

NOT RECOMMENDED FOR PUBLICATION

No. 23-1428

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Nov 20, 2023

KELLY L. STEPHENS, Clerk

MICHAEL TOWNSEND,

Plaintiff-Appellant,

V.

DEONDRE ESTERS, et al.,

Defendants-Appellees.

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)
)
)
) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE EASTERN DISTRICT OF
) MICHIGAN
)
)
)

ORDER

Before: BOGGS, McKEAGUE, and BLOOMEKATZ, Circuit Judges.

Michael Townsend appeals the district court's order dismissing his personal-injury and 42 U.S.C. § 1983 civil-rights lawsuit. 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). Because the district court did not err in finding that Townsend's complaint failed to state a plausible claim for relief, we affirm.

Townsend sued Deondre Esters, Stephen D. Campau,¹ DMCAre Express, Inc., and Horace Mann Property and Casualty Company (“Horace Mann”). Although Townsend’s complaint did not provide a factual narrative of the events giving rise to his claims, it is apparent that he sought

¹ Campau is listed as a defendant in the complaint, but his name does not appear in the district court's or this court's captions. Further, the district court in its order did not address any claims Townsend may have had against Campau. However, nowhere in his brief before this court does Townsend address the district court's failure to discuss his claims against Campau, choosing instead to rehash claims he made against other defendants. Appellant's Br. 1-26. As such, Townsend had forfeited any argument that the district court erred as to his claims against Campau, and we affirm dismissal of Townsend's claims against that particular defendant. *See Island Creek Coal Co. v. Wilkerson*, 910 F.3d 254, 256 (6th Cir. 2018).

to challenge actions that occurred during the adjudication of a personal-injury lawsuit in state court. Indeed, Townsend previously sued Esters, Campau, DMCare Express, and Horace Mann in state court, seeking damages for injuries that he suffered during a motor-vehicle accident. *See Townsend v. Esters*, No. 358570, 2023 WL 325535, at *1 (Mich. Ct. App. Jan. 19, 2023) (per curiam). The parties entered a settlement agreement, the trial court granted the defendants' motion to enforce the settlement agreement, and Townsend unsuccessfully appealed to the Michigan Court of Appeals. *See id.* at *1-2.

In light of this context, Townsend's federal complaint appears to allege that Judge Patricia Fresard, who presided over his lawsuit in state court; Elizabeta Rumery, an attorney who represented Horace Mann; and Katherine Ruttkofsky, Townsend's attorney, conspired to deprive him of his right to a jury trial and misled and coerced him into accepting the settlement agreement. Townsend's complaint also asserts that Judge Fresard did "not follow the law[,] . . . los[t] subject-matter jurisdiction," and should have entered a default judgment against the defendants because they did not respond to his "writ of quo warranto." Townsend also generally alleges that Campau's negligent driving caused the automobile accident that injured him; that Campau, Esters, and DMCare Express are liable for his injuries; and that the state court should have ordered DMCare Express to disclose an insurance policy and Horace Mann to cover his medical expenses and damages for pain and suffering. The federal complaint seeks over 72 million dollars in damages. After filing his complaint, Townsend moved for leave to proceed in forma pauperis ("IFP"). The district court granted leave to proceed IFP but dismissed Townsend's complaint under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim on which relief may be granted.

On appeal, Townsend argues that Judge Fresard and Rumery conspired to deprive him of his Seventh Amendment right to a jury trial by attempting to persuade him during an off-the-record telephone call to accept the defendants' settlement offer. He contends that Judge Fresard acted as a "tres[.]passer under the color of law," committed fraud, breached a contract, and lost subject-matter jurisdiction over his case by contacting him via telephone and attempting to persuade him to accept the offer. Townsend also argues that Ruttkofsky provided ineffective assistance by

persuading him to accept the settlement offer and failing to tell him that Judge Fresard's conduct was improper. Townsend reiterates his allegation that Judge Fresard should have entered a default judgment against the defendants when they did not respond to a "writ of quo warranto" that he filed in state court. He also argues that Horace Mann should have paid additional medical bills and damages for pain and suffering under Michigan law. In addition to these specific arguments, Townsend's appellate brief includes a list of criminal statutes and legal theories that are not tied to any specific factual allegations. Merely citing those criminal statutes and legal theories without providing any substantive argument is insufficient to preserve an issue for appeal. *See Geboy v. Brigano*, 489 F.3d 752, 766-67 (6th Cir. 2007); *United States v. Clark*, 469 F.3d 568, 570 (6th Cir. 2006).

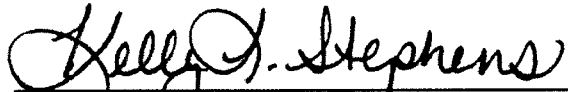
We review de novo the dismissal of a complaint under § 1915(e). *Flanory v. Bonn*, 604 F.3d 249, 252 (6th Cir. 2010). Under § 1915(e)(2)(B)(ii), a district court "shall dismiss the case at any time" if the complaint "fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(ii). To avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Hill v. Lappin*, 630 F.3d 468, 471 (6th Cir. 2010) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

To the extent that Townsend makes claims against Judge Fresard, Rumery, and Ruttkofsky, the complaint does not name those individuals as defendants. In any event, to the extent that Townsend challenged legal rulings that Judge Fresard made in his state-court proceeding, Judge Fresard is entitled to judicial immunity. *See Morgan v. Bd. of Pro. Resp. of the Sup. Ct. of Tenn.*, 63 F.4th 510, 518-19 (6th Cir. 2023). And even if Townsend's allegation regarding Judge Fresard's telephone call could evade this immunity bar, Townsend alleges only that Judge Fresard encouraged him to accept the settlement offer—he does not allege that she refused to hold a trial. Townsend fails to state a cognizable claim under § 1983 against Rumery and Ruttkofsky, because he does not allege that they acted under color of state law. *See Chambers v. Sanders*, 63 F.4th 1092, 1096 (6th Cir. 2023). Finally, Townsend's claims against DMCare Express and Horace

Mann are not supported by sufficiently specific factual allegations to state a plausible claim for relief. *See Hill*, 630 F.3d at 471.

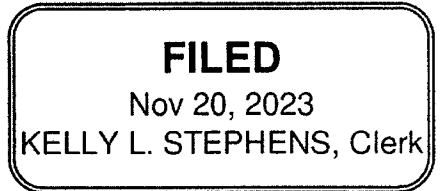
For the foregoing reasons, we **AFFIRM** the district court's dismissal order.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



No. 23-1428

MICHAEL TOWNSEND,

Plaintiff-Appellant,

v.

DEONDRE ESTERS, et al.,

Defendants-Appellees.

Before: BOGGS, McKEAGUE, and BLOOMEKATZ, Circuit Judges.

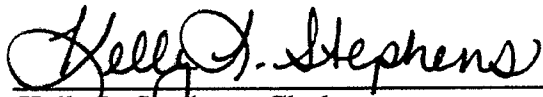
JUDGMENT

On Appeal from the United States District Court
for the Eastern District of Michigan at Detroit.

THIS CAUSE was heard on the record from the district court and was submitted on the brief without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the district court's dismissal order is AFFIRMED.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

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

No: 23-1428

Filed: December 12, 2023

MICHAEL TOWNSEND

Plaintiff - Appellant

v.

DEONDRE ESTERS; DM CARE EXPRESS, INC.; HORACE MANN PROPERTY AND
CASUALTY COMPANY

Defendants - Appellees

MANDATE

Pursuant to the court's disposition that was filed 11/20/2023 the mandate for this case hereby
issues today.

COSTS: None

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL TOWNSEND,

Plaintiff,

v.

DEONDRE ESTERS,
DMCARE EXPRESS, INC., and
HORACE MANN PROPERTY AND
CASUALTY COMPANY,

Defendants.

Case No. 23-10814

Honorable Laurie J. Michelson

**ORDER GRANTING PLAINTIFF'S
APPLICATION TO PROCEED IN FORMA PAUPERIS [2] AND
SUMMARILY DISMISSING COMPLAINT**

Michael Townsend, a self-proclaimed Moorish American, filed a 36-page pro se complaint in April 2023. (See ECF No. 1, PageID.28 (“For the record I, Michael Thomas Townsend, justus a Moorish American National of the moroccan empire[.]”).) It appears that Townsend was involved in a car crash with Deondre Esters, an employee of DMCare Express. (ECF No. 1, PageID.9–13, 35.) DMCare Express was, in turn, insured by Horace Mann Property and Casualty Company. (*Id.* at PageID.18.)

Following the accident, Townsend sued Esters, DMCare Express, and Horace Mann in state court. (ECF No. 1, PageID.9–13.) The case eventually settled. (*Id.*) But Townsend sought to avoid the settlement in the Michigan state courts with no success. See *Townsend v. Esters et al.*, No. 358570, 2023 WL 325535 (Mich. Ct. App.

Jan. 19, 2023) (affirming order to enforce settlement agreement against Townsend), *appeal denied*, No. 1645246, 2023 WL 2779732 (Mich. Apr. 4, 2023).

Townsend now brings the fight to this Court. (ECF No. 1, PageID.9–13, 35.) Though the complaint is long, rambling, and at times nonsensical, Townsend alleges that various players in the state-court case acted unlawfully in order to coerce him to settle. (*See, e.g., id.* at PageID.9 (“There was a direct phone conversation between Judge Patricia Fresard, Elizabetha Rumery and I. They both were trying to tell me convince me or persuade me, I was not entitled to Future Treatments and/or Surgeries is one of the MAIN reasons why any agreements were not on the record. Not to mention, it is ‘CONSPIRACY AGANST RIGHTS’ 18 USC§ 241 OR THE 7th AMENDMENT (RIGHT TO A JURY TRIAL. “CIVIL RIGHTS VIOLATION” OR 42 USC 1983. ENGAGES IN MISLEADING CONDUCT” 18 USC§ 1512(B).”) (bold text omitted)).) And Townsend appears to challenge the state court’s jurisdiction over him as a Moorish American. (*Id.* at PageID.28.)

Though Townsend lists a slew of constitutional provisions, statutes, and Supreme Court cases in his complaint, it is not clear exactly what his claims are. He seeks over \$72 million in damages. (*Id.* at PageID.35.)

I.

Along with his complaint, Townsend filed an application to proceed without prepayment of fees or costs. (ECF No. 2.) Under 28 U.S.C. § 1915(a)(1), the Court may authorize commencement of an action without prepayment of fees and costs if the plaintiff demonstrates that he cannot pay such fees. Townsend states that he is on

social security disability and has very limited means. (*Id.*) The Court finds that he is thus entitled to proceed in forma pauperis and grants his application to proceed without prepayment of the filing fee and costs. *See* 28 U.S.C. § 1915(a)(1).

II.

When a Court grants an application under 28 U.S.C. § 1915, it has an additional responsibility: screen the complaint and decide whether it “is frivolous or malicious” or “fails to state a claim on which relief may be granted.” *See* 28 U.S.C. § 1915(e)(2)(B); *see also McGore v. Wrigglesworth*, 114 F.3d 601, 608 (6th Cir. 1997).

In deciding whether a complaint states a claim upon which relief may be granted, the Court must determine whether it “contain[s] sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Heinrich v. Waiting Angels Adoption Servs., Inc.*, 668 F.3d 393, 403 (6th Cir. 2012) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). Detailed factual allegations are not required to survive a motion to dismiss, *HDC, LLC v. City of Ann Arbor*, 675 F.3d 608, 614 (6th Cir. 2012), but they must “raise a right to relief above the speculative level,” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). What is plausible is “a context-specific task” requiring this Court “to draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679.

Although a pro se litigant’s complaint is to be construed liberally, *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), that leniency is “not boundless,” *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004). The “basic pleading requirements ‘apply to self-represented and counseled plaintiffs alike.’” *Williams v. Hall*, No. 21-5540, 2022 WL

2966395, at *2 (6th Cir. July 27, 2022) (quoting *Harnage v. Lightner*, 916 F.3d 138, 141 (2d Cir. 2019)). In other words, pro se complaints “still must plead facts sufficient to show a redressable legal wrong has been committed.” *Baker v. Salvation Army*, No. 09-11454, 2011 WL 1233200, at *3 (E.D. Mich. 2011).

III.

The Court understands Townsend to make the following claims: (1) the state court lacked jurisdiction over him as a Moorish American; (2) the judge and lawyers in the state case committed crimes against him; and (3) the judge and lawyers in the state case committed various civil wrongs against him.

The Court will take each in turn.

A.

The Court begins by dismissing any claims challenging the state court’s jurisdiction over Townsend. (ECF No. 1, PageID.28 (“MICHAEL T. TOWNSEND [am] hereby challenge the jurisdictional of the private foreign for profit corporate 3RD DISTRICT COURT FOR WAYNE COUNTY (INC.) AND ALL ITS CONSPIRATORS . . . via quo warranto on grounds of lack of jurisdiction and improper venue.” (emphasis omitted)).)

As shown by “his reference to himself as a Moor and his nonsensical arguments challenging the state’s jurisdiction over him,” Townsend’s complaint cites theories advanced by “sovereign citizens.” See *Powell v. Michigan*, No. 22-10816, 2023 WL 2154954, at *1 (E.D. Mich. Jan. 24, 2023), *report and recommendation adopted*, No. 22-10816, 2023 WL 2145490 (E.D. Mich. Feb. 21, 2023). In particular, sovereign

citizens “believe that they are exempt from the jurisdiction of any legitimate court—state or federal—and often file legal documents to ‘free themselves from the yoke of federal citizenship.’” *Id.* But courts routinely reject such arguments as frivolous. *See, e.g., United States v. Coleman*, 871 F.3d 470, 476 (6th Cir. 2017) (collecting cases and noting that Defendant’s “legal arguments directly correspond to meritless rhetoric frequently espoused by tax protesters, sovereign citizens, and self-proclaimed Moorish-Americans”); *McCauley-Bey v. Meuris*, No. 21-2149, 2022 WL 1055560, at *1 (7th Cir. Apr. 8, 2022) (“[A]rguments that a defendant is sovereign and beyond the jurisdiction of the courts ‘should be rejected summarily, however they are presented.’”); *Ibrahim v. Att’y Gen.*, No. 21-1128, 2021 WL 3012660, at *2 (3d Cir. July 16, 2021) (“In support of his argument that the New Jersey courts lacked personal jurisdiction over him, Ibrahim cites his heritage and claims to be an ‘American National and non U.S. Citizen’ based on his own declaration, suggesting that these allegations have jurisdictional relevance. These arguments are frivolous.”). *United States v. Sterling*, 738 F.3d 228, 233 n.1 (11th Cir. 2013) (“Courts have been confronted repeatedly by [sovereign citizens’] attempts to delay judicial proceedings and have summarily rejected their legal theories as frivolous.”); *Powell*, 2023 WL 2154954, at *1.

Thus, to avoid wasting court resources, Townsend’s claim that the state court lacked jurisdiction over him as a Moorish American is dismissed.

B.

Townsend next claims that he was the victim of various crimes in the state-court proceeding. (See ECF No. 1, PageID.4 (citing 18 U.S.C. §§ 1001 (false statements), 2071 (mutilating a court record), 1512 (tampering with a witness), 241 (conspiracy against rights)).) These claims fail.

For starters, only the United States Attorney can initiate criminal charges in federal court. 28 U.S.C. § 547; Fed. R. Crim. P. 7(c). In addition, none of these criminal statutes provide a private cause of action in a civil case. *See Peavey v. Holder*, 657 F. Supp. 2d 180, 190 (D.D.C. 2009), *aff'd*, No. 09-5389, 2010 WL 3155823 (D.C. Cir. Aug. 9, 2010) (no private cause of action under 18 U.S.C. § 1001); *Winslow v. Romer*, 759 F. Supp. 670, 674 (D. Colo. 1991) (no private cause of action under 18 U.S.C. § 2071); *North v. Smarsh, Inc.*, 160 F. Supp. 3d 63, 77 (D.D.C. 2015) (no private cause of action under 18 U.S.C. § 1512); *Vick v. Core Civic*, 329 F. Supp. 3d 426, 454 (M.D. Tenn. 2018) (no private cause of action under 18 U.S.C. § 241). This makes sense, as courts are “quite reluctant to infer a private right of action from a criminal prohibition alone[.]” *See Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994).

So these claims will be dismissed.

C.

That leaves Townsend’s civil causes of action. (ECF No. 1, PageID.4.) He cites four statutes, but three can be easily disposed of.

First, he cites 15 U.S.C. § 1692g, which is part of the Fair Debt Collection Practices Act. Specifically, this provision regulates communications between debtors and debt collectors. *See Bates v. Green Farms Condo. Ass'n*, 958 F.3d 470, 477 (6th Cir. 2020). But because the complaint does not identify a debt, a debt collector, or any allegedly unlawful communications, Townsend has failed to state a claim under this provision. *See Forgues v. Carpenter Lipps & Leland LLP*, No. 17-4134, 2018 WL 11446410, at *3 (6th Cir. Nov. 7, 2018) (finding that plaintiff failed to state a claim for relief because she “failed to allege facts showing that the . . . letter was a ‘communication in connection with the collection of [her] debt’ under § 1692g”). So this claim will be dismissed.

Next, he cites 26 U.S.C. §§ 328 and 340, calling them “trespasser” statutes. (ECF No. 1, PageID.4.) But Title 26 is called “Internal Revenue Code.” And no such sections appear to be in effect. *See* 26 U.S.C. §§ 318, 331–34, 338, 341–42 (repealed). So these claims will be dismissed, too.

That leaves 28 U.S.C. § 1983. For at least two reasons, any claims under this statute fail.

First, by its plain text, § 1983 only provides relief against a “person acting under color of state law[.]” Put differently, “[o]nly claims against state actors are eligible for relief under the statute.” *See Howell v. Father Maloney’s Boys’ Haven, Inc.*, 976 F.3d 750, 752 (6th Cir. 2020) (citing *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 940 (1982)). But Townsend only named a private individual and two private companies as defendants in this case—Deondre Esters, DMCAre Express, and Horace

Mann. None of these entities are state actors. And Townsend does not allege any facts to suggest that their actions are “fairly attributable” to the state. *See id.* (“To determine whether a private entity qualifies as a state actor, we ask whether its conduct is fairly attributable to the State.” (quoting *Filarsky v. Delia*, 566 U.S. 377, 383 (2012))). So any constitutional claims brought against these Defendants are dismissed.

Second, to the extent that Townsend intended to bring these claims against the lawyers and the state-court judge in his prior case, none of those individuals are named as defendants in this case. And even if they had been, any § 1983 claims against them would fail. (ECF No. 1, PageID.9–13.) A private lawyer in a civil case is not a state actor. *See Polk Cnty. v. Dodson*, 454 U.S. 312, 319 (1981) (“[A] lawyer representing a client is not, by virtue of being an officer of the court, a state actor ‘under color of state law’ within the meaning of § 1983.”). And although a judge is a state actor under § 1983, judges are “absolutely immune” from suits for money damages, except in very narrow circumstances not relevant here. *See Stump v. Sparkman*, 435 U.S. 349, 359 (1978); *Bright v. Gallia Cnty., Ohio*, 753 F.3d 639, 648–49, 653 (6th Cir. 2014). Townsend only seeks money damages. (See ECF No. 1, PageID.32.)

In sum, Townsend has not stated a claim under any civil statute, so these claims will be dismissed.

IV.

Even with the benefit of liberal construction, Townsend's allegations are insufficient to state a claim for relief.¹ Accordingly, the Court GRANTS his motion to proceed in forma pauperis (ECF No. 3) and DISMISSES his complaint (ECF No. 1).

SO ORDERED.

Dated: April 19, 2023

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

¹ In light of this opinion, ECF Nos. 4 and 5 are stricken.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MICHAEL TOWNSEND,

Plaintiff(s),

Case No. 23-cv-10814-LJM-EAS

v.

Hon. Laurie J. Michelson

DEONDRE ESTERS, et al.,

Defendant(s).

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS

IT IS ORDERED: The plaintiff's application under 28 U.S.C. § 1915 to proceed without prepaying fees or costs is:

- ☐ **GRANTED:**
The clerk is ordered to issue summons. The attorney for the plaintiff(s), in accordance with Local Rule 4.1(c), is ordered to serve the summons with a copy of the complaint on each defendant.
- ☐ **GRANTED:**
The clerk has already electronically notified the parties of the commencement of the action pursuant to Federal Rules of Civil Procedures Supplemental Rules for Social Security Actions Under 42 U.S.C. § 405(g).
- ☒ **GRANTED:**
The clerk is ordered to issue summons upon receipt of the completed summons and USM-285 form for each defendant. The United States Marshal is ordered to serve the completed summons with a copy of the complaint on the defendant(s). The United States will advance the costs of service. If the completed summons and USM-285 forms are not submitted as directed, the complaint may be dismissed.
- ☐ **GRANTED:**
The clerk is ordered to issue summons upon receipt of the completed summons forms for each defendant. The plaintiff, having waived service by the United States Marshal, is ordered to serve the summons with a copy of the complaint on the defendant(s). If the completed summons are not submitted as directed, the complaint may be dismissed.
- ☐ **DENIED:**
This application is denied for these reasons:

As a result of the denial, the plaintiff is directed to pay the filing fee by _____.
Failure to pay the filing fee by this deadline may result in dismissal of the complaint.

IT IS SO ORDERED.

s/Laurie J. Michelson

Laurie J. Michelson
U.S. District Judge

Certificate of Service

I hereby certify that on this date a copy of the foregoing Order was served upon the parties and/or counsel of record herein by electronic means or first class U.S. mail.

Date: April 18, 2023

s/E. Parkin
Deputy Clerk

Order

Michigan Supreme Court
Lansing, Michigan

May 30, 2023

Elizabeth T. Clement,
Chief Justice

165246 (99)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

MICHAEL TOWNSEND,
Plaintiff-Appellant,

and

MERCYLAND HEALTH SERVICES, PLLC,
Intervening Plaintiff,

v

SC: 165246
COA: 358570
Wayne CC: 19-005072-NI

DEANDRE ESTERS, STEPHEN DAVID
CAMPAU, DMCARE EXPRESS, INC., and
HORACE MANN PROPERTY AND
CASUALTY INSURANCE COMPANY,
Defendants-Appellees.

On order of the Court, the motion for reconsideration of this Court's April 4, 2023 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).



a0522

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 30, 2023

Clerk

Order

Michigan Supreme Court
Lansing, Michigan

April 4, 2023

Elizabeth T. Clement,
Chief Justice

165246

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

MICHAEL TOWNSEND,
Plaintiff-Appellant,

and

MERCYLAND HEALTH SERVICES, PLLC,
Intervening Plaintiff,

v

SC: 165246
COA: 358570
Wayne CC: 19-005072-NI

DEANDRE ESTERS, STEPHEN DAVID
CAMPAU, DMCARE EXPRESS, INC., and
HORACE MANN PROPERTY AND
CASUALTY INSURANCE COMPANY,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the January 19, 2023 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



p0327

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 4, 2023

Clerk

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