court to find that Minix "has not been licensed as a doctor of optometry, or optometrist, in the state of Kentucky." *Id.* at 1. Two responses were filed. D.E. 38, 39. Minix replied to both. D.E. 45, 46.

Third, on January 19, 2021, the Court received from Minix a motion for summary judgment on Counts Ten, Twelve, and Fourteen. D.E. 40. Minix later substituted the third page of that motion. D.E. 48, 52. Three responses were filed. D.E. 49, 50, 51. Minix replied. D.E. 53, 54, 55.

Fourth, on February 26, 2021, the Court received from Minix a "Motion for Judicial Estoppel." D.E. 56.

Fifth, on March 17, 2021, the Court received from Minix a motion for summary judgment on Counts Three and Four. D.E. 62.

For the reasons discussed below, the undersigned recommends that Defendants' motions to dismiss be granted and that Minix's motions for partial summary judgment, sanctions, and judicial estoppel be denied.

III. Summary of Issues

As Minix recognizes in his Amended Complaint, this is a "refil[ing of] his previous Civil Rights and tort case no. 7:17-CV-190-KKC.[]" D.E. 5 at 1. Judge Caldwell dismissed that earlier case on the basis that the court lacked jurisdiction to adjudicate it. KKC Order at 2. Her dismissal without prejudice was due to the case not being ripe at the time because Minix's state court appeal remained unresolved. *Id.* at 4. But Judge Caldwell also ruled in the alternative that there were other reasons that Minix failed to state a valid claim for relief. First, she found the Court lacked jurisdiction under the *Rooker-Feldman* doctrine concerning prior state court judgments. *Id.* at 4-6. Second, she found federal jurisdiction was lacking (at least over the state claims) because there was not diversity of citizenship. *Id.* at 6. Third, she found no valid federal conspiracy claim under 42 U.S.C. §§ 1985, 1986 because Minix did not plead "any racial or class-based animus." *Id.* Fourth, she found that no claim under the Fourteenth Amendment or 42 U.S.C. § 1983 was properly pleaded because Minix "provided no plausible allegation that the actions of the defendants were fairly attributable to the state in any manner." *Id.* at 7.

Defendants now raise the following arguments:

(1) Minix's entire suit is barred by the *Rooker-Feldman* doctrine. D.E. 6 at 7-9; D.E. 7 at 1-2; D.E. 8 at 9-11; D.E. 9 at 8-9.

(2) Minix's claims are barred by collateral estoppel. D.E. 6 at 9-11; D.E. 7 at 2; D.E. 8 at 15-16; D.E. 9 at 9-12.

(3) Minix's claims are barred by the applicable statutes of limitations. D.E. 6 at 11-13; D.E. 7 at 2-3; D.E. 8 at 13-15.

(4) Damages are not available for an alleged violation of Section 2 of the Kentucky Constitution. D.E. 6 at 16; D.E. 7 at 4.

(5) Minix's federal constitutional claims fail because he "has provided no plausible allegation that the alleged actions of the Defendants are fairly attributable to the state." D.E. 8 at 11-13; *see also* D.E. 9 at 12-14.

(6) Minix's fraud and intentional-infliction-of-emotional-distress claims are not properly pleaded. D.E. 8 at 16-18; D.E. 9 at 14-17.

(7) Minix's claims are property of his bankruptcy estate. D.E. 8 at 18-20.

(8) Defendants Hall, Porter, and Judge Caudill are shielded by qualified immunity. D.E. 6 at 13-14.

(9) Defendant Judge Caudill is shielded by absolute judicial immunity. D.E. 6 at 15-16.

Finally, the late-appearing *pro se* defendant Patricia (Thacker) Clevinger states she agrees with her codefendants' arguments that Minix has failed to state a valid claim for relief. D.E. 58.

IV. Legal Standards on Motions to Dismiss

Courts liberally construe the pleadings of *pro se* claimants and hold their petitions to a less stringent standard than similar pleadings drafted by attorneys. *Hahn v. Star Bank*, 190 F.3d 708, 715 (6th Cir. 1999) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972)). However, even *pro se* plaintiffs must allege sufficient facts to state a plausible claim to survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1989).

Rule 12(b)(6) allows a defendant to seek dismissal of a complaint which fails to state a claim upon with relief can be granted. Fed. R. Civ. P. 12(b)(6). In reviewing a Rule 12(b)(6) motion, the Court accepts all the Plaintiff's factual allegations as true and construes the complaint in the light most favorable to the Plaintiff. *Hill v. Blue Cross & Blue Shield of Mich.*, 409 F.3d 710, 716 (6th Cir. 2005). For a claim to be viable, the complaint must, at a minimum, give the defendant fair notice of what the claim is and the grounds upon which it rests, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554-55 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Further, to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 570). "[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." *Id.* (citing *Twombly*, 550 U.S. at 556).

For purposes of the motions under consideration, the Court accepts Plaintiff's factual assertions as true. Even so, due to the nature of the claims themselves, Plaintiff's claims must be dismissed.

V. Judicial Immunity

Counts One and Two of the Amended Complaint are directed at John David Caudill, the now-retired Floyd County Circuit Court judge who oversaw the underlying state court proceedings against Minix. D.E. 5 at 22-25. Judge Caudill argues that all the claims against him are barred by absolute judicial immunity. D.E. 6 at 15-16.

"Judges generally speaking have broad immunity from being sued." *Norfleet v. Renner*, 924 F.3d 317, 319 (6th Cir. 2019).

> As early as 1872, the [Supreme] Court recognized that it was "a general principle of the highest importance to the proper administration of justice that a judicial

> officer, in exercising the authority vested in him, should be free to act upon his own convictions, without apprehension of personal consequences to himself." For that reason the Court held that "judges of courts of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." Later we held that this doctrine of judicial immunity was applicable in suits under § 1 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, for the legislative record gave no indication that Congress intended to abolish this long-established principle.

Stump v. Sparkman, 435 U.S. 349, 355–56 (1978) (citations omitted).

> In *Stump*, the Supreme Court established a two-prong test to determine whether an act is "judicial." First, the court must consider whether the act in question is a function that is "normally performed by a judge." . . . Under this inquiry, a court is required to examine the nature and function of the act, not the act itself. [E]ven if a particular act is not a function normally performed by a judge, the court must look to the particular act's relation to a general function normally performed by a judge.
>
> Second, in determining whether an act is "judicial," the court must assess whether the parties dealt with the judge in his or her judicial capacity. ["P]aradigmatic judicial acts," or acts that involve resolving disputes between parties who have invoked the jurisdiction of a court, are the touchstone for application of judicial immunity. Conversely, whenever an action taken by a judge is not an adjudication between the parties, it is less likely that it will be deemed judicial.

Brookings v. Clunk, 389 F.3d 614, 617–18 (6th Cir. 2004) (citations omitted).

Here, Judge Caudill's acts (in striking Minix's counterclaim and granting default judgment to Stone) were clearly judicial in nature. And the parties dealt with Judge Caudill in his judicial capacity. Judge Caudill's rulings in the underlying civil battery case are paradigmatic judicial acts. Judge Caudill was "resolv[ing] disputes" and "adjudicat[ing] private rights." *Brookings*, 389 F.3d at 618. So, he is entitled to absolute judicial immunity.

Here, there is no doubt Judge Caudill "was a lawfully appointed judge with jurisdiction under the [Kentucky] Constitution and statutes" or that "the substance of the [proceedings against Minix] was well within his jurisdiction as a state circuit court judge." *Savoie v. Martin*,

673 F.3d 488, 492 (6th Cir. 2012). Thus, Judge Caudill "was acting within his jurisdiction" by making the challenged rulings in Defendant Stone's favor and absolute judicial immunity applies. *Id.* Judge Caudill cannot be sued for his judicial acts, and this Court cannot provide relief on any claim against him. "The essence of absolute immunity is its possessor's entitlement not to have to answer for his conduct in a civil damages action." *Brookings*, 389 F.3d at 617.

VI. *Rooker-Feldman* Abstention

As several of the defendants argue, "the Amended Complaint should be dismissed in its entirety because all of the relief requested by Minix 'would effectively reverse the state court decision or void its ruling'" in violation of the *Rooker-Feldman* doctrine. D.E. 8 at 11 (quoting KKC Order at 4).

> [U]nder what is known as the *Rooker-Feldman* doctrine, district courts may not consider cases brought by state-court 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. The doctrine is derived from 28 U.S.C. § 1257, which vests sole jurisdiction to conduct appellate review of final state-court judgments in the Supreme Court. We determine whether *Rooker-Feldman* bars a claim by looking to the source of the injury the plaintiff alleges in the federal complaint. If the source of the plaintiff's injury is the state-court judgment itself, then *Rooker-Feldman* applies. To determine the source of a plaintiff's injury, a court must look to the requested relief.

Larry E. Parrish. P.C. v. Bennett, __ F.3d __, No. 20-5898, 2021 WL 788417, at *2 (6th Cir. Mar. 2, 2021) (citations and quotation marks omitted).

Judge Caldwell offered the following analysis in her order dismissing the precursor case:

> The *Rooker-Feldman* Doctrine bars a lower federal court from conducting a virtual 'review' of a state court judgment for errors in construing federal law or constitutional claims 'inextricably linked' with the state court judgment. The state and federal claims need not be identical for the doctrine to apply. In order to determine whether a claim is 'inextricably intertwined' with a state court claim, the federal court must analyze whether the relief requested in the federal action would effectively reverse the state court decision or void its ruling.

> "new," independent source for his injury, Minix is essentially asking this Court to review the state Court ruling as to fraud and notice, and explicitly asking to vacate that ruling—something this Court cannot do. *See Velazquez v. South Florida Federal Credit Union*, 546 Fed. Appx. 854, 859 (11th Cir. 2013) (declining to adopt fraud exception to *Rooker-Feldman* doctrine, but concluding *In re Sun Valley Foods* would not apply where plaintiff "presented evidence of fraud" to state court, "and that court was unconvinced by the evidence"); *see also Bell v. Countrywide Home Loans, Inc.*, 2014 WL 2628618 *3, No. 5:13-CV-165-JHM (W.D. Ky. 2014).

KKC Order at 5-6 (emphasis added).

Judge Caldwell's analysis still stands. The fact that the state courts rejected Minix's fraud arguments has not changed. Not only were Minix's underlying claims adjudicated in state court, but so were his claims that the judgment against him was procured by fraud. Accordingly, under *Rooker-Feldman* abstention, this Court cannot provide any relief that involves overturning the state courts' judgments. Any claims whose relief depends on overturning the state court judgment must be dismissed.

Minix's Amended Complaint seeks the following relief:

1. For a declaratory judgment that the three rulings of DEFENDANT JOHN DAVID CAUDILL, the Default Judgment, Order Dismissing Counterclaims, and Final Judgment, be declared void;
2. For a declaratory judgment to reinstate the plaintiffs counterclaim case against DEFENDANT CHARITY STONE, her first attorney JOHN L. STEVENS, ESQ., and UNNAMED CO-CONSPIRATORS which was extinguished due to fraud on the court in the Order Dismissing Counterclaims;
3. For a temporary restraining order, preliminary and permanent injunction, enjoining and restraining DEFENDANTS for enforcing rulings they have obtained from the state and federal courts as complained herein against the plaintiff;
4. For the return of the money to the plaintiff from the DEFENDANTS that they have collected for the satisfaction of the Floyd Circuit Court judgment against him;
5. For a trial by jury on each and everyone of his claims.
6. For damages in an amount of FIVE-MILLION DOLLARS ($5,000,000);
7. For costs of suit and attorney fees as provided by law; and
8. For such other and further relief as the Court may deem just and proper.

D.E. 5 at 39. Among these prayers for relief, numbers 1-4 are clearly foreclosed by the *Rooker-Feldman* doctrine because they directly attack the state court judgment. The request for a trial is not a form of relief. What remains is Minix's request for damages and fee reimbursements, as stated in 6 and 7.

Are any of these damages separate from the claims barred by *Rooker-Feldman*? Minix does not explain the origin of the $5 million figure. He describes the figure as "actual compensatory, and punitive money damages." D.E. 5 at 6. The only damages specifically identified in the Amended Complaint consists of the $40,000-plus-interest state court judgment against him. In sum, Minix does not identify any compensatory damages apart from the $40,000-plus-interest judgment.

As previously discussed, Counts 1 and 2 are barred by absolute judicial immunity. *See* D.E. 5. For the sake of clarity, the following counts are barred by the *Rooker-Feldman* doctrine because each depends on the state court proceedings being fraudulent or invalid and the damages stem from the state court judgment: 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15.

The only remaining Count is Count 8—a claim for punitive damages. Because the court cannot rule in Minix's favor on any of the other claims, there is no legally cognizable injury that would support a claim for punitive damages. To be clear, while it is legally possible in some circumstances to award punitive damages when compensatory damages are zero, to support punitive damages, there must exist a legal possibility that compensatory (even nominal) damages could be awarded. *Roberie v. VonBokern*, No. 2004-SC-250-DG, 2006 WL 2454647, at *6 (Ky. Aug. 24, 2006) (citing *Commonwealth Dep't of Agric. v. Vinson*, 30 S.W.3d 162, 166 (Ky. 2000)), *as modified* (Dec. 21, 2006); *see also Acuity Brands, Inc. v. Bickley*, No. CV 13-366-

DLB-REW, 2017 WL 1426800, at *27 (E.D. Ky. Mar. 31, 2017). This is not a case where even nominal damages are available, so neither are punitive damages.

The parties raise myriad other issues. But judicial immunity and *Rooker-Feldman* deprive this Court of jurisdiction to grant relief on any of Minix's claims. It is therefore not necessary to delve into the parties' other arguments and concerns.

VII. Conclusion

For the reasons discussed above, the undersigned **RECOMMENDS** that Defendants' motions to dismiss (D.E. 6, 7, 8, 9, 58) be **GRANTED** and Plaintiff's motions for partial summary judgment (D.E. 25, 40, 62) be **DENIED.** The undersigned also **RECOMMENDS** that Plaintiff's motion to hold certain Defendants in contempt (D.E. 23) and Plaintiff's motion for judicial estoppel (D.E. 56) be **DENIED**, as this Court lacks jurisdiction over this matter.

Further, **IT IS HEREBY ORDERED THAT** *pro se* Defendant Patricia Clevinger's motion to file a late responsive pleading (D.E. 58) is **DENIED.**

The Court directs the parties to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b) for appeal rights and mechanics concerning this Recommended Disposition, issued under subsection (B) of the statute. Within **fourteen days** after being served with a copy of this decision, any party may serve and file specific written objections to any or all findings or recommendations for determination, *de novo*, **by the District Judge.** Failure to make a timely objection consistent with the statute and rule may, and normally will, result in waiver of further appeal to or review by the District Court and Court of Appeals. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Wandahsega*, 924 F.3d 868, 878 (6th Cir. 2019).

This the 17th day of March, 2021.

Signed By:
Hanly A. Ingram
United States Magistrate Judge

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