

APPENDIX A**UNITED STATES COURT OF APPEALS FOR THE
SEVENTH CIRCUIT**

May 22, 2023

*By the Court:***ORDER**TERRENCE FITCH
Plaintiff -Appellant

v.

THOMAS MCADAMS, et al.,
Defendants - Appellees**No. 22-2522****Originating Case Information:**

District Court No: 2:22-cv-00523-LA

Eastern District of Wisconsin

District Judge Lynn Adelman

The following are before the court:

1. **JUDICIAL NOTICE**, filed on May 15, 2023, by the pro se appellant. 2. **APPELLANT'S MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW**, filed on May 15, 2023, by the pro se appellant. **IT IS ORDERED** that the request for judicial notice and the motion are **DENIED**.

APPENDIX B

**United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604**

May 10, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2522

TERRENCE FITCH,
Plaintiff-Appellant,

v.

THOMAS MCADAMS, et al.,
Defendants-Appellees.

ORDER

Appeal from the United States Court of Appeals United
States District Court for the Eastern District of Wisconsin.
No. 22-C-0523 Lynn Adelman, *Judge*.

Appellant filed a petition for rehearing on May 8, 2023. All
judges on the original panel have voted to deny the
petition for rehearing. Accordingly, the petition for
rehearing is **DENIED**

APPENDIX C**NONPRECEDENTIAL DISPOSITION**

**United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604**

Submitted April 13, 2023*

Decided April 18, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*
DIANE P. WOOD, *Circuit Judge*
THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2522

TERRENCE FITCH,
Plaintiff-Appellant,

v.

THOMAS
McADAMS, et.al.,
Defendants-Appellees.

ORDER

Appeal from the United States Court of Appeals
United States District Court for the Eastern District of
Wisconsin. No. 22-C-0523 Lynn Adelman, *Judge.*

Terrence Fitch appeals the dismissal of his suit against a Wisconsin state judge and others involved in his child-support proceedings, who, he believes, violated his civil rights by enforcing payments without due process. Because the district court correctly dismissed his case as frivolous, we affirm.

* We have agreed to decide the case without oral argument because the appeal is frivolous. FED. R. APP. P. 34(a)(2)(A).

In 2018, Fitch began litigating child-custody and support obligations in state court. The state-court judge ordered preliminary child-support payments based on the parents' respective incomes. Fitch later lost his job. He submitted affidavits explaining that he no longer had an income but did not submit tax returns or earnings information that the judge had requested. As a result, the judge updated the child-support order based on an estimate of Fitch's income from his previous job. After Fitch eventually secured new employment, the state child-support agency initiated wage-garnishment proceedings. Fitch responded by filing affidavits and related motions contesting that he could afford the court-ordered payments. But he did not appeal the final child-custody and support decision.

In 2022, Fitch—more than \$18,000 in arrears for child-support payments—brought this civil rights suit

against the state-court judge, the guardian ad litem, the state-court clerk, and several state child-support agency attorneys. He asserted various constitutional claims—primarily, violations of his due process rights in not receiving a hearing before the state began enforcing support payments through wage garnishment and property liens. *See* 42 U.S.C. § 1983.

The district court granted the defendants' motions to dismiss Fitch's complaint for lack of subject-matter jurisdiction on two independent grounds. First, the court determined that the *Rooker-Feldman* doctrine barred the suit because Fitch was seeking redress for injuries caused by orders entered in the state court. *See D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). Alternatively, the court concluded that the suit was frivolous and—as a sanction— would be dismissed with prejudice. The court warned Fitch that he would face harsher sanctions if he continued to file frivolous claims against these defendants.

On appeal, Fitch challenges the district court's jurisdictional ruling and asserts that the state defendants violated his constitutional rights by enforcing his child support obligations through a “fake and deceptive judicial process.” We agree with the district court that Fitch's suit is so devoid of merit that it fails to engage the jurisdiction of the federal courts. *Hagans v. Lavine*, 415 U.S. 528, 536–37 (1974); *Restoration Risk Retention Grp., Inc. v. Gutierrez*, 880 F.3d 339, 346 (7th Cir. 2018). Fitch essentially maintains

that state employees violated his rights by completing their duties, but such allegations provide no basis for civil liability in federal court.

Because we uphold the dismissal of the case for lack of jurisdiction, we need not address the defendants' other bases for dismissal.

AFFIRMED

APPENDIX D

**UNITED STATES COURT OF APPEALS FOR THE
SEVENTH CIRCUIT**

ORDER

February 9, 2023

Before

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

TERRENCE FITCH,
Plaintiff - Appellant
V.

THOMAS MCADAMS, *et al.*,
Defendants - Appellees

No. 22-2522

Originating Case Information:

District Court No: 2:22-cv-00523-LA
Eastern District of Wisconsin District
Judge Lynn Adelman

The following are before the court:

**1. APPELLANT'S MOTION FOR A FINDINGS OF FACT AND
CONCLUSIONS OF LAW - FEDERAL RULES OF APPELLANT
PROCEDURE R 50(A) AND MOTION FOR JUDGMENT AS A
MATTER OF LAW AS TO PUNITIVE DAMAGES, filed on**

January 30, 2023, by pro se Appellant Terrence Fitch.

2. JOINT STATEMENT OF APPELLEES REGARDING APPELLANT'S MOTION, filed on February 2, 2023, by counsel for the appellees.

IT IS ORDERED that motion for finding of fact and conclusions of law is **DENIED**.

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

TERRENCE FITCH,
Plaintiff,

v.

Case No. 22-C-0523

THOMAS MCADAMS, et al.,
Defendants.

DECISION AND ORDER

In an order dated August 2, 2022, I dismissed this case for lack of subject-matter jurisdiction, reasoning that the plaintiff's claims were barred by the *Rooker-Feldman* doctrine and frivolous. The plaintiff has since filed a motion for reconsideration under Federal Rule of Civil Procedure 59(e) and a motion that I recuse myself from the case.

A motion under Rule 59(e) is to be used only to correct a manifest error of law or fact, not as a vehicle to reargue matters that either were or could have been argued during the proceedings that resulted in the original decision. *See, e.g. Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000). The plaintiff's motion for reconsideration merely reargues the issues that he either addressed or could have addressed prior to my original decision. As I see no manifest error of law or fact, the

motion for reconsideration will be denied.

The plaintiff does not develop an argument in support of his motion for recusal, but the only possible grounds for recusal could be my prior decision to dismiss his case. It is firmly established that adverse judicial rulings are not grounds for a judge's recusal. *See Liteky v. United States*, 510 U.S. 540, 555 (1994). Accordingly, the plaintiff's motion for recusal will be denied.

For the reasons stated, **IT IS ORDERED** that the plaintiff's motion for reconsideration and motion for recusal (ECF No. 30) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 3rd day of October, 2022.

/s/Lynn Adelman
LYNN ADELMAN
United States District Judge

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

TERRENCE FITCH,
Plaintiff,

v.

Case No. 22-C-0523

THOMAS MCADAMS, et al.,
Defendants.

DECISION AND ORDER

Terrence Fitch, proceeding pro se, commenced a lawsuit in this court seeking damages from several individuals involved in a paternity and child support case that is pending in the Milwaukee County Circuit Court. Before me now are the defendants' motions to dismiss the amended complaint for lack of subject matter jurisdiction and for failure to state a claim on which relief can be granted. *See* Fed. R. Civ. P. 12(b)(1) & 12(b)(6).¹

The amended complaint is lengthy but contains relatively few concrete factual allegations. There is no complete description of the events on which the plaintiff's claims are based. However, it is clear that the plaintiff is dissatisfied with the way in which officials associated with the Milwaukee County Circuit Court handled a paternity and child support case in which he

participated as the father.² The plaintiff sues the judge that presided

¹ After some defendants filed motions to dismiss the original complaint, the plaintiff filed a proposed amended complaint (ECF No. 18). After the proposed amended complaint was filed, all defendants filed motions to dismiss. The court will grant the plaintiff permission to file the amended complaint and will consider the defendants' motions to be seeking dismissal of the amended complaint.

² The state court case is *In re the Paternity of O.C.M.*, Milwaukee County Case Number 2017PA004443PJ, over the case (Thomas McAdams), the court-appointed guardian ad litem (Lisa Bangert), a person whom the plaintiff describes as the child support director of Milwaukee County (James Sullivan), the former Clerk of Court of Milwaukee County (John Barrett), and three other child support officials (Ann Hetzel, Samantha Levihn, and A. Hunt). In conclusory fashion, the complaint alleges that these officials, while carrying out their official duties, violated most of the provisions of the Bill of Rights and various federal criminal laws. (See Am. Compl. 228–429.) However, the factual allegations of the complaint do not support the plaintiff's claims. Stripped of the plaintiff's conclusory assertions of wrongdoing, the complaint alleges only that each defendant performed his or her appropriate role in the state case: the judge entertained motions and entered orders, the guardian ad litem made recommendations to the court, the child-support officials attempted to collect child support payments from the plaintiff, and the Clerk of Court administered the case by accepting and rejecting filings. Simply put, there is no viable federal claim to be

found among the allegations of the amended complaint. But before turning to the merits of the plaintiff's claims, I must be sure that I have subject-matter jurisdiction. In general, the plaintiff appears to be relying on 42 U.S.C. § 1983, in that he asserts that the defendants, while acting under color of state law, deprived him of his federally protected rights. Normally, a claim under § 1983 arises under federal law and therefore is within the subject-matter jurisdiction of a district court. However, the present case presents at least two jurisdictional problems. The first is that the plaintiff is seeking redress for injuries caused by orders entered in the state case. For example, he claims that Judge McAdams somehow violated his rights by either ordering him to pay child support or by finding him in contempt of court for failing to pay child support. (*E.g.*, Am. Compl. 47–51.) These allegations present a jurisdictional problem because, under what is known as the *Rooker-Feldman* doctrine, a district court lacks jurisdiction over “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.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). This doctrine prevents me from exercising jurisdiction over any claim for damages caused by entry of orders in the state paternity and child support case.

The plaintiff claims that he is not “attempting to overturn any State decisions and orders.” (Am. Compl. 20.) However, his allegations belie this claim, as he repeatedly alleges that he suffered economic and other harm as a result of the state court's entering child support orders that he believes are erroneous. *See, e.g.*, Am. Compl. 51, 57 (alleging that because Judge McAdams ignored the plaintiff's claim that he had no income, the plaintiff has suffered damages such as not

being able to afford basic living expenses). This court could not grant the plaintiff relief in connection with these allegations without first determining that the state court orders should never have been entered. Thus, many of the plaintiff's claims are barred by the *Rooker-Feldman* doctrine.

The second jurisdictional problem is that the plaintiff has not asserted a non frivolous federal claim. This is a jurisdictional problem because federal courts are without power to entertain claims otherwise within their jurisdiction if they are "so attenuated and unsubstantial as to be absolutely devoid of merit. *Sabrina Roppo v. Travelers Commercial Ins. Co.*, 869 F.3d 568, 586–87 (7th Cir. 2017) (quoting *Gammon v. GC Servs. Ltd. P'ship*, 27 F.3d 1254, 1256 (7th Cir. 1994)). The quoted phrase is an apt description of the plaintiff's claims here. The plaintiff alleges that the defendants did things during the state case that he doesn't like, but none of those things could plausibly be described as a violation of federal law. Even if the judge presiding over the case made egregious mistakes, that would be grounds for appeal, not grounds for a federal lawsuit against the judge and other officials associated with the case.

Accordingly, I will grant the defendants' motions to dismiss this case for lack of subject-matter jurisdiction under Rule 12(b)(1) and deny as moot their alternative motions to dismiss this case on the merits under Rule 12(b)(6). Ordinarily, a dismissal for lack of subject-matter jurisdiction is without prejudice. However, a frivolous suit that does not engage the jurisdiction of a federal court may be dismissed with prejudice to avoid burdening the court system with a future suit that should not be brought anywhere. *Georgakis v. Ill. State Univ.*, 722 F.3d 1075, 1077–78 (7th Cir. 2013). Because the plaintiff's suit is frivolous, it will be dismissed with prejudice. Also, I note that a district court should

ordinarily grant a pro se litigant leave to amend a deficient complaint. *See, e.g., Tate v. SCR Medical Transp.*, 809 F.3d 343, 346 (7th Cir. 2015). But here, because the plaintiff's suit is frivolous, leave to amend would be futile, and therefore I will dismiss the case without granting further leave to amend.

Finally, I note that some of the defendants have asked that I exercise my inherent power to sanction the plaintiff for filing this frivolous case by imposing monetary penalties or entering an injunction against further litigation. They point out that the state court has already sanctioned the plaintiff for similar conduct, and yet he persisted by filing the present case. However, at this stage, I believe that the sanction of dismissal with prejudice is sufficient. But I will warn the plaintiff that if he continues to file frivolous claims against the participants in the paternity and child support case in this court, this court will likely impose additional sanctions. Such sanctions may include a fine and an order requiring the clerk of this court to return unfiled any papers that the plaintiff attempts to file until the fine is paid in full. *see Support Systems Int'l, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995).

For the reasons stated, **IT IS ORDERED** that the defendants' motions to dismiss (ECF Nos. 9, 14, 19, 21 & 24) are **GRANTED** to the extent that the complaint and this action are dismissed with prejudice for lack of subject-matter jurisdiction. The defendants' alternative motions to dismiss this case on the merits are denied as moot. The Clerk of Court shall enter final judgment.

Dated at Milwaukee, Wisconsin, this 2nd day of August, 2022.

/s/Lynn Adelman _____
LYNN ADELMAN

United States District Judge

STILL REQUESTING FOR ORAL ARGUMENT

Defendant and pro per, Terrence Fitch respectfully requests this Court to grant oral argument, in the interest of justice re Appellant's right to be heard.

Dated: 4th day of August, 2023

Respectfully Submitted,


By: _____

Terrence Fitch, Pro Per
Plaintiff
P.O BOX 81842
Racine, WI 53408

VERIFICATION

(STATE of Wisconsin)
 (COUNTY of Racine) ss.

I, Terrance Pith (PRINT) being duly sworn, deposed and says that I am named as the ACCUSED in the above-entitled proceeding and that the foregoing information is true to his own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters he believes it to be true.



(Signature), ACCUSED,
 In Propria Persona. All
 Rights Reserved
 pursuant to UCC-1-308.

The foregoing instrument was acknowledged before me

This 41 day of August 2023,

By Noah J Trevino

Sworn to before me this 4 day of 8, 2023.



Notary Public

Expires: 7-25-27

NOAH J TREVINO
 Notary Public
 State of Wisconsin