

BLD-217

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 22-2025

RONALD W. TELEPO, Appellant

VS.

LEROY FERGUSON, ET AL.

(E.D. Pa. Civ. No. 5:17-cv-02865)

Present: MCKEE, GREENAWAY, JR., and PORTER, Circuit Judges

Submitted:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect;
- (2) Appellant's jurisdictional response;
- (3) Appellant's motion to proceed in forma pauperis;
- (4) Appellees' motion to dismiss; and
- (5) Appellant's response to appellees' motion

in the above-captioned case.

Respectfully,

Clerk

ORDER

Appellant's motion to proceed in forma pauperis is granted, as is appellees' motion to dismiss the appeal. This appeal is dismissed for lack of appellate jurisdiction. A notice of appeal in a civil case in which the United States, a United States agency, or a United States officer or employee sued in an official capacity is a party must be filed within 60 days after entry of the judgment or order appealed from. Fed. R. App. P. 4(a)(1)(B). This statutory time limit for taking an appeal is "mandatory and jurisdictional." Bowles v. Russell, 551 U.S. 205, 209 (2007) (citation omitted). Telepo's

May 2022 notice of appeal was not filed within 60 days of the District Court's January 2018 order dismissing his claims with prejudice. Telepo also did not seek to extend or reopen the time to file an appeal pursuant to Federal Rule of Appellate Procedure 4(a)(5) or 4(a)(6) in the District Court. Accordingly, Telepo's appeal is untimely and must be dismissed for lack of appellate jurisdiction.

By the Court,

s/David J. Porter

Circuit Judge

Dated: October 6, 2022

CJG/cc: Ronald W. Telepo
Kent H. Herman, Esq.
Judith A. Amorosa, Esq.



A True Copy:

A handwritten signature in black ink that appears to read "Patricia S. Dodsweit".

Patricia S. Dodsweit, Clerk
Certified Order Issued in Lieu of Mandate

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE
215-597-2995

October 6, 2022

Judith A. Amorosa
Office of United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

Kent H. Herman
King Spry Herman Freund & Faul
One West Broad Street, Suite 700
Bethlehem, PA 18018

Mr. Ronald W. Telepo
221 South 4th Street, Apartment 911
Easton, PA 18042

RE: Ronald Telepo v. Leroy Ferguson, et al

Case Number: 22-2025

District Court Case Number: 5-17-cv-02865

ENTRY OF JUDGMENT

Today, **October 06, 2022** the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App.

P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszuweit, Clerk

By: s/ Caitlyn
Case Manager
267-299-4956

Cc: Mr. George V. Wylesol

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

RONALD TELEPO,

Plaintiff,

CIVIL ACTION NO. 17-2865

v.

LEROY FERGUSON, GENE
PAMIANCHI, THOMAS J. RAFFERTY,
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT, and EASTON
HOUSING AUTHORITY,

Defendants.

ORDER

AND NOW, this 19th day of January, 2018, the court having previously issued an order dismissing without prejudice the complaint filed by the *pro se* plaintiff, Ronald Telepo (“Telepo”), and granting Telepo leave to file an amended complaint (Doc. No. 27); and after considering the amended complaint (Doc. No. 29) and application to proceed *in forma pauperis* (Doc. No. 28) filed by Telepo; accordingly, it is hereby **ORDERED** as follows:

1. The amended complaint filed by Telepo (Doc. No. 29) is **DISMISSED WITH PREJUDICE**;¹

¹ A district court should generally provide a *pro se* plaintiff with leave to amend unless amending would be inequitable or futile. *See Grayson v. Mayview St. Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002). Additionally, “in civil rights cases district courts must offer amendment—irrespective of whether it is requested—when dismissing a case for failure to state a claim unless doing so would be inequitable or futile.” *Fletcher-Harlee Corp. v. Pote Concrete Contractors, Inc.*, 482 F.3d 247, 252 (3d Cir. 2007). Here, in the prior order granting Telepo leave to file an amended complaint (Doc. No. 27), the court instructed, “If Telepo files an amended complaint, he may not reassert any of the claims deemed non-viable in this order.” In his amended complaint (Doc. No. 29), Telepo repeats the same claims in his original complaint (Doc. No. 3) deemed non-viable by the court—specifically, his claims under the “Privacy Act” and the constitutional right to privacy. In addition, although Telepo briefly references the First, Fourth, Fifth, Seventh, Ninth, and Fourteenth Amendments, *see* Amended Complaint at ECF p. 2, none of his allegations support a plausible claim under those amendments. Therefore, the court dismisses Telepo’s amended complaint with prejudice.

2. The application to proceed *in forma pauperis* (Doc. No. 28) is **DENIED AS MOOT**; and

3. Any appeal from this order is deemed to be frivolous and not in good faith under 28 U.S.C. § 1915(a)(3).

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.

TO: HONORABLE 3RD CIRCUIT COURT APPEAL S.
RE: ROMEO R. TELERO, PLAINTIFF PRO SE.
RE: CASE 22-1025 REPLY
Objection to Dismissal of Appeal.
DATE: JUNE 27, 2022

HONORABLE COURT,
Appellant in the above captioned
matter formally objects to
defendant motion to dismiss
Appeal. The Appellant does
have excusable neglect
and good cause to appeal.

Judge Edward Smith refused
his discretion by stating

There was no grounds for Appeal.

Pushing the Appellant off
Notice of Appeal. This upset

Appellate courts
are supposed to construe
a R.R. Section liberally.

More abuse of discretion by

Judge Edward Smith. A present
requested a very strict

more abuse of discretion.

Furthermore, there is

ASSISTANT ATTORNEY GENERALS FROM
PHILADELPHIA APPEARED TO CONTEST
APPELLANT'S REQUEST. APPELLANT
OBJECTION TO COURT THAT DEFENDANTS
DID NOT APPEAR. APPELLANT REQUESTED
TO THE COURT TO ISSUE BENCH
WARRANTS ON ALL THE DEFENDANTS
TO APPEAR IN COURT WITHIN A
NEW HEARING DATE. APPELLANT
HAD RIGHT TO PART THEM ALL
ON THE WITNESS STAND. JUDGE
EDWARD SMITH DENIED THE REQUEST.
MORE ABUSE OF DISCRETION.

APPELLANT SUBMITTED A LOT
OF CASE LAW TO SUPPORT HIS
ARGUMENT. PLUS APPELLANT SENT
OTHER DEFENDANTS LETTERS OBJECTING
TO THE BAN. EVEN NONSMOKERS
OBJECTED TO THE SMOKING BAN.
THE RIGHT TO PRIVACY IN
ONE'S HOME IS THE MOST SACRED
CONSTITUTIONAL RIGHT. IT MIGHT
ONLY FOR THE FOREGOING
REASONS APPELLANT REQUESTED
DISMISSAL TO MOTION TO DISMISS.

3.

Appellant also requests
a restraining order be granted
to oppose the smoking ban
that the case be remanded
for trial in the Department
of Counsel's refusal to
dismiss appellant will
submit to the U.S. Supreme
Court.

Clifford H. Herman, Esq.

Respectfully

Submitted,

Ronald W. Zelazo

Appellant Pro Se.

PS. Appellant still entitled
to informal papers.

This court has
jurisdiction when
abuse of discretion
is clearly obvious.
Amw.

Pambianchi, and Thomas J. Rafferty respectfully request that this Honorable Court grant this Motion and dismiss Mr. Telepo's Appeal for lack of appellate jurisdiction.

King, Spry, Herman, Freund, & Faul, LLC

Date: June 21, 2022

/s/ Kent H. Herman

Kent H. Herman, Esquire

ID No.: 19549

khh@kingspry.com

One West Broad Street, Suite 700

Bethlehem, PA 18018

(610) 332-0390 / (610) 332-0314 - fax

Attorney for Appellees

Easton Housing Authority, properly

Housing Authority of the City of Easton,

Gene Pambianchi, properly Gene

Pambianchi, and Thomas J. Rafferty