

NOT RECOMMENDED FOR PUBLICATION

No. 24-1520

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Dec 12, 2024

KELLY L. STEPHENS, Clerk

DARRELL LAMAR MARSHALL,

Plaintiff-Appellant,

v.

CITY OF DETROIT, MI; WAYNE COUNTY, MI,

Defendants-Appellees.

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

ORDER

Before: SUHRHEINRICH, SILER, and READLER, Circuit Judges.

Pro se Michigan plaintiff Darrell Lamar Marshall appeals the district court's order denying his Federal Rule of Civil Procedure 60(b) motion to vacate the judgment. 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).

We review the denial of a Rule 60(b) motion for an abuse of discretion. *Burrell v. Henderson*, 434 F.3d 826, 831 (6th Cir. 2006). Upon review, we conclude that Marshall has failed to establish an abuse of discretion by the district court, and we therefore **AFFIRM** the district court's order.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRELL L. MARSHALL,

Plaintiff,

vs.

Case No. 00-CV-74576
HON. GEORGE CARAM STEEH

CITY OF DETROIT, and
WAYNE COUNTY,

Defendants.

ORDER DENYING MOTION TO VACATE
JUDGMENT WITHOUT PREJUDICE (DOC. 107)
AND DENYING MOTION FOR RECUSAL (ECF NO. 108)

On November 21, 2000, plaintiff filed this lawsuit against the City of Detroit, Wayne County Probate Court, and the Wayne County Department of Mental Health, claiming that the defendants engaged in a conspiracy to cover up a head injury that the Detroit police inflicted on him in 1984. The wrongdoing attributed to defendants is that they influenced an improper diagnosis that he is paranoid schizophrenic. This court dismissed the complaint as frivolous after concluding that plaintiff's allegations did not state a legally cognizable claim. ECF No. 6.

This case was not the first lawsuit brought by plaintiff regarding the underlying incident. In addressing plaintiff's abuse of the judicial process,

the court enjoined plaintiff from filing any new actions relating to the underlying incident without obtaining leave of court. In the two decades since that order was issued, plaintiff has made numerous attempts to reinstate his case, transfer his case and vacate the restraining order. Each attempt, and its corresponding appeal, has been unsuccessful.

Against this background, the matter is once again before the court on plaintiff's motion to vacate the November 21, 2000 restraining order. ECF No. 107. Plaintiff's first two arguments relate directly to the underlying claim that defendants conspired to cover up a brain injury that the police inflicted on him. These arguments and related exhibits have been presented to the court numerous times and do not provide a basis for vacating the restraining order.

The third argument relates to an allegation that plaintiff's tax preparer committed fraud in preparing his tax return to obtain a refund to which he was not entitled. Plaintiff contends that the tax preparer fraudulently inflated his income and he admits that he received a refund of \$10,000, \$2,000 of which he paid to the preparer. Plaintiff acknowledges that he had at least some awareness of the fraudulent scheme. What plaintiff did not anticipate is that the Social Security Administration would decrease his SSI payments

from \$914 a month to zero because IRS records reflected an increase in plaintiff's income.

Plaintiff's tax fraud allegations are not related to the underlying claims in this case. However, plaintiff has failed to comply with the requirements set forth in the court's order as conditions precedent to obtaining leave to file a new legal action. In particular, plaintiff must provide the court with:

- 1) the proposed complaint that he seeks permission to file; and
- 2) a Declaration prepared pursuant to 28 U.S.C. § 1746 or a sworn Affidavit certifying the claim he wishes to pursue is a new issue which he has never before raised in any court.

The court admonishes plaintiff that, assuming he has not previously pursued his tax fraud allegations in any court, this court will not approve his proposed complaint if it includes allegations related to the underlying claims that form the basis of the above-captioned complaint. To be clear, the court will not permit plaintiff to file a new case that includes claims related to his alleged conspiracy that the defendants engaged in to cover up a head injury that the Detroit police inflicted on him in 1984.

Plaintiff has also filed a motion asking the court to recuse itself from

this case because it has ignored the evidence presented by plaintiff and continues to treat him as a vexatious litigant. Over the past two decades the court has addressed each of plaintiff's numerous motions and finds his assertions of bias and retaliation to be without merit.

Now, therefore,

IT IS HEREBY ORDERED that plaintiff's motion to vacate judgment (ECF No. 107) is DENIED without prejudice.

IT IS HEREBY FURTHER ORDERED that plaintiff's motion for recusal (ECF No. 108) is DENIED.

Dated: June 6, 2024

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on June 6, 2024, by electronic and/or ordinary mail and also on Darrell Marshall, 15794 Steel Street, Detroit, MI 48227.

s/LaShawn Saulsberry
Deputy Clerk