

APPENDIX A

U.S. Court Of Appeals, First Circuit (“USCA1”) 23-1008

TABLE OF CONTENTS

8/4/2023 Judgment	1
10/16/2023 Order	3
11/22/2023 Mandate	4

United States Court of Appeals For the First Circuit

No. 23-1008

IMRE KIFOR, individually and on behalf of all others similarly situated,

Plaintiff - Appellant,

v.

THE COMMONWEALTH OF MASSACHUSETTS; MIDDLESEX PROBATE AND FAMILY COURT; MASSACHUSETTS DEPARTMENT OF REVENUE CHILD SUPPORT ENFORCEMENT DIVISION; YALE SCHOOL OF MEDICINE (YALE UNIVERSITY); THE COUNSELING CENTER OF NEW ENGLAND; ATRIUS HEALTH, INC.,

Defendants - Appellees.

Before

Kayatta, Gelpí and Montecalvo,
Circuit Judges.

JUDGMENT

Entered: August 4, 2023

Appellant Imre Kifor seeks review of the screening dismissal of his complaint filed in the District Court for the District of Massachusetts. See 28 U.S.C. § 1915(e)(2).

Kifor has filed his opening brief. A group of Defendant-Appellees have filed a motion for summary disposition. Kifor has responded, and we have considered all responsive filings and construed them liberally. The motion for summary disposition is hereby **GRANTED**. Independently, we conclude that there is no ailing, compelling argument for reversible error in the dismissal of the complaint against the remaining Defendant-Appellees. See Local Rule 27.0(c) (court may summarily affirm under appropriate circumstances).

The judgment is hereby **AFFIRMED**. Any remaining motions or requests, to the extent not mooted by the foregoing, are **DENIED**.

United States Court of Appeals For the First Circuit

No. 23-1008

IMRE KIFOR, individually and on behalf of all others similarly situated,

Plaintiff - Appellant,

v.

THE COMMONWEALTH OF MASSACHUSETTS; MIDDLESEX PROBATE AND FAMILY COURT; MASSACHUSETTS DEPARTMENT OF REVENUE CHILD SUPPORT ENFORCEMENT DIVISION; YALE SCHOOL OF MEDICINE (YALE UNIVERSITY); THE COUNSELING CENTER OF NEW ENGLAND; ATRIUS HEALTH, INC.,

Defendants - Appellees.

Before

Kayatta, Gelpí and Montecalvo,
Circuit Judges.

ORDER OF COURT

Entered: October 16, 2023

Judgment in this case entered on August 4, 2023. After the judgment entered, pro se appellant Imre Kifor filed a "Petition for Panel Rehearing . . ." We will treat this filing as a timely petition for panel rehearing under Federal Rule of Appellate Procedure 40 and Local Rule 40.0.

So construed, the petition for panel rehearing is denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

Imre Kifor
Katherine B. Dirks
Andrea J. Campbell

Case: 23-1008 Document: 30 Page: 2 Date Filed: 08/04/2023 Entry ID: 6583322

By the Court:

Maria R. Hamilton, Clerk

cc:

Imre Kifor
Katherine B. Dirks
Andrea J. Campbell

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IMRE KIFOR,)
)
Plaintiff,)
)
)
v.) C.A. No. 22-11141-PBS
)
THE COMMONWEALTH OF)
MASSACHUSETTS, et al.,)
)
Defendants.)

FINAL ORDER OF DISMISSAL

SARIS, D.J.

In accordance with the Memorandum and Order dated November 22, 2022 (Docket Entry No. 11), dismissing this action for the reasons stated therein, it is hereby ORDERED that the above-captioned matter is dismissed in its entirety.

SO ORDERED.

Date: 11/22/2022

By the Court,

/s/ Maryellen Molloy
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IMRE KIFOR,)
)
Plaintiff,)
)
)
v.) C.A. No. 22-11141-PBS
)
THE COMMONWEALTH OF)
MASSACHUSETTS, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

November 22, 2022

Saris, D.J.

In this action, pro se plaintiff Imre Kifor brings four claims under the Racketeer Influenced and Corrupt Organizations ("RICO") statute, see 18 U.S.C. §§ 1961-1968, against the Commonwealth of Massachusetts ("Commonwealth"), the Middlesex Probate and Family Court ("Family Court"), the Massachusetts Department of Revenue Child Support Enforcement Division ("DOR"), Yale School of Medicine, the Counseling Center of New England, and Atrius Health (collectively, "Defendants"). Kifor's claims are arise from his alleged experiences as a party in proceedings in the Commonwealth's Family Court. Kifor also seeks leave to proceed in forma pauperis. For the reasons set forth below, the Court will grant the in forma pauperis motion and dismiss this action.

I. Motion for Leave to Proceed in Forma Pauperis

Upon review of Kifor's financial disclosures, the Court concludes that he may proceed without prepayment of the fee. Accordingly, the motion is GRANTED.

II. Review of the Complaint

When a plaintiff is allowed to proceed in forma pauperis, the Court may conduct a preliminary review of the complaint and dismiss sua sponte any claim that is frivolous, malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. See 28 U.S.C. § 1915(e)(2). Further, a court has an obligation to inquire sua sponte into its own jurisdiction. See McCulloch v. Velez, 364 F.3d 1, 5 (1st Cir. 2004). In conducting this review, the Court liberally construes the complaint because Kifor is proceeding pro se. See Haines v. Kerner, 404 U.S. 519, 520-21 (1972).

A. Kifor's Allegations and Claims

The thrust of Kifor's complaint is that Defendants engaged in in racketeering activities to allow the Commonwealth to maximize federal payments to the state under the Child Support Enforcement ("CSE") program. Under this program, states may receive \$0.66 from the federal government for each dollar that the state expends in enforcing child support orders. Compl. ¶

16; see also Jessica Tollestrup, Congressional Research Service, R22380, v.39, Child Support Enforcement: Program Basics (2021), introductory page, available at
<https://crsreports.congress.gov/product/pdf/RS/RS22380/39> (last visited Nov. 18, 2022 (quoted in part at Compl. ¶ 16).

"[I]ndividual states have to compete with each other for their share of the capped funds . . . payment system requires that the incentive payment be reinvested by the state into the program . . ." Compl. ¶ 17 (quoting Carmen Solomon-Fears, Congressional Research Center, RL34203, Child Support Enforcement Program Incentive Payments: Background and Policy Issues (2013), available at

<https://crsreports.congress.gov/product/pdf/RL/RL34203> (last viewed Nov. 18, 2022).

According to Kifor, Defendants form an enterprise of which the Family Court is the "hub" and the other parties are the "service provider 'spokes.'" Id. ¶ 22. The Commonwealth "openly seeks to maximize federal reimbursements" under the CSE. Id. ¶ 24. All members of the alleged enterprise "depend[] on and work[] in concert/coordination with each other to pursue the shared interest (incentivized by professional fees)." Id. ¶ 20.

Defendants allegedly pursue this shared interest by:

(1) targeting families with more resources.
(2) maximizing each support amount by forcefully and fully separating children from their nonresident parents. (3) allowing fabrications of "high-conflicts" into the cases only to incentivize the "feeder network" of colluding professionals.
(4) hiding the thus induced legal struggle by "cooking" the docket records, and (5) concealing any wrongdoing with protecting schemes from discovery or appeals, and federal penalty inducing corrections.

Id. ¶ 26. Kifor alleges that Defendants have engaged in "[m]ultiple racketeering schemes . . . to silence and enslave [him], directly and/or proximately causing his injuries and pecuniary damages." Id. ¶ 36.

Kifor's sole allegation of a pattern of racketeering activity is that Defendants committed mail fraud as follows:

The scheme behind the intent of the Racketeering Activities was to deceive a prepared Father in his affirmed efforts to appeal the Family Court's decisions to conceal from and sabotage any appellate reviews of filed evidences and/or docket entries. Mails and/or wires (internet and emails) were used to further this deception scheme with property in Father's hands.

Compl. ¶ 32. Put more simply, Kifor maintains that the Family Court, on multiple crucial occasions, deliberately failed to notify Kifor of its rulings, which resulted in Kifor not being able to appeal the same. Id. ¶¶ 33-34.

B. Discussion

1. Claims Against the Commonwealth, Family Court, and DOR

The Eleventh Amendment of the United States Constitution generally is recognized as a bar to suits in federal courts against a state, its departments, and its agencies, unless the state has consented to suit or Congress has overridden the state's immunity. See Regents of the Univ. of Cal. v. Doe, 519 U.S. 425, 429 (1997); Kentucky v. Graham, 473 U.S. 159, 167 n. 14 (1985); Alabama v. Pugh, 438 U.S. 781, 782 (1978) (per curiam); Hudson Sav. Bank v. Austin, 479 F.3d 102, 105-06 (1st Cir. 2007). The RICO statute does not override a state's Eleventh Amendment immunity, see, e.g., Bair v. Krug, 853 F.2d 672, 674-75 (9th Cir. 1988); Triangle v. Massachusetts, No. 15-CV-11613-IT, 2016 WL 11000794 (D. Mass. Jan. 19, 2016); Naples v. Stefanelli, 972 F. Supp. 2d 373, 391 (E.D.N.Y. 2013); Vierria v. California Highway Patrol, 644 F. Supp. 2d 1219, 1232 (E.D. Cal. 2009), and the Commonwealth has not waived the same. Thus, Kifor's RICO claims against the Commonwealth, Family Court, and the DOR fail as a matter of law.

2. **Claims Against Yale School of Medicine, the Counseling Center of New England, and Atrius Health**

Two jurisdictional doctrines preclude the Court from adjudicating this case.

a. **Rooker-Feldman Doctrine**

Under 28 U.S.C. § 1257, the Supreme Court of the United States is the only federal court with jurisdiction to review a state court judgment. See 28 U.S.C. § 1257; see also Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 292 (2005). Thus, under the Rooker-Feldman doctrine,¹ 28 U.S.C. § 1257 prohibits a district court from exercising subject matter jurisdiction over an action brought by a party who lost in state court and who is "seeking review and rejection of that judgment" in a lower federal court. Exxon Mobile, 544 U.S. at 291; see also id. at 292 ("The Rooker-Feldman doctrine merely recognizes that 28 U.S.C. § 1331 is a grant of original jurisdiction, and does not authorize district courts to exercise appellate jurisdiction over state-court judgments, which Congress has reserved to this Court, see § 1257(a).") (quoting Verizon Md., Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635, 644 n.3 (2002))).

Here, Kifor's claims are essentially asking this Court to review and reject the judgments of the state court concerning

child custody and support on the ground that he did not receive notice of the same in time to appeal them. Under the Rooker-Feldman doctrine, the Court lacks jurisdiction to do so. “[T]he proper forum for challenging an unlawful state court ruling is the United States Supreme Court, on appeal of the highest state court’s final judgment.” Davison v. Gov’t of Puerto Rico-Puerto Rico Firefighters Corps, 471 F.3d 220, 223 (1st Cir. 2006).

b. Younger Abstention

The current status of the child support proceedings to which Kifor objects is unclear. To the extent that any success on Kifor’s claims would interfere with present litigation, the Court must abstain from exercising jurisdiction over this case.

Federal courts have a “virtually unflagging obligation . . . to exercise the jurisdiction given them. Colorado River Water Cons. Dist. v. United States, 424 U.S. 800, 817 (1976). “The doctrine of abstention, under which a District Court may decline to exercise or postpone the exercise of its jurisdiction, is an extraordinary and narrow exception to the duty of a District Court to adjudicate a controversy properly before it.” Id. at 813 (quoting County of Allegheny v. Frank Mashuda Co., 360 U.S. 185, 188-189 (1959)).

Under the doctrine of Younger abstention, see Younger v. Harris, 401 U.S. 37 (1971), “interests of comity and federalism

counsel federal courts to abstain from jurisdiction whenever federal claims have been or could be presented in ongoing state judicial proceedings that concern important state interests.” Hawaii Hous. Auth. v. Midkiff, 467 U.S. 229, 237-38 (1984). Thus, “a federal court must abstain from hearing a case if doing so would ‘needlessly inject’ the federal court into ongoing state proceedings.” Coggeshall v. Massachusetts Bd. of Registration of Psychologists, 604 F.3d 658, 664 (1st Cir. 2010) (quoting Brooks v. N.H. Supreme Ct., 80 F.3d 633, 637 (1st Cir. 1996)). Younger abstention is even appropriate where litigants “claim violations of important federal rights,” In re Justices of Superior Ct. Dept. of Mass. Trial Ct., 218 F.3d 11, 17 (1st Cir. 2000), as long as the federal claims can be “raised and resolved somewhere in the state process,” Maymó-Meléndez v. Álvarez-Ramírez, 364 F.3d 27, 36 (1st Cir. 2004) (emphasis added).

Here, all factors for exercising Younger abstention are present (assuming that the state court proceedings at issue are pending). It is clear that this court would “needlessly inject” itself into any pending state judicial if it were to adjudicate Kifor’s RICO claims. Child custody and support proceedings implicate important state that are traditionally handled by

state law. See, e.g., Gittens v. Kelly, 79 F.3d App'x 439, 441 (3d Cir. 2019).

Kifor's recourse for any alleged failure of the Family Court to provide him timely notice of its rulings is to raise the matter in the state court (including in an appeal) rather than trying to seek recourse against the Commonwealth and private entities under the guise of a RICO claim. That Kifor is dissatisfied with the state process for addressing the issue does not allow this federal court to interfere in a state child custody and support proceeding.

IV. Conclusion

For the foregoing reasons, the Court hereby orders:

1. The motion for leave to proceed in forma pauperis is GRANTED.
2. This action is DISMISSED.

SO ORDERED.

/s/ Patti B. Saris
PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

IMRE KIFOR,
Petitioner,

v.

THE COMMONWEALTH OF MASSACHUSETTS et al.,
Respondents.

PROOF OF SERVICE

I, Imre Kifor, do swear or declare that on this date, December 25, 2023, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by email per prior agreement or if the physical address is specifically withheld.

The names and addresses of those served are as follows:

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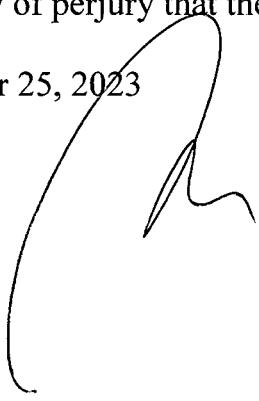
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 25, 2023

A handwritten signature in black ink, appearing to read "Imre Kifor", is written over a large, stylized, open bracket-like flourish that spans the width of the page.

/s/ Imre Kifor

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I have no phone

I have no valid driver's license

I have to move to a homeless shelter

<https://femfas.net>