

APPENDIX

APPENDIX

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APPENDIX A

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
FED. R. APP. P. 32.1

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604**

No. 21-3042

Submitted June 10, 2022*
Decided June 13, 2022

MARTIN J. ZIELINSKI,)
<i>Plaintiff-Appellant,</i>)
)
v.)
)
WISCONSIN LABOR AND INDUSTRY)
REVIEW COMMISSION, et al.,)
<i>Defendants-Appellees.</i>)
)

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

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Appeal from the United States District Court for the
Eastern District of Wisconsin.

No. 17-cv-471

Lynn Adelman, *Judge.*

Before

DIANE S. SYKES, *Chief Judge*

DIANE P. WOOD, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

O R D E R

Martin Zielinski appeals from the denial of various motions he filed in the district court several years after the court entered judgment against him. The district judge determined that these motions were frivolous and vexatious, and he imposed a filing bar on Zielinski. We affirm.

This appeal arises out of a federal suit that Zielinski filed in 2017 in connection with a worker’s compensation settlement adjudicated in Wisconsin’s state courts. The district judge dismissed several of Zielinski’s claims on jurisdictional grounds and others for failure to state a claim. After Zielinski’s attempt to amend his complaint failed to address the identified deficiencies, the judge—in December 2017—dismissed the complaint and entered a final judgment. Zielinski did not appeal. Instead, he peppered the court with wide-ranging motions and filings that the judge rejected in April 2018, May 2018, and March 2021, respectively, because Zielinski provided “no reason to

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relieve him from the final judgment or to reopen the case.”

In April 2021, Zielinski filed three more motions seeking to add civil rights claims, new parties, and “past filings” to the lawsuit. Several defendants opposed the motions as frivolous and baseless and requested sanctions against Zielinski.

The judge denied Zielinski’s motions and barred him from further filing in the case. See *Support Sys. Int’l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995). The judge explained that even if Zielinski’s motions were construed as an attempt to amend his complaint, any postjudgment amendment presupposed that a motion under Federal Rule of Civil Procedure 59(e) or 60(b) had first been granted—which was not the case here. The judge then granted the defendants’ motions for sanctions because Zielinski hadn’t responded to the motions and, even if he had, he continued to inundate the docket with frivolous filings that burdened both the defendants and the court.

On appeal Zielinski asserts that the judge erred by denying him an opportunity to add claims, join new parties, and submit evidence that had been excluded from the state courts’ proceedings. But after entry of a final judgment, district courts may not permit amendment unless the judgment is set aside under Rule 59 or 60. See *Vesely v. Armslist LLC*, 762 F.3d 661, 666–67 (7th Cir. 2014). And Zielinski has failed multiple times to have the judgment set aside.

Zielinski also challenges the filing bar as unconstitutional. But he waived this challenge by not

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responding to the defendants' motions for sanctions. See *Ennin v. CNH Indus. Am., LLC*, 878 F.3d 590, 595 (7th Cir. 2017). Waiver aside, the judge acted well within his discretion to impose the filing restriction. Courts have the inherent authority to curb abusive and frivolous litigation by imposing filing restrictions that—as here—are tailored to the abuse. See *In re Anderson*, 511 U.S. 364, 365-66 (1994); *McCready v. eBay, Inc.*, 453 F.3d 882, 892 (7th Cir. 2006); *Mack*, 45 F.3d at 186.

We have reviewed Zielinski's remaining arguments and none has merit.

AFFIRMED

APPENDIX B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Case No. 17-cv-471

[Filed September 3, 2021]

MARTIN J. ZIELINSKI,)
Plaintiff,)
)
v.)
)
WISCONSIN LABOR AND)
INDUS. REVIEW COMM'N, et al.,)
Defendants.)
)

ORDER

I dismissed this case in December 2017 for failure to state a claim on which relief may be granted and lack of subject-matter jurisdiction and directed the Clerk to enter judgment accordingly. *See* ECF Nos. 9, 15, & 16. In April 2018, I denied plaintiff Martin Zielinski's Rule 60(b) motion for relief from the judgment, explaining that Rule 60(b)(3) applies to the judgment entered *in this case*, not the state court judgment that the plaintiff complains of, and finding no other reason to afford relief from the final judgment or to reopen this case. ECF No. 43. I denied Zielinski's

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motion for reconsideration of that order on May 22, 2018. ECF No. 52.

Zielinski filed yet another motion to reopen on August 21, 2020, more than two years after the case was dismissed and his prior motions for relief from judgment were denied, as well as a motion for summary judgment and a “motion for Rule 60(3).” ECF Nos. 59, 60, 61, & 62. For the same reasons as explained in my previous orders, I denied these motions on March 17, 2021 and reiterated that this case remains closed. ECF No. 65.

Undeterred, Zielinski continues to file papers purporting to litigate this case, forcing defendants to keep responding years after judgment dismissing this case was entered. Included are a “motion for a civil rights claim” and a “motion to add parties,” as well as a motion to include all previous filings in a supposedly new proceeding. ECF Nos. 66, 67, & 68. But even if I construed Zielinski’s motions as an attempt to amend his complaint, “[o]nce final judgment has been entered in a case, ‘the district court lacks jurisdiction to entertain a motion for leave to amend the complaint unless the plaintiff also moves for relief from the judgment.’” *Foster v. DeLuca*, 545 F.3d 582, 584 (7th Cir. 2008) (quoting *Camp v. Gregory*, 67 F.3d 1286, 1289 (7th Cir. 1995)). This case has been dismissed for almost four years now and, as explained above, Zielinski has failed multiple times to demonstrate that he is entitled to relief from final judgment. See ECF Nos. 43 & 65. Accordingly, I lack jurisdiction to entertain his motions and will deny them accordingly.

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In response to his most recent filings, various defendants have moved for sanctions in the form of a filing bar pursuant to *Support Systems Int'l, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995), under which any papers that Zielinski attempts to file shall be returned to him by the Clerk of Court unfiled. *See* ECF Nos. 72 & 73.¹ As Zielinski has not submitted a brief opposing these motions and the deadline for doing so expired over two months ago, I will grant them. *See* Civil Local Rule 7(b) & 7(d); *see also* *Coleman v. Goodwill Indus. of Se. Wisconsin, Inc.*, 423 F.App'x 642 (7th Cir. 2011) (courts may require strict compliance with local rules).

I also note that, even if he had responded, I find that such a filing bar is warranted. This case was dismissed in December 2017. Instead of appealing or simply accepting that this case is over, Zielinski continues to inundate the docket with frivolous filings that burden both the defendants and this Court. *See Mack*, 45 F.3d at 185 (explaining that frivolous *pro se* filings by litigants who refuse to accept an order terminating their case “burden[] judges and staff to the detriment of litigants having meritorious cases”).² Zielinski is also now apparently harassing state court judges by serving them with a new complaint/summons which, even if he was allowed to proceed with (which he is not), is not an operative pleading in this

¹ Some of the new parties that Zielinski seeks permission to include this putative proceeding are state court judges, *see* ECF No. 67; ECF No. 69 at 3, upon whom he has attempted to serve his putative complaint and summons, *see* ECF Nos. 72, 72-1, & 74.

² For instance, Zielinski's August 2020 motions and filings amounted to over 370 pages.

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circumstance unless/until the Court so orders. Based on his repeated and voluminous filings in the years since this case was dismissed, it is clear that Zielinski will continue submitting frivolous papers in pursuit of benefits to which he believes he was wrongfully denied access, regardless of how many times this Court denies his requests for relief, whether they be erroneous, repetitive, untimely, or moot. **Accordingly, I will bar him from filing any further papers in this case.** *See Mack*, 45 F.3d at 187.

CONCLUSION

For the reasons stated, **IT IS ORDERED** that Plaintiff's motions for a civil rights claim, to add parties, and to include past filings (ECF Nos. 66, 67, & 68) are **DENIED**.

IT IS FURTHER ORDERED that the unopposed motions for sanctions (ECF Nos. 72 & 73) are **GRANTED IN PART**.

IT IS FURTHER ORDERED that the Clerk of Court shall return unfiled any document that Plaintiff attempts to file under this case number (Case No. 2:17-cv-471) except for an appeal and any papers related to such an appeal. If it is unclear whether any future filing falls within this exception, the Clerk shall refer the filing to this Court for review.

Finally, Plaintiff is **ORDERED** to stop serving papers relating to this case upon other parties until further notice to the contrary. **Failure to do so may result in further sanction, including assessment of monetary fines.** Plaintiff is further warned

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that should he attempt to litigate this matter further and/or continue to submit frivolous papers in this judicial district, he may be subject to further sanction.

Dated at Milwaukee, Wisconsin this 3rd day of September, 2021.

s/Lynn Adelman
LYNN ADELMAN
United States District Judge

APPENDIX C

STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 1981 - Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) “Make and enforce contracts” defined

For purposes of this section, the term “make and enforce contracts” includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

**42 U.S.C. § 1985 - Conspiracy to interfere with
civil rights**

* * *

**(2) Obstructing justice; intimidating party,
witness, or juror**

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the

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purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.