

United States Court of Appeals for the Fifth Circuit

No. 23-40131
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 15, 2024

Lyle W. Cayce
Clerk

LAMONT FITCH,

Plaintiff—Appellant,

versus

UNITED STATES OF AMERICA; MERRICK B. GARLAND;
CHRISTOPHER WRAY; MICHAEL CARVAJAL; KATHLEEN HAWK
SAWYER; CHARLES L. LOCKETT; ET AL.,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:20-CV-246

Before HIGGINBOTHAM, STEWART, and SOUTHWICK, *Circuit
Judges.*

PER CURIAM:*

Lamont Fitch, federal prisoner # 12384-050, appeals from the district court's denial of his motion for a preliminary injunction (PI). In his amended

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.



No. 23-40131

complaint, Fitch alleged claims under *Bivens*¹ and the Federal Tort Claims Act (FTCA), but the district court severed the *Bivens* claims leaving only the FTCA claims in this case. The denial of a preliminary injunction is reviewed for an abuse of discretion but should be reversed “only under extraordinary circumstances.” *White v. Carlucci*, 862 F.2d 1209, 1211 (5th Cir. 1989). “[A] preliminary injunction is an extraordinary and drastic remedy which should not be granted unless the movant clearly carries the burden of persuasion.” *Canal Auth. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974). In order to grant any sort of injunction, “the district court must have both subject matter jurisdiction and in personam jurisdiction over the party against whom the injunction runs.” *Enter. Int'l, Inc. v. Corporacion Estatal Petrolera Ecuatoriana*, 762 F.2d 464, 470 (5th Cir. 1985) (internal quotation marks and citation omitted).

Throughout these proceedings, Fitch has been imprisoned at the United States Penitentiary Victorville in California. However, he filed his instant complaint in the district court for the Eastern District of Texas, and he sought PI relief as to events and parties who were not located in the Eastern District of Texas. Given this context, the district court did not abuse its discretion by denying Fitch’s motion for PI.

Accordingly, the district court’s judgment is AFFIRMED. Fitch’s motions for appointment of counsel and for leave to file a supplemental document are DENIED.

¹ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

LAMONT FITCH

§

VS.

§

CIVIL ACTION NO. 1:20cv246

UNITED STATES OF AMERICA

§

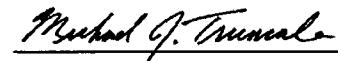
ORDER

The Court previously entered an order denying a motion for preliminary injunction filed by plaintiff. In denying the motion, the Court relied on a Report and Recommendation of United States Magistrate Judge that was adopted by the Court. At the time the order was entered, no objections to the Report and Recommendation had been filed. However, plaintiff subsequently filed objections, as well as a motion asking the court to reconsider its decision.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court is of the opinion the objections are without merit. Plaintiff seeks preliminary injunctive relief with respect to events which took place outside this judicial district by people who are not parties to this lawsuit. The magistrate judge correctly concluded that granting such relief would not be appropriate. The relief plaintiff seeks should be pursued by filing a separate lawsuit in the applicable federal judicial district.

It is accordingly ORDERED that plaintiff's objections [Dkt. 16] are OVERRULED and that the motion for reconsideration [Dkt. 19] is DENIED.

SIGNED this 27th day of January, 2023.



Michael J. Truncal
United States District Judge



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1 OF 2

United States Court of Appeals

for THE NINTH Circuit

125 South Grand Ave, 1ST FL

PASADENA, CA 91105-1621

June 20, 2021

Lamont Fitch

#12384-050

USP Victorville P.O. Box 3900

Adelanto, CA 92301

RE: Case No. 5:21-cv-00651-LA

To whom it may concern:

I seek to lodge a Complaint against Clerk Staff and the Court of the U.S. District Court, Central District of California, at 255 East Temple Street, Room 180 Los Angeles, CA 90012. My Complaint consists of, but not limited to, obstructing / denying access to the Court, and encouraging federal Counter parts (Within the Executive Branch) at federal jails within its jurisdiction to obstruct Complaints and retaliate against Plaintiff(s).

There is an unpublished phenomena occurring where the "Separation-of-powers" Scheme is suspended, and where Certain judicial Officials and Staff ^{are} performing in collusion with Bad Faith Executive and/or private party interests. The effect of this has been death Sentences (Without



**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
P.O. Box 193939
95 Seventh Street
San Francisco, CA. 94119-3939**

August 3, 2021

Lamont Fitch
12384-050
USP Victorville
P.O. Box 3900
Adelanto, CA 92301

Dear Mr. Fitch:

We received your recent correspondence to the court. The documents did not include a case number, and we were unable to find any relevant cases pending in our court. The correspondence also did not claim to be a new petition over which this court has jurisdiction, and we have found no basis to treat it as a new petition. We are therefore returning the correspondence to you.

For any future communications with the court, please be aware:

- All communications should be addressed to the Clerk and not to specific judges. *See 9th Cir. R. 25-2.*
- All filings must include this court's case number on the first page, or clearly state the filing is a new petition within this court's jurisdiction.
- This court's jurisdiction is defined by federal statute. The court cannot review state court decisions. The court can decide appeals from final orders and certain interlocutory orders of the Ninth Circuit's federal district courts and Bankruptcy Appellate Panel. The court can also decide petitions for review or enforcement of orders by various federal agencies, and certain petitions for writs of mandamus and prohibition.
- The court's rules and procedures can be found at www.ca9.uscourts.gov.



2022

(Do Process)

To advise U.P.

Sincerely,

F.I.C.

All Concerned

Cert Mail # 7020 0640 0102 1345 2998

C. Fitch

Lamont Fitch

12384-050

USP Victorville P.O. Box 3900

Adelanto, CA 92301

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

LAMONT FITCH §
VS. § CIVIL ACTION NO. 1:20cv246
UNITED STATES OF AMERICA §

ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

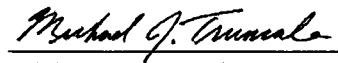
Plaintiff Lamont Fitch, proceeding *pro se*, filed this lawsuit. The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge. The magistrate judge submitted a Report and Recommendation of United States Magistrate Judge recommending that a motion for preliminary injunction filed by plaintiff be denied.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. No objections were filed to the Report and Recommendation.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge [Dkt. 13] is ADOPTED as the opinion of the Court. The motion for preliminary injunction [Dkt. 11] is DENIED.

SIGNED this 28th day of June, 2022.



Michael J. Truncal
United States District Judge

App. "E"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

LAMONT FITCH §
VS. § CIVIL ACTION NO. 1:20cv246
UNITED STATES OF AMERICA §

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Lamont Fitch, proceeding *pro se*, filed the above-styled lawsuit. This matter was referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636 for conclusions of law, and recommendations for the disposition of the case.

Pending before the court is a motion for a preliminary injunction (doc. no. 11). Plaintiff is incarcerated at the United States Penitentiary at Victorville, California (“USP-Victorville”). USP-Victorville is located in another judicial district. It would not be appropriate to grant plaintiff preliminary injunctive relief based on events which occurred in another judicial district and against individuals who are not defendants in this lawsuit. Plaintiff’s motion should therefore be denied.

Recommendation

Plaintiff’s motion for a preliminary injunction should be denied.

Objections

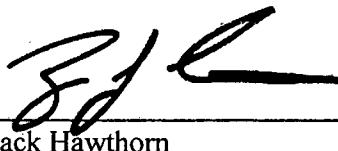
Within 14 days after receipt of the magistrate judge’s report, any party may serve and file written objections to the findings of facts, conclusions of law and recommendations of the magistrate judge. 28 U.S.C. § 636 (b)(1)(C).

Failure to file written objections to the proposed findings of facts, conclusions of law and recommendations contained herein within 14 days after service shall bar an aggrieved party from

App "f"

de novo review by the district court of the proposed findings, conclusions and recommendations and from appellate review of factual findings and legal conclusions accepted by the district court except on grounds of plain error. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1429 (5th Cir. 1996) (*en banc*); 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72.

SIGNED this 2nd day of June, 2022.



Zack Hawthorn
United States Magistrate Judge