APPENDIX

APPENDIX TABLE OF CONTENTS

Page

APPENDIX A

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-10195

Non-Argument Calendar

KEVIN CICHOWSKI,

STANLEY CICHOWSKI, JR.,

versus Plaintiffs-Appellants,

ANDREA K. TOTTEN,

Small claims judge, in official capacity,

THE FLORIDA BAR, an organization,

Defendants-Appellees.

Appeal from the United States District Court

for the Middle District of Florida

D.C. Docket No. 3:23-cv-01181-TJC-MCR

Before WILSON, JORDAN, and LAGOA, Circuit Judges.
PER CURIAM: Stanley and Kevin Cichowski filed a civil rights action under 42 U.S.C. § 1983 against Judge Andrea Totten and the Florida Bar. In their amended complaint, they alleged that Judge Totten violated Stanley's constitutional rights and the Americans with Dis- abilities Act, 42 U.S.C. § 12131 et seq. She did so by not allowing Kevin (Stanley's son) to help Stanley put on his small claims case based on the Florida Bar's rules concerning the unauthorized practice of law, and by threatening Kevin with arrest. [1] The Cichowskis also alleged that the Florida Bar's rules concerning the unauthorized practice of law are unconstitutionally vague. In their view, those rules violate the First and Fourteenth Amendments.[2] The district court dismissed the amended complaint with prejudice, ruling that Judge Totten had absolute judicial immunity and that the Florida Bar had Eleventh Amendment immunity. On

---

[1] The Cichowskis requested only injunctive relief against Judge Totten.

[2] With respect to the Florida Bar, the Cichowskis requested money damages and injunctive relief.

appeal, the Cichowskis argue that Judge Totten was not entitled to absolute judicial immunity because she was engaged in an executive function in enforcing the Florida Bar's rules. They also argue that the Florida Bar is not entitled to Eleventh Amendment immunity because (a) Congress abrogated that immunity when it passed the ADA, and (b) the Florida Bar is violating federal law with respect to pro se litigants on an ongoing basis.

I

In reviewing the district court's dismissal on judicial immunity and Eleventh Amendment immunity grounds, we accept the factual allegations in the amended complaint as true. And we draw all inferences in the light most favorable to the Cichowskis. See Weissman v. Nat'l Ass'n of Sec. Dealers, Inc., 500 F.3d 1293, 1295-96 (11th Cir. 2007). See also Buckley v. Fitzimmons, 509 U.S. 259, 261 (1993) (assuming allegations in complaint to be "entirely true" for purposes of analyzing absolute immunity). We liberally construe pro se pleadings. See Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir. 1998). But neither this Court nor the district court is required to "rewrite an otherwise deficient pleading in order to sustain an action." Campbell v. Air Jamaica, Ltd., 760 F.3d 1165, 1168-69 (11th Cir. 2014) (internal citation and quotation marks omitted).[3]

---

[3] In conducting our review in this case, we assume that the Cichowskis asserted a claim under Title II of the ADA in their amended complaint.

As the district court explained in its order, in Florida practicing law without a license constitutes a felony. See Fla. Stat. § 454.23. Florida Bar Rule 10-2.29(a) clarifies that nonlawyers may assist self-represented parties in completing certain approved forms without running afoul of § 454.23. The assistance must be limited to oral "communications reasonably necessary to elicit factual information to complete the blanks on the form and inform the self- represented person how to file the form." Fla. Bar. R. 10-2.29(a). "The nonlawyer may not give legal advice or give advice on remedies or courses of action." Id.

II

We review whether a judge is entitled to absolute judicial immunity de novo. See Stevens v. Osuna, 877 F.3d 1293, 1301 (11th Cir. 2017). Judicial immunity extends to state court judges, and "applies even when the judge's conduct was in error, was done maliciously, or was in excess of [her] authority." Id. A judge will only be deprived of immunity when she acts in the "clear absence of all jurisdiction." Bolin v. Story, 225 F.3d 1234, 1239 (11th Cir. 2000). Judicial immunity does not generally bar injunctive relief, but such relief will not be granted unless "a declaratory decree was violated, or declaratory relief was unavailable." See 42 U.S.C. § 1983; Pulliam v. Allen, 466 U.S. 522, 541-42 (1984).

Whether a judge's actions were made in her official capacity, and within the bounds of her jurisdiction, depends on whether "(1) the act complained of constituted a normal judicial function; (2) the events occurred in the judge's chambers or in open court;

(3) the controversy involved a case pending before the judge; and (4) the confrontation arose immediately out of a visit to the judge in [her] judicial capacity." Sibley v. Lando, 437 F.3d 1067, 1070 (11th Cir. 2005).

Here, the district court did not err in dismissing the Cichowskis claims against Judge Totten with prejudice. Based on the allegations of the amended complaint, she acted within the bounds of her jurisdiction when she ensured that the Cichowskis complied with the Florida Bar's rules on the unauthorized practice of law. See Stevens, 877 F.3d at 1301; Bolin, 225 F.3d at 1239. First, Judge Totten's actions were taken in her official judicial capacity. See Sibley, 437 F.3d at 1070. Second, given that Judge Totten's actions concerned a small claims matter pending before her, she did not act in the absence of all jurisdiction. See Bolin, 225 F.3d at 1239. As we have explained, "[j]udges have an obligation to maintain control over the courthouse and over the conduct of persons in the courthouse[.]" Stevens, 877 F.3d at 1305. A judge's enforcement of applicable rules in a pending case is a quintessential judicial act. Third, insofar as the Cichowskis sought any injunctive relief against Judge Totten under § 1983, they did not allege that a declaratory decree was violated, or that declaratory relief was unavailable. See Pulliam, 466 U.S. at 541-42; 42 U.S.C. § 1983.

III

We review a district court's dismissal on Eleventh Amendment grounds de novo. See In re Emp. Discrimination Litig. Against State of Ala., 198 F.3d 1305, 1310 (11th Cir. 1999). Eleventh

Amendment immunity extends to the Florida Bar because it is an official arm of the Florida Supreme Court, and therefore, an arm of the state itself. See Kaimowitz v. Fla. Bar, 996 F.2d 1151, 1155 (11th Cir. 1993). There are, however, several exceptions to Eleventh Amendment immunity, and we discuss them below.

First, a state can consent to suit in federal court. See Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 99 (1984). But Florida has not waived its sovereign immunity with regard to § 1983 actions. See Gamble v. Fla. Dep't of Health & Rehab. Servs., 779 F.2d 1509, 1520 (11th Cir. 1986).

Second, Eleventh Amendment immunity can be abrogated by a clear congressional statement in certain statutes. See Kimel v. Fla. Bd. of Regents, 528 U.S. 62, 73 (2000). Congress, however, has not abrogated the states' Eleventh Amendment immunity from § 1983 suits. See Williams v. Bd. of Regents of Univ. Sys. Of Ga., 477 F.3d 1282, 1301 (11th Cir. 2007).

Third, Title II of the ADA does abrogate Eleventh Amendment immunity for damages actions against states for conduct that "actually violates the Fourteenth Amendment[.]" United States v. Georgia, 546 U.S. 151, 153-54, 159 (2006) (citing 42 U.S.C. §§ 12131- 22) (emphasis omitted). The only allegations in the amended com- plaint about the ADA, however, are that Stanley "is dyslexic and often needs help with reading" and that the county court failed to provide him a reasonable accommodation (i.e., did not allow Kevin

to help him present his case). See Amended Complaint, D.E. 28 at 49.[4]

The problem for the Cichowskis is that rules barring the unauthorized practice of law have been upheld when challenged un- der the Fourteenth Amendment. See Wright v. Lane Cty. Dist. Ct., 647 F.2d 940, 941 (9th Cir. 1981); Monroe v. Horwitch, 820 F.Supp. 682, 686-87 (D. Conn. 1993). Although these cases did not involve disabled individuals, we are aware of no authorities to the contrary. On the facts alleged, the amended complaint does not state a claim for a constitutional violation. Fourth, "[t]he [Ex parte] Young doctrine permits federal courts to entertain suits against state officers seeking prospective equitable relief to end continuing violations of federal law." McClendon v. Ga. Dept. of Cmty. Health, 261 F.3d 1252, 1256 (11th Cir. 2001) (referencing Ex Parte Young, 209 U.S. 123 (1908)) (emphasis omitted).

The Cichowskis' brief contains additional factual allegations, e.g., that Stan- ley has social anxiety disorder, that Kevin is also dyslexic, and that Florida is denying access to judicial services to those who suffer from dyslexia and social anxiety disorder. We do not consider these allegations. "[F]acts contained in a motion or brief cannot substitute for missing allegations in the complaint." EEOC v. Catastrophe Management Solutions, 852 F.3d 1018, 1030 n.5 (11th Cir. 2016) (citation and internal quotation marks omitted).

However, this third exception applies only to prospective relief against state officers. See Puerto Rico Aqueduct & Sewer Authority v. Metcalf & Eddy, Inc., 506 U.S. 139, 146 (1993). It "does not permit judgments against state officers declaring that they violated federal law in the past, and has no application in suits against the [s]tates and their agencies, which are barred regardless of the relief sought." Id. So this exception does not save the claims against the Florida Bar.

IV

In closing, we recognize that district courts are sometimes required to give pro se litigants additional leeway to amend their pleadings before dismissing with prejudice. See Woldeab v. Dekalb Cty. Bd. Of Educ., 885 F.3d 1289, 1291 (11th Cir. 2018). Neverthe- less, district courts can dismiss with prejudice when amendment would be futile. See Hall v. United Ins. Co. of Am., 367 F.3d 1255, 1262-63 (11th Cir. 2004). Here the Cichowskis do not seek leave to amend. Nor do they say what additional factual allegations they could include in a second amended complaint that would allow them to avoid judicial immunity for Judge Totten and Eleventh Amendment immunity for the Florida Bar.

The district court's order of dismissal is affirmed.

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

STANLEY CICHOWSKI and
KEVIN CICHOWSKI,
Plaintiffs, v. Case No. 3:23-cv-1181-TJC-MCR
ANDREA K. TOTTEN, small claims
judge, in official capacity, and THE
FLORIDA BAR, an organization,
Defendants.

ORDER

This case is before the Court on the Defendants' Motions to Dismiss. Docs. 29, 30. Plaintiffs Stanley Cichowski and Kevin Cichowski have responded in opposition. Docs. 31, 32. Because both Defendants are immune from suit, dismissal is warranted. Proceeding without counsel, the Cichowskis sue The Florida Bar and Judge Andrea Totten under 42 U.S.C. § 1983 in connection with a county court case involving Stanley Cichowski. Doc. 28. Construing the Amended Complaint liberally, they allege that Judge Totten did not permit Kevin Cichowski to help

---

A Court construes pro se pleadings liberally and applies "less stringent standards" than those applied to pleadings drafted by lawyers. *Bilal v. Geo Care*, LLC, 981 F.3d 903, 911 (11th Cir. 2020) (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)).

Stanley Cichowski defend the county court case and threatened Kevin Cichowski with arrest for the unlicensed practice of law. Id. 2. They argue that Rule 10-2.2 of the Rules Regulating The Florida Bar is vague and violates the First and Fourteenth Amendments to the United States Constitution. Id. 1, 3, 6. Finally, they appear to argue that denying Kevin Cichowski permission to help Stanley Cichowski violated the Americans with Disabilities Act. Id. 42, 49.

Apart from challenging Judge Totten's alleged conduct and the legitimacy of Rule 10-2.2, in the Amended Complaint the Cichowskis appear to respond to arguments in the motions to dismiss the original Complaint. Doc. 28 11-28; see also Docs. 7, 14 (motions to dismiss).

The Florida Bar and Judge Totten move to dismiss. Docs. 29, 30. The Florida Bar argues that as an arm of the Florida Supreme Court, it is immune from suit; it is not a person subject to § 1983; the Cichowskis allege no facts pertaining to any conduct by the Bar; and the Cichowskis lack standing to challenge Rule 10-2.2. Doc. 29 at 3-10. Judge Totten argues that no justiciable

---

"In Florida, practicing law without a license is a felony. § 454.23, Fla. Stat. Rule 10-2.2 clarifies that nonlawyers may assist self-represented parties in completing certain approved forms without running afoul of § 454.23. R. Regulating Fla. Bar 10-2.2(a). The assistance must be limited to oral "communications reasonably necessary to elicit factual information to complete the blanks on the form and inform the self-represented person how to file the form." Id. "The nonlawyer may not give legal advice or give advice on remedies or courses of action." Id.

controversy exists, the Cichowskis lack standing, Judge Totten is immune from suit, the Rooker-Feldman and Younger abstention doctrines apply, and the Cichowskis fail to state a claim on which relief can be granted. Doc. 30 at 3, 5- 17. The Cichowskis dispute each argument. See generally Docs. 31, 32.

The Eleventh Amendment to the United States Constitution guarantees "that nonconsenting States may not be sued by private individuals in federal court." Bd. of Trs. of Univ. of Ala. v. Garrett, 531 U.S. 356, 363 (2001). "[T]he Eleventh Amendment extends to state agencies and other arms of the state," including "state courts and state bars." Kaimowitz. v. The Fla. Bar, 996 F.2d 1151, 1155 (11th Cir. 1993) (quoting Schopler v. Bliss, 903 F.2d 1373, 1378 (11th Cir. 1990)). Under federal law, The Florida Bar is thus "entitled to absolute immunity," Carroll v. Gross, 984 F.2d 392, 393 (11th Cir. 1993), and is immune from suit here.

A judge is immune from suit unless she acted "in the clear absence of all jurisdiction." Stump v. Sparkman, 435 U.S. 356-57 (1978) (internal quotation marks and quoted authority omitted). Judicial immunity applies even if an action "was in error, was done maliciously, or was in excess of [the judge's]

In the interest of judicial economy, the Court does not describe the parties' arguments in detail. The Court has thoroughly considered all arguments in the motions and responses. Two exceptions exist, both inapplicable here: when a state waives immunity and when Congress has abrogated the states' immunity. See Gamble v. Fla. Dep't of Health & Rehab. Servs., 779 F.2d 1509, 1512 (11th Cir. 1986).

authority." Id, at 356. Here, while presiding over a case involving Stanley Cichowski, Judge Totten allegedly refused to allow non-party Kevin Cichowski to speak for or advise Stanley Cichowski, informed him that doing so would constitute the unlicensed practice of law and thus be illegal, and threatened him with contempt of court for attempts to do so. See Doc. 28. Because no alleged facts suggest that she acted in the clear absence of all jurisdiction, she too is immune from suit.

Because both The Florida Bar and Judge Totten are immune from suit, the case cannot proceed. The Court need not address the parties' remaining arguments.

Accordingly, it is hereby

ORDERED:

1. The Florida Bar's Motion to Dismiss, Doc. 29, is GRANTED.

2. Judge Andrea Totten's Motion to Dismiss, Doc. 30, is GRANTED.

3. The Amended Complaint is DISMISSED WITH PREJUDICE.

4. The clerk is directed to terminate all pending deadlines and close the file.

DONE AND ORDERED in Jacksonville, Florida, the 18th day of January, 2024. Timothy J. Corrigan TIMOTHY J. CORRIGAN United States District Judge

APPENDIX K

In the United States Court of Appeals for the

Eleventh Circuit

STANLEY CICHOWSKI,

KEVIN CICHOWSKI,

Plaintiffs - Appellant(s),

Vs,

The Florida Bar, Andrea K. Totten

Defendant - Appellee.

3:23-cv-01181-TJC-MCR

Docket #: 24-10195 Cichowski et al v. Totten et al,

On Appeal from the United States District Court for the Middel District of Florida Honorable Timothy J. Corrigan, Uniter states District Judge.

APPELLANT'S BRIEF

Statutes

28 U.S. Code § 1291

Final decisions of district courts

28 U.S.C. § 1654

"In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein"

28 U.S.C. § 1331

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

42 U.S. Code § 12101

Continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

TABLE OF AUTHORITIES :

TABLE OF AUTHORITIES Continued

TABLE OF AUTHORITIES Continued

a judicial officer exceeds his authority in a type of case that he normally has jurisdiction to hear, the officer has not acted in the clear absence of all jurisdiction. See Stump, 435 U.S. at 357 n. 7, 98 S.Ct. at 1105 n. 7; see also Lopez v. Vanderwater, 620 F.2d 1229, 1234 (7th Cir.), cert. dismissed, 449 U.S. 1028, 101 S.Ct. 601, 66 L.Ed. 2d 491 (1980). Although the defendants in this case may have exceeded their authority in persuading Sevier to sign the consent order and in incarcerating him after the civil contempt hearing without the assistance of counsel, the defendants were empowered to handle Juvenile Court cases. The defendants, therefore, did not act in the clear absence of all jurisdiction.

Stump v. Sparkman, 435 U.S. at 362, 98 S.Ct. at 1107
The test to be applied is whether initiating accusatory processes such as criminal prosecutions or civil contempt proceedings is a function normally performed by a judicial officer. Stump, 435 U.S. at 362, 98 S.Ct. at 1107.

Stump v. Sparkman,
A judge acts in the clear absence of all jurisdiction if the matter upon which he acts is clearly outside the subject matter jurisdiction of the court over which he presides. See Stump, 435 U.S. at 357-59, 98 S.Ct. at 1105-06;

King v. Love
Judge Love's decision to incarcerate King was a judicial act because jailing persons for contempt of court is a function normally performed by judges

TABLE OF AUTHORITIES Continued

Lynch v. Johnson, 420 F.2d 818 (1970),
"simply not an act of a judicial nature." Id., at 64. And the Court of Appeals for the Sixth Circuit held in Lynch v. Johnson, 420 F.2d 818 (1970), that the county judge sued in that case was not entitled to judicial immunity because his service on a board with only legislative and administrative powers did not constitute a judicial act.

Bradley v Fisher.
distinction between lack of jurisdiction and excess of jurisdiction with the following examples: if a probate judge, with jurisdiction over only wills and estates, should try a criminal case, he would be acting in the clear absence of jurisdiction and would not be immune from liability for his action; on the other hand, if a judge of a criminal court should convict a defendant of a nonexistent crime, he would merely be acting in excess of his jurisdiction and would be immune. Id., at 352.

TABLE OF AUTHORITIES about immunity.

BATES V. STATE BAR OF ARIZONA.
to obtain meaningful access to the courts is protected under the First Amendment. See United Transportation Union v. Michigan Bar, 401 U.S. 576, 585 (1971); Mine Workers v. Illinois Bar Assn., 389 U.S. 217, 222-224 (1967); Railroad Trainmen v. Virginia Bar, 377 U.S. 1, 7 (1964); NAACPv. Button, 371 U.S. 415, 438-440 (1963).

Harrell v. The Florida Bar, 608 F.3d 1241, 1261 (11th Cir. 2010) Harrell establishes that a First Amendment challenge to a Bar rule may go forward

Peel v. Attorney Registration & Disciplinary Comm'n of Illinois, 496 U.S. 91, 110 (1990), 00 The court said that in "[a] majority of the justices rejected the 'paternalistic assumption' that the 'public would automatically mistake a claim of specialization for a claim of formal recognition by the State.

Abramson v. Gonzales, 949 F.2d 1567 (11th Cir. 1992). 00 When that case was decided, Florida licensed psychologists but did not prohibit the practice of psychology without a license. Even so, a Florida statute prohibited unlicensed psychologists from advertising that they were "psychologists." The state's theory was that the public would wrongly assume that a "psychologist" was licensed-much as the Bar asserts here that the public will assume a "specialist" is board-certified. The Eleventh Circuit held that the advertising restriction violated the First Amendment.

Rubenstein et al v. The Florida Bar et al, 1:2014cv20786 S.D. Fla. 2014) 00 the Bar challenges the Court's

TABLE OF AUTHORITIES about immunity Continued

jurisdiction over this case on grounds of standing and ripeness, two related "strands of the justiciability doctrine that go to the heart of the Article III case or controversy requirement." Harrell v. The Florida Bar, 608 F.3d 1241, 1247 (11th Cir. 2010). White the Bar has styled its Motion as one for summary judgment, justiciability is better understood as pertaining to the Court's subject matter jurisdiction. See Bochese v. Town of Ponce Inlet, 405 F.3d 964, 974 (11th Cir. 2005) (holding that a court lacks subject matter jurisdiction to hear a case if the "case or controversy" requirements of Article III are not satisfied

Hans v. Louisiana, 134 U.S. 1, 15 (1890).
As broad as the immunity that the states have is, it is not unlimited.

Article III Constitutional Standards:
Injury in Fact, Causation, and Redressability..

plaintiff must personally have:
1) suffered some actual or threatened injury;
2) that injury can fairly be traced to the challenged action of the defendant; and
3) that the injury is likely to be redressed by a favorable decision See Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992).

TABLE OF AUTHORITIES about immunity Continued

Greene v. Zank, 158 Cal. App. 3d 497, 506, 204 Cal. Rptr. 770 (Cal. Ct. App. 1984)

(collecting cases holding that bar associations and their officials charged with the duties of investigating, drawing up, and presenting cases involving attorney discipline enjoy absolute immunity from damage claims for such functions).

Brown v. Hartman 1:16-CV-00337-HAB (N.D. ind. Aug. 26, 2020)

Brown sued the IDOC and the State of Indiana for prospective injunctive relief. Although both the State of Indiana and the Indiana Department of Correction are immune from suits for monetary damages under the Eleventh Amendment, see Wynn v. Southward, 251 F.3d 588, 592 (7th Cir. 2001) and Alabama v. Pugh, 438 U.S. 781 (1978), under Ex parte Young, 209 U.S. 123, 159-60 (1908), a plaintiff may file "suit[I against state officials seeking prospective equitable relief for **on-going violations of federal law**.... Marie O. v. Edgar, 131 F.3d 610, 615 (7th Cir. 1997). See also Indiana Protection and Advocacy Ser-vices v. Indiana Family and Social Services Admin., 603 F.3d 365, 370-72 (7th Cir. 2010) (discussing exceptions to the Eleventh Amendment's bar against actions in federal court against state officials acting in their official capacities); Gautreaux v. Romney, 448 F.3d 731, 735 (7th Cir. 1971) (holding that the doctrine of sovereign immunity "does not bar a suit such as this which is challenging alleged unconstitutional and unauthorized conduct"

TABLE OF AUTHORITIES about immunity Continued

Lashbrook v. Ind. Dep't of Corr. 2:15-cv-00206-JMS-MJD (S.D. Ind. Feb. 1, 2016) a plaintiff may file "suit against state officials seeking prospective equitable relief for on-going violations of federal law

Luder v. Endicott 86 F. Supp. 2d 854 (W.D. Wis. 2000) established an additional exception to sovereign immunity that allows a court to order prospective injunctive relief to restrain state officials sued in their official capacities from violating the Constitution even when the state itself is immune from suit under the Eleventh Amendment

Marie O. v. Edgar, 131 F.3d 610, 614 (7th Cir. 1997) (stating that "suits against state officials seeking prospective equitable relief for on-going violations of federal law are not barred by the Eleventh Amendment

Bell Atlantic-Delaware, Inc. v. McMahon 80 F. Supp. 2d 218 (D. Del. 2000 Holding that state participation in federal telecommunications regulation is a gratuity upon which Congress may condition a waiver of state sovereign immunity implying that they enjoy the full panoply of remedies allowable in a Young suit for prospective relief of on- going violations of federal law. Indeed, the Telecommunications Act expressly states that it "shall not be construed to modify, impair or supersede Federal law

Xechem Intern v. Tx. M.D. Anderson Cancer 382 F.3d 1324 (Fed. Cir. 2004) Even absent waiver, Verizon may proceed against the individual commissioners in their official capacities pursuant to the doctrine of Ex parte Young,... In determining whether the doctrine of Ex parte Young avoids an Eleventh Amendment bar to suit, a court need only conduct a "straightforward inquiry into whether [the]

complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective."

Pennington Seed, Inc. v. Prod. Exch. No. 299 457 F.3d 1334 (Fed. Cir. 2006) . Continuing prospective violations of a federal patent right by state officials may be enjoined by federal courts

Bates v. State Bar of Arizona, 433 U.S. 350 (1977), Having disposed of the arguments against allowing lawyer advertising, the Court ruled that Arizona's total ban on lawyer advertising violated the free speech guarantee of the First Amendment.

TABLE OF AUTHORITIES about ADA

Tennessee v. Lane, 541 U.S. 509 (2004) 14-25 Court held that Title II of the ADA was a valid abrogation of sovereign immunity as applied to claims that disabled people were being denied the fundamental right of access to court proceedings.

Tennessee v. Lane, 541 U.S. 509 (2004)
Appellate Case: 03-2345 Page: 514-25 In Lane, 541 U.S. at 531, 533-34, the Supreme Court upheld ADA-based suits against states under Title II's requirement of access to government programs and services, at least to the extent that such suits implicate the accessibility of judicial services.
U.S. v. Georgia, 546 U.S. 151 (2006), 126 S. Ct. at 881 14 , the Supreme Court held that Title II also validly abrogates sovereign immunity for conduct that is in itself unconstitutional. Black's law dictionary Abrogation... 1. To nullify an contract by means of mutual agreement. 2. To officially abolish a law.

TABLE OF AUTHORITIES about ADA continued

Holly Hill Nursing LLC v. Padilla 8:17-cv-03554-PWG (D. Md. Oct. 16, 2018)
Plaintiffs' discrimination claim under Title II of the ADA also implicates the Eleventh Amendment, but this claim requires a different analysis. Congress has expressly abrogated Eleventh Amendment immunity under the ADA. See 42 U.S.C. § 12202. The pertinent statute provides: "A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation

Beckford v. Irvin 49 F. Supp. 2d 170 (W.D.N.Y. 1999)
Congress clearly intended to abrogate state sovereign immunity under the ADA.

Martinez v. Tex. Health & Human Servs. Comm'n 4:20-cv-03706 (S.D. Tex. Jun. 4, 2021)
NO abrogation on sovereign immunity under Title I of the ADA.

Williams v. Allen Civil Action 1:20-CV-00186-JPB (N.D. Ga. Apr. 17, 2023) even if Defendant were immune from Plaintiff's request for money damages under the ADA, Plaintiff may nonetheless pursue injunctive relief under Ex parte Young

TABLE OF AUTHORITIES about ADA continued

Pickett v. Tex. Tech Univ. Health Scis. Ctr. 37 F.4th 1013 (5th Cir. 2022) Title II may permissibly abrogate state sovereign immunity because her ADA-violating allegations state substantive- and procedural-due-process claims

Guttman v. Khalsa 669 F.3d 1101 (10th Cir. 2012) Recognized the Ex parte Young exception to sovereign immunity in the ADA context. Aplt.'s Supplemental Br. Following Remand from the U.S. Supreme Ct. at 16, Guttman III, 446 F.3d 1027 (10th Cir. Dec. 20, 2005) (No. 03-2244). The brief's conclusion reiterated that the defendants "possess no immunity against [Guttman's] claims for injunctive relief in their official capacity...."

Carten v. Kent State University 282 F.3d 391 (6th Cir. 2002) There is no individual liability under Title II of that Act. The district court dismissed Carten's claims against the Doctors in their personal capacities, but held that the Eleventh Amendment did not shield KSU or the Doctors in their official capacities from liability under the ADA or the Rehabilitation Act.

Hale v. King 642 F.3d 492 (5th Cir. 2011 14 In Hale, the Fifth Circuit addressed whether the plaintiff had stated a claim under Title II of the ADA before addressing sovereign immunity.

Other sources

https://www.youtube.com/watch?v=3bKGw_DlgYs

Link goes to video. Video that starts at 4:06 shows in what way the proposed ADA case law could work. Son played by Elvis, helps his father, who has social anxiety.

ADA Argument

As a layman it seems the argument on sovereign immunity for Title 2 ADA cases has been decided. Tennessee v. Lane, Title 2 covers access to justice, courts, government programs, properties. You know like, Government stuff, places and program's. The Supreme Court worked that judicial services abrogates sovereign immunity. United States v. Georgia.

The Ada Claims are as follows.

Stanley Cichowksi and kevin Cichowski both Have dyslexia, need help reading certain things, need help writing, and looking up things. Not asking for the court to provide the help, but allow the litigant to be allowed to bring their own assistance and let them help the litigant. Stanley Cichowski has social anxiety disorder.

https://www.youtube.com/watch?v=3bKGw_DlgYs

Link goes to video. Video that starts at 4:06 shows in what way the proposed ADA case law could work. Son played by evils, helps his father, who has social anxiety. If the father wasn't in the court room it would seem very strange. But since the father is right there, the judge can ask the father anything he needs to right anyway, yet the son can still speak for him, as demonstrated in the video. so

he should be able to express his self though the son, and with both ADA and the First amendment.

Hale v. King

The Fifth Circuit addressed whether the plaintiff had stated a claim under Title II of the ADA before addressing sovereign immunity. In United States v. Georgia, the Supreme Court established a three-part test for addressing whether Title II validly abrogates state sovereign immunity in a given case. A court should consider "which aspects of the State's alleged conduct violated Title II" and then determine "to what extent such misconduct also violated the Fourteenth Amendment." If the State's conduct violated both Title II and the Fourteenth Amendment, Title II validly abrogates state sovereign immunity. If the State's conduct violated Title II but did not violate the Fourteenth Amendment, the court must then determine "whether Congress's purported abrogation of sovereign immunity as to that class of conduct is nevertheless valid."

The Eleventh Amendment

The eleventh amendment provides that "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by Citizens of another State, or by Citizens or Subjects of any Foreign State." Although, by its terms, the amendment does not protect states from lawsuits by their own citizens, the Supreme Court has long held that states enjoy immunity from such actions. See Hans v. Louisiana, 134 U.S. 1, 15 (1890). As broad as the immunity that the states have is, it is not unlimited. The Court has recognized that § 5 of the fourteenth amendment allows Congress to abrogate

sovereign immunity to enforce that amendment's provisions. Fitzpatrick v. Bitzer, 427 U.S. 445, 456 (1976); Florida Prepaid Postsecondary Educ. Expense Bd. v. College Sav. Bank, 527 U.S. 627, 637 (1999). But the power to enforce constitutional rights does not permit Congress to redefine the substantive protections of the Constitution. City of Boerne v. Flores, 521 U.S. 507, 519 (1997).

In enacting the ADA and authorizing its attendant regulations, Congress intended to abrogate state sovereign immunity. See Board of Trustees of Univ. of Ala. v. Garrett, 531 U.S. 356, 363-64 (2001); Alsbrook, 184 F.3d at 1005-06. The relevant question here is whether that abrogation is consistent with the scope of the § 5 power. The Supreme Court upheld ADA-based suits against states under Title II's requirement of access to government programs and services, at least to the extent that such suits implicate the accessibility of *judicial services*, In Georgia, 126 S. Ct. at 881, the Supreme Court held that Title II also validly abrogates sovereign immunity for conduct that is in itself unconstitutional.

Continuing prospective violations of a federal patent right by state officials may be enjoined by federal courts under the Ex parte Young doctrine; however, the Eleventh Amendment precludes the plaintiff from obtaining monetary damages from individual defendants in their official capacities. See Graham, 473 U.S. at 169, 105 S.Ct. 3099 ("The Eleventh Amendment bars a damage action against a State in federal court. This bar remains in effect when state officials are sued for damages in their official capacity.") Moreover, this procedure cannot be applied to an action against any random state official. As noted in Ex parte Young, there must be a connection between the state officer and the enforcement of the act or else the suit will

merely make him a representative of the state and therefore improperly make the state a party to the suit. 209 U.S. at 157, 28 S.Ct. 441. A nexus between the violation of federal law and the individual accused of violating that law requires more than simply a broad general obligation to prevent a violation. See Shell Oil Co. v. Noel, 608 F.2d 208, 211 (1st Cir.1979) (holding the governor or attorney general of a state are not the proper defendants in every action attacking the constitutionality of a state statute merely because they have a general obligation to enforce state laws). When a violation of federal law is alleged, as here, the state official whose actions violate that law is the rightful party to the suit and prospective injunctive relief can only be had against him. See, e.g., Dairy Mart Convenience Stores, Inc. v. Nickel (In re Dairy Mart Convenience Stores, Inc.), 411 F.3d 367, 373 (2d Cir.2005) (State officials were subject to injunction where they refused to give effect to federal bankruptcy law that extended time deadlines for filing a reimbursement claim. A sufficient nexus was established because the state officers oversaw the fund and distribution of claims.)

28 U.S.C. § 1654, if statutes are federal laws, then this is an ongoing volition of federal law, and subject to Declarative and Injunctive Relief.

As for the ADA, Title 2, access to judicial services, Tennessee v. Lane this type of case is one of the few types of eligible from the 11th amendment immunity. Allowing the Cichowskis to sue the state of florida.

Art. V, § 15, Fla. Const.

SECTION 15. Attorneys; admission and discipline. The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted. History-S.J.R. 52-D, 1971; adopted 1972.

http://www.leg.state.fl.us/statutes/index.cfm?submenu=3#A5S15

Link goes to the, CONSTITUTION OF THE STATE OF FLORIDA

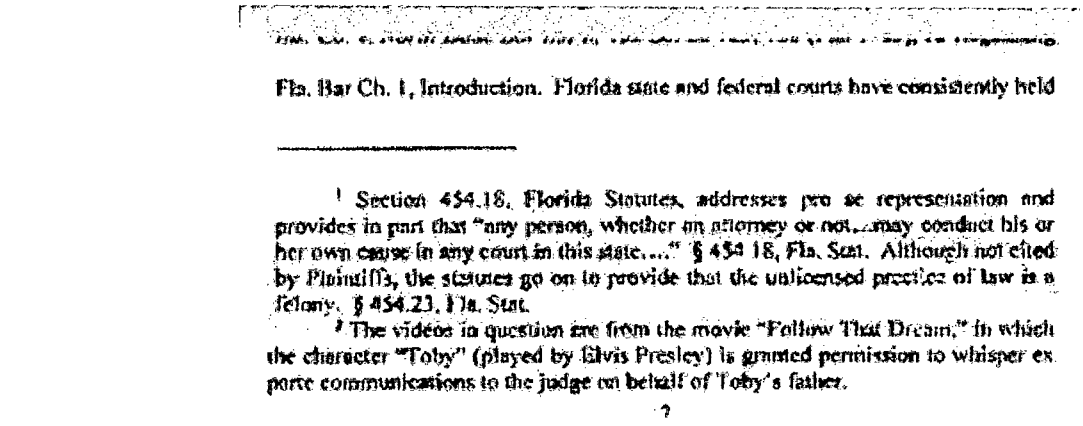
Art v, section 15 DOES not give jurisdiction to the florida bar to regulate pro se's, only attorneys. The Florida bar continues to violate federal law 28 U.S.C. § 1654, the 1st amendment and the 14th amendment by blocking judicial access for pro se's.

A plaintiff who demonstrates standing by showing that he faces a "credible threat of prosecution" if he en-gages in certain speech often will succeed in showing that his claims ripe as well, law will not force a choice between speech and sanction. Babbitt v. United Farm Workers Nat'l Union, 442 U.S. 289, 298, 99 S.Ct. 2301, 60 L.Ed. 2d 895 (1979)

Muller v. The Florida Bar, show that article five of the Florida State constitution gives the Florida bar power to regulate Lawyers. Plaintiffs are not attorneys nor are they lawyers, nor are admitted to practice.

Florida bar's active outside of its official capacity when it regulated prose's speech, and non lawyers speech. And there is standing to show that there's credible threat of prosecution.

In the very first motion to dismiss the first thing the Florida bar bring up is a felony. (see below}



Fla. Bar Ch. 1, Introduction. Florida state and federal courts have consistently held

---

[1] Section 454.18, Florida Statutes, addresses pro se representation and provides in part that "any person, whether an attorney or not, may conduct his or her own cause in any court in this state...." § 454.18, Fla. Stat. Although not cited by Plaintiffs, the statutes go on to provide that the unlicensed practice of law is a felony. § 454.23, Fla. Stat.

[2] The videos in question are from the movie "Follow That Dream," in which the character "Toby" (played by Elvis Presley) is granted permission to whisper ex parte communications to the judge on behalf of Toby's father.

It's certainly chilled our speech. If the Florida bar is using Art. V, § 15, Fla. Const.

For power over a pro se, then I would be admitted to the practice of law. Then if admitted to the practice of law and I should be able to get up to the podium "as well as other behavior consistent with a lawyer" as referenced in the amended complaint.

Cichowskis would not be able to address constitutional violations in an appeals court we have to sue Florida bar directly in their official capacity since they made it an custom and they are all the bosses of the judges in this state. The florida bar the goes on in II. Carr v. City of Florence, Ala., 916 F.2d 1521, 1525 n.3 (11th Cir. 1990) in The city of Florence, the police violated carrs 5th amendments rights, that's what he claimed anyways. And the case was dismissed because carr could bring up challenges in appeal. It wasn't a custom, it was one person not reading his rights.

Cichowskis can not challenge in appeal. Cichowskis can not challenge because they're subject to the same rules/laws that govern both courts, Plus, the appeals court.

There's a credible threat of prosecution. Cichowkiss' context of his first Amendment claims, he claims an actual prohibition, so he must claim, as a result of his desired expression, "(1) he was threatened with prosecution; (2) prosecution is likely; or (3) there is a credible threat of prosecution." Id. (quoting ACLU v. The Florida Bar, 999 F.2d 1486, 1492 (11th Cir. 1993)). Here, he suggests a credible threat of prosecution, which in turn requires that he establish: first, that he seriously wishes to engage in expression that is "at least arguably forbidden by the pertinent law," Hallandale, 922 F.2d at 762; and second, that there is at least some minimal probability that the challenged rules will be enforced if violated, Eaves, 601 F.2d at 818 & n.6

In Defendant Totten's motion to dismiss, under the justiciable controversy It goes into standing for Article | | |. The following is a memorandum of law supporting the plaintiffs and addressing defendants' concerns. Standing is an irreducible minimum necessary under Article III's case-or-controversy requirement. Alabama Power, 307 F.3d at 1308. To have standing, a plaintiff must show (1) he has suffered an injury in fact that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to conduct of the defendant; and (3) it is likely, not just merely speculative, that the injury will be redressed by a favorable decision. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61, 112 S.Ct. 2130, 2136, 119 L.Ed.2d 351 (1992); see also Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 180-81, 120 S.Ct. 693, 704, 145 L.Ed.2d

610 (2000); Women's Emergency Network v. Bush, 323 F.3d 937, 943 (11th Cir. 2003).. As to what the plaintiff must show. (1) Cichowski claims an injury in fact in chilled speech (a) "particularized"-or, in other words, that it affects him in a personal and individual way". Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 n.1 (1992). It directly affected the Cichowskis. (b) it was imminent threat of arrest. (2) The injury was a direct result of Defendants actions. (3) its seems far from speculative, based on claims, and the injury would be redressed by a favorable decision towards the plaintiffs.

Also brought up under justiciable controversy is misconception that the cichowskis want to overturn judicial rulings and are seeking to resolve and controversy between the plaintiff and judge Totten. Cichowskis seek maintenance of the status quo that he may conduct his own case and this is most likely would reoccur with a successor{S} since the rules are vague.. Technically under the current rules in Florida about the practice of law due to the wording you're not even allowed to do YouTube videos, or tick tocks or exchange free advice even when someone knows for sure you're not a lawyer even two people discussing their own case under the vague rules of the Florida bar can absolutely be considered practice of law. It's so vague that the judge and not just to judge, but in their official capacity are willing to {BE FORCED} to violate our constitutional rights and even state law because the Florida bar has extremely vague rules. If that is the case then I stole Harvard lectures to make this complaint 23. Harris v. Harvey the jury concluded that judge Harvey was not eligible for judicial immunity for these actions as such acts are not part of the judges normal duties, There were "outside his jurisdiction" The direct threat of

immediate arrest for practice of law was outside the jurisdiction according to Florida bar rules. The threat of immediate arrest should satisfy the "real and immediate" threat brought up by defendant Totton's motion to dismiss.

State sovereign immunity does not always extend

It does not extend to cases where a plaintiff alleges the state's action is in violation of the federal or state constitutions. In Department of Revenue v. Kuhnlein, the Florida Department of Revenue claimed that sovereign immunity prevented plaintiffs from bringing a case that alleged that a tax violated the Commerce Clause and, furthermore, that if the tax was unconstitutional, the refund request could not be given because it did not comply with state statutes for tax refunds. The Florida Supreme Court rejected those arguments, stating: "Sovereign immunity does not exempt the State from a challenge based on violation of the federal or state constitutions, [b]ecause any other rule self-evidently would make constitutional law subservient to the State's will. Moreover, neither the common law nor a state statute can supersede a provision of the federal or state constitutions." Department of Revenue v. Kuhnlein, 646 So.2d 717,,721

Judicial immunity

While we do not believe the judge acted in a malicious way. We do believe the judge violated our rights that almost seem hidden within Florida Statute 454.18, 28 U.S.C. § 1654 & rights protected by the constitution. The judge was not engaged in an executive function assigned to her by law, but an executive function reserved for the Florida bar only. Threatening our immediate arrest for the "practice of law, upon one word spoke" and being ready to act upon it. The Supreme Court has distinguished judges' judicial

functions which are protected by judicial immunity from there "administrative, executive, or legislative functions, which are not" forrester, 484 U.S. at 277 "our sister circuits have also denied immunity to judges who attempt to undertake law enforcement functions" Gibson V Goldston 2023 appeals page 13.

The Florida Bar, as an official arm of the court, is charged with the duty of considering, investigating, and seeking the prohibition of matters pertaining to the unlicensed practice of law and the prosecution of alleged offenders.

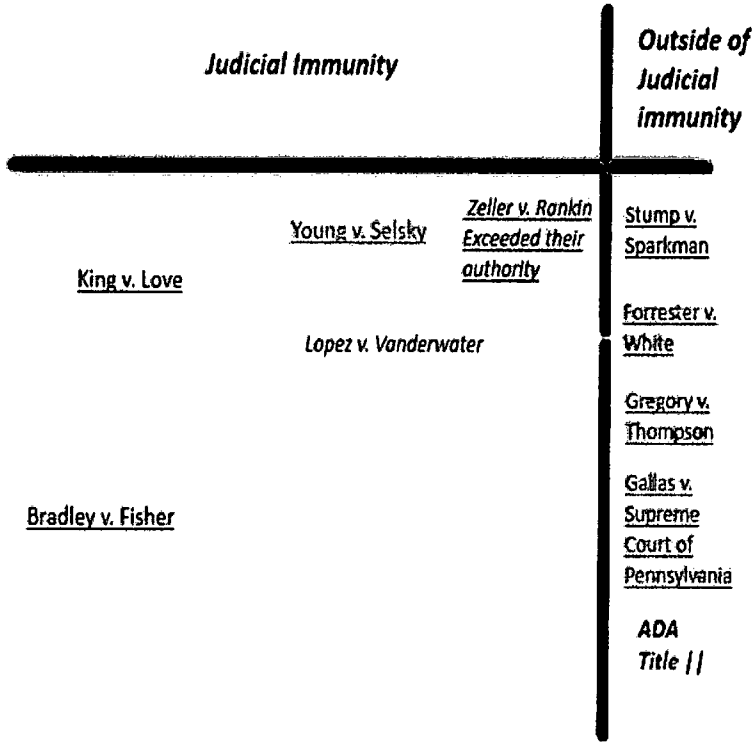
12. While a judge unquestionably has the right to maintain order in their courtroom. And a judge can order someone arrested as part of contempt. *Rockett as next friend of k.R. V. Eighmy, 71 F672*

13. The judge didn't threaten with contempt the judge threatened to arrest under practice of law, Repeatedly. "And while a greater merger of judicial and executive functions might be more efficient, that very efficiency would facilitate abuses of power. The Framers made a tradeoff: they gummed up the gears just a bit in return for protection

The Federal judge Errored, in ORDER doc 33. The word contempt was never said., in doc 28. This error is ok because I can appeal.

authority." Id. at 356. Here, while presiding over a case involving Stanley Cichowski, Judge Totten allegedly refused to allow non-party Kevin Cichowski to speak for or advise Stanley Cichowski, informed him that doing so would constitute the unlicensed practice of law and thus be illegal, and threatened him with contempt of court for attempts to do so. See Doc. 28. Because no alleged facts suggest that she acted in the clear absence of all jurisdiction, she too is immune from suit.

Hans v. Louisiana, 134 U.S. 1, 15 (1890



Rooker-Feldman Doctrine

As defendant suggests in [a] this is not about a "state court loser" As of this writing, cichowski will be in court again on the same matters, and would still be subject to the same vague Florida bar rules and Bar rules restricting freedom of speech and expression. Leading to loss of due process rights, since his decisions are based on Chilling speech again. As father and son can not even look up laws and case laws and legally discuss it without it being consider practice of law of law even in our own private home, since no one under any circumstances can give any type of legal advice anywhere in the state of Florida at anytime even at home, and in private since the rules are that vague and are ripe to be challenged. Under the current rules if you saw someone run a red light and they hit a car and you tell the driver of the car that got hit hey you should sue that jerk, you would be practicing law under the florida bar rule in question. As such the Rooker-Feldman Doctrine doesn't apply to a case such as this. Plaintiffs are not appealing a state court decision in this case in this court. Plus its about rights before any case even starts.

In conclusion

As a layman in law, it seems that in brown v Hartman, Gautreaux v. Romney that if an "on going violation of federal law" is a reason for injunctive relief, for an ongoing violation of 28 U.S.C. § 1654. Under Ex parte Young.

This appeal should be seen in three different parts.

The first part being the judges behavior stepping out of judicial immunity.

The second part should be the ADA consideration regardless of the other parts of this case. As this continues ongoing in all courts. The ADA claim, is access to judicial services under Article 2 and the particular ailments being claimed are dyslexia and social anxiety. u.s. v. Georgia, Tennessee v. Lane, Williams v. Allen, Guttman v. Khalsa

And the third part it's about the Florida bars actual power and what the constitution says and doesn't say about the power that they have or don't. The FL constitution clearly says to regulate attorneys. Yet the bar has made rules, about proses, that impede the 1st amendment & 14th in discussing your case with another non attorney which can turn them into a felon with this very vague rules she has been highly covered in the amended complaint. Lashbrook v. Ind. Dep't of Corr says a plaintiff may file "suit against state officials seeking prospective equitable relief for on-going violations of federal law....

You backed up 1 item Add to album And in Luder v. Endicott established an additional exception to sovereign immunity that allows a court to order prospective injunctive relief to restrain state officials sued in their

official capacities from violating the Constitution even when the state itself is immune from suit under the Eleventh Amendment.

Backed up in Marie O. v. Edgar, (stating that "suits against state officials seeking prospective equitable relief for on-going violations of federal law are not barred by the Eleventh Amendment.

Further backing up this opinion Bates v. State Bar of Arizona, Having disposed of the arguments against allowing lawyer advertising, the Court ruled that Arizona's total ban on lawyer advertising violated the free speech guarantee of the First Amendment.

The judge stepping out of jurisdiction. This part of this case is when the judge stepped into an area reserved only for executive functions. At no time did the judge ever use the word contempt. The judge only said just threat of immediate arrest for Stanley cichowski attempting to conduct his own case without a lawyer and for kevin cichowski for asking to help him with reading words, the ADA stuff mentioned. The Judge did not allow stanley to even be at court without a lawyer. She kicked him out for that simple reason. Violating federal law. If you the appeals court and look at my amended complaint you'll see that even the federal judge wouldn't let me up to the podium for the simple reason I wasn't a lawyer. It does have a negative effect especially when the other side gets to go up and you have to sit down for your case.

Were claiming the local judge, was acting outside of jurisdiction, when deciding, mr cichowski could not participate in court because he's not a lawyer. And only because he's not lawyer.

The judge didn't act in maliciously way, the judge denied Mr. cichowski his rights for the simple reason that Florida bars rules are extremely vague that governs the actions and rights of processes in the courtroom even though that power is not in the constitution of Florida it's only for attorneys or people that are admitted to the practice of law..

Is it the this courts opinion that as a pro say I'm admitted to the practice of law? And the rights and privileges that come with that?

To further back me up on being outside of judicial immunity, Barnes v. Winchell Holding that whether a judge is shielded by absolute immunity depends on whether the challenged conduct relates to a function normally performed by a judge.

A judge wouldn't normally determine the practice of law that is a felony that is currently dictated by the Supreme Court of Florida not by a local judge in any fashion in any type of form. It wouldn't even classify as excess of jurisdiction because it would be in clear absence of all jurisdiction.

Mireles v. Waco backs my argument up even further, Explaining that a judge's immunity from § 1983 liability "is overcome in only two sets of circumstances": "a judge is not immune from liability for nonjudicial acts, i.e., actions not taken in the judge's judicial capacity," and "a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction"

Arresting for the practice of law it's not something a judge in Florida normally does, it's a non judicial act. There's an investigation process before an arrest.

Florida lost its mind when it came to ADA rights it's crazy that Stanley would have to sit there by himself and not have his own family help him read and help him overcome his dyslexia during the judicial process which affects his decisions and outcomes which ultimately affects is 14 amendment rights.

And judges aren't even allowed to do the bailiff's job. Neverminded what's reserved for the Florida bar alone.

In *Gregory v. Thompson* Holding that a judge who himself forcibly expelled a litigant from his courtroom was not entitled to absolute immunity because his "choice to perform an act similar to that normally performed by a sheriff or bailiff should not result in his receiving absolute immunity... simply because he was a judge at the time.

As I had said I don't believe the judge did this in a malicious way we believe that the rules governing the court that come from a Florida bar with consideration to pro ses are extremely vague it's highly described in our amended complaint. vague enough the judges aren't even sure what to do in Florida.

This case needed to be in appeals court in Georgia. Georgia is like an inside/outsider to Florida. So we asked this court this appeals court to overturn the final orders of this case and look at this case properly and understand it was also written by dyslexic.

We would have just gotten a lawyer the initial case was $5000 a lawyer{s} wanted 11,000 and up just to begin a simple debt case. And for that $11,000 they wanted to

make a deal. So my $5000 case would actually cost me more like $16,000. I don't know who has that in their bank account but I know my bank account certainly doesn't have money like that that seems like a lot of money just to you know simple defense for decades or even to make a deal with the other side and so I really had a challenge to proceed rights and make sure these are enforced properly so I can at least fairly come to court and have the same rights and privileges the other side does this court supposed to be fair it's supposed to be mirrored where it becomes unfair is where your story is better than the other sides for the jury may look at that evidence and then real fairness comes. As you read this case just look at your courtroom it's mirrored everything on one side is on the other so why should a prose have so much less then a lawyer when their rights are supposed to be covered under federal law.

I would like attorney fees in any areas that I may be entitled to in this case it has cost me a lot to do case law research, filing and the like it's no less because I'm not a lawyer it doesn't cost me any less than it costs them so if I am entitled to any fees I would like that. Pro ses have been awarded that in the past because it does cost fees and serving and case law research and court costs and the like.

Why the transcript was included.

The transcript shows where the federal judge let the other side go up to the podium but i couldn't even fom myself. The other side had the opportunity to go up and point the finger, while a pro se, and only because they are a pro se, have to sit down and present their side of the case. But also, appellant wants to point out that essentially plaintiff conducted their own case when he essentially spoke for his

family.... but with their appearance in the courtroom at all times when you get down to the transcript you'll realize that. Same thing go'es on in the Elvis movie, Follow That Dream which is included in the links.

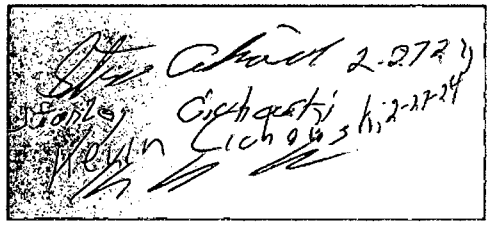
Respectfully submitted

Stanley Cichowski *stanley cichowski*

Kevin Cichowski *kevin cichowski*

2-27-2024

CVSlawsuitflorida@gmail.com



APPENDIX K CONTINUINED

In the United States Court of Appeals for the

Eleventh Circuit

STANLEY CICHOWSKI,

KEVIN CICHOWSKI,

Plaintiffs - Appellant(s),

The Florida Bar,

Andrea K. Totten

Defendant – Appellee

. 3:23-cv-01181-TJC-MCR Docket #: 24-10195

Cichowski et al v. Totten et al,

On Appeal from the United States District Court for the Middel District of Florida Honorable Timothy J. Corrigan, United states District Judge.

Appellant's Response to Andrea Totten & F.L. Bar Brief

STATEMENT OF THE ISSUES

Whether the District Court incorrectly dismissed the Amended Complaint against Judge Andrea Totten and the Florida Bar with prejudice on the basis of judicial immunity and jurisdiction.

Table of Authorities

1st Amendment US Constitution
"Congress shall make no law... abridging... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Pulliam v. Allen, 466 U.S. 522 (1984).
"there is no support for a conclusion that Congress intended to limit the injunctive relief available under § 1983 in a way that would prevent federal injunctive relief against a state judge."

Harrell V. Florida Bar 2010
jurisdiction applies.

Parker V. Williams 11th Cir 1989
A state can be held liable in spite of the eleventh amendment when sued for injunctive (prospective) relief. See Edelman v. Jordan, 1974) (only prospective relief available for state officials' violation of federal statute).

Chavez v. Schwartz, 10th Cir. 2012
"Generally speaking, the only type of relief available to a plaintiff who sues a judicial officer is declaratory relief."

42 U.S.C. § 1983
"[I]n any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable."

42 U.S.C. § 1988

prohibiting fee and cost awards against judges unless their actions were "in excess of such officer's jurisdiction." Eric I. Davies vs. 28 U.S.C. § 1654 In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

To Begin

in their judicial capacity unless they acted in "clear absence of all jurisdictions." *Stump v. Sparkman*, 435 U.S. 349, 356 (1978). Judicial immunity extends even to circumstances where judges are "accused of acting maliciously and corruptly" in exercise of their judicial decision-making power. *Pierson v. Ray*, 386 U.S. 547, 553-554 (1967). [redacted] *Bolin v. Story*, 225 F.3d 1234, 1239 (11th Cir. 2000). Judicial

deprivation of constitutional rights. Such nebulous general pleading is wholly insufficient to place The Florida Bar on notice of the acts for which it is being alleged liable. The Bar could not prepare a defense on such vague and conclusory allegations.

Moreover, any allegations as they pertain to The Florida Bar lack plausibility. As noted above, the allegations in the Amended Complaint apparently pertain to the unlicensed practice of law. [redacted] 1. In this regard, the Court has promulgated rules governing the investigation and prosecution of the unlicensed practice of law. R.

These two filings, one filed by Totten, document 23 and the other by the Florida bar, document 25 They, themselves are one of the largest arguments on Totten's non-immunity on this topic. As the Florida bar says in document 25 the Florida Supreme Court has inherent jurisdiction to prohibit the practice of law and not the local judge. Making the local judge to be in absence of all jurisdiction. It's not in excess, As a judge doesn't have jurisdiction, Only the Florida Supreme Court has inherent jurisdiction to prohibit the

unlicensed practice of law. As the FL bar said in doc 25. And is also contained in Florida's constitution.

Going on in document 25 it says, there is a process and an investigation. So, this was not excess, but judge Totten was way out of jurisdiction, on this topic. A judge does not have the power of arrest of "unlicensed practice of law" That is Not how the system works. That's why the words are important, she did not threaten with contempt, she threatened Stanley cichowski himself, on his own case for simply not having a lawyer. With quote "the unlicensed practice of law" repeatedly. What made us file this lawsuit was when she threw him out before court started, because again he did not have a lawyer, this being the only reason. So, these two things happened, the judge took away the federal right to conduct his own case without a lawyer. Second, she went to an area outside of her jurisdiction when she threatened with the immediate arrest for unlicensed practice of law.

Regulating Fla. Bar, Ch. 10. While the Court has charged The Florida Bar, as an official arm of the Court, with the duty of prosecuting matters pertaining to the unlicensed practice of law, the Bar can do so only after a complaint has been processed and investigated in accordance with the detailed rules. ***Id.***

The next big issue, first amendment, in particular, filling out forms, giving advice unpaid to a family or friend. This may be as simple as sharing an online legal video, that could suggest a course of action. OR looking up legal information online and sharing it by means of electronic or

vocalizing it to another person. The language is vague, Rule 10-2.2. says "limited oral", but withholds the actual limits, nor defines what limited is. This is controlled by the Florida bar who are in their words, "with the duty of prosecuting matters pertaining to the unlicensed practice of law."

RULE 10-2.2. FORM COMPLETION BY A NONLAWYER

(a) Supreme Court Approved Forms. It shall not constitute the unlicensed practice of law for a nonlawyer to engage in limited oral communication to assist a self-represented person in the completion of blanks on a Supreme Court Approved Form. In assisting in the completion of the form, oral communication by nonlawyers is restricted to those communications reasonably necessary to elicit factual information to complete the blanks on the form and inform the self-represented person how to file the form. The nonlawyer may not give legal advice or give advice on remedies or courses of action. Legal forms approved by the Supreme Court of Florida which may be completed as set forth herein shall only include and are limited to the following forms, and any other legal form whether promulgated or approved by the Supreme Court is not a Supreme Court Approved Form for the purposes of this rule:

Declaratory Relief Unavailable

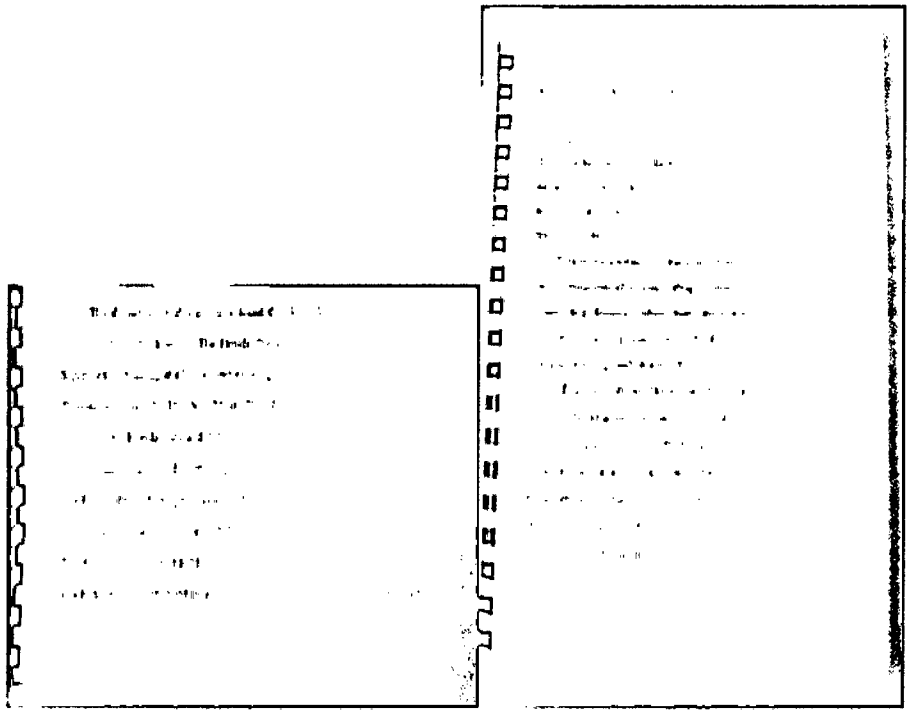
Declaratory relief is unavailable because the same rules that govern the state court govern the appeals court of state. This is part of why the transcript was included. Even The federal judge said, "because you're not a lawyer" apparently the Florida bars rules even pertain to the federal court in Florida. So how can declaratory relief be available? The answer is it cannot be available.

Congress's 1996 amendment to 42 U.S.C. § 1983 made it clear that judicial immunity extends to both injunctive and declaratory relief and that it extends to any judicial officer. See Pub. L. No. 104-317, 110 Stat. 3847, 3853 (Oct. 19, 1996) (stating "any action brought against a judicial officer for an act or omission taken in such officer's judicial

capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable"). Chavez v. schwatz says "relief available to the plaintiff who see sues a digital officer is declaratory relief" So Chavez v. schwatz implies I can sue in the district court.

Florida bars professional regulation arguments

Page 8 and 9 of the Florida Bars briefs below.



On page 8 and 9 of Florida bars briefs, their main argument is that they are professional regulatory board. They go on to cite many case laws to back this up. Yet Harrell V. Florida Bar goes thew, Harrell sues as a professional, and still gets a 1t amendment ruling on his behalf. So Cichowski, non-professionals should absolutely have standing to address grievances with the 1st amendment upon the regulatory board of the practice of law.

Eleventh Amendment

This fits in the narrow exception to the Eleventh Amendment. The on-going violations of federal laws. 28 U.S.C. § 1654. The same goes on for any case the Cichowskis are involved in. That's why transcript is included with the filings. The thing about the podium, even for myself... would I have to give the jury opening and closing arguments siting down, while the other side stands up, presents themselves is able to be visible to the jury? This is why 28 u.s.c. 1654 gives you the ability to conduct your own case, just like the lawyer is allowed to. In Edelman v. Jordan, held in parker v Williams, prospective (injunctive) relief available for state officials violating federal statute, in spite of the of the eleventh amendment.

Younger Abstention shouldn't apply

Younger Abstention should not apply in this case. This is not about interfering with state proceedings. This is about your rights from before to within a case. This case puts forth your rights as a non-professional in the court room. AND is the opposite of interfering, it sets forth a strong framework for the court to follow.

Arguments

A pro se should be able to request help from family and friends such as conduct their own case as 28 u.s.c. §1654 suggests. As demonstrated in https://www.youtube.com/watch?v=3bKGw_DlgYs

ask the court, as a pro se why shouldn't have the ability to have a friend look up case laws for me during a case, in court, and then by means of telling me or writing a note, communicate this to me and assist me. The courts wouldn't be providing, they would be allowing it as federal statue. §1654 wording of "manage" suggests. To keep it straight, just like the link to the Elvis movie, that's pretty much what I want to do. Be able to bring a member or 2 of family to the table, and have them help me with files, look up case laws. It takes a lot to put a case before the jury. A pro se shouldn't have to sit alone. And this goes along with the ADA claims. Same thing, any assist is considered practice of law. Courts aren't sure, because its vague.

State appellate court is inappropriate to bring these claims because the same rules govern the appellate courts for the state of Florida. The practice of law is ill defined and the definition is throw around between court rooms while rules for lawyers do no change from court room to court room. Cases are not people VS court, court is the middle ground, not the opposition or opponent. Courts need to be able to conduct their courtrooms, but as well pro ses need to conduct their cases. A solid outline from the court would be a framework going forward that protects both sides.

It seems that's what the rules of conducting your own case used to be, if the case was simple most people did things pro se, and then if your case was more complicated

you hired a lawyer. As suggested in the Elvis movie. I would ask a friend to assist me on a debt case, or a small claims, but I would be crazy to do that for something more complex. If I have the money, I want to hire a lawyer, but that's not always the case that's why pro ses have rights to access the courts. Plus, it says parties must appear, and conduct, that seems far from sitting by themselves, only sit down, and have no assistance. With the claims against the Florida Bar, there has been a credible threat of prosecution for First Amendment speech about discussing law matters, that are vague enough that it can make you a felon in Florida.

Pro ses encourage court to read pro ses district filings. Reversing the district courts findings. Relief would give the cichowski the ability to properly participate in court proceedings. The Florida bar has the same tired arguments again and again, they did the same thing in the Harrell v s Florida bar case. It's time to reaffirm pro se rights, rights that were signed alongside the power of the courts in 1789. First amendment and equal court access is extremely important.

The most important thing pro se's ask for is jurisdiction, the rest could be worked out in the district court if it had to be. These rights for pro se's are so important though, for all sides.

Stanley Cichowski

Kevin Cichowski