

No. 24-1262

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

Jan 6, 2025

KELLY L. STEPHENS, Clerk

In re: GANIYU AYINLA JAIYEOLA,

Petitioner.

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)O R D E R

Before: STRANCH, THAPAR, and READLER, Circuit Judges.

Petitioner Ganiyu Ayinla Jaiyeola brought a motor vehicle product liability case against Toyota Motor Corporation and Aisan Industry Company, Ltd. The district court granted summary judgment in favor of the defendants, and this Court affirmed. *Jaiyeola v. Toyota Motor N. Am., Inc.*, No. 19-1918, 2021 U.S. App. LEXIS 2781, at *17 (6th Cir. Feb. 1, 2021) (order). After the issuance of our decision, Jaiyeola filed numerous motions for reconsideration and various forms of relief in the district court. Because of Jaiyeola's excessive, frivolous filings, the district court prohibited him from filing any additional motions and began rejecting further motions. Jaiyeola then petitioned to appeal one of those rejections. This Court denied his petition. *In re Jaiyeola*, No. 23-0105, 2023 U.S. App. LEXIS 29258, at *2 (6th Cir. Nov. 2, 2023) (order).

Jaiyeola now petitions for a writ of mandamus, asking that we (1) vacate our order and judgment in No. 23-0105; (2) disqualify Judges Stranch, Thapar, and Readler; and (3) direct the district court to accept his motion for relief from judgment. He also moves to supplement his petition with additional analysis. Although Jaiyeola requests oral argument, we unanimously agree that the facts and legal arguments are adequately presented in the briefs and record such that oral argument is not needed. *See* Fed. R. App. P. 34(a)(2)(C).

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First, as to Jaiyeola's motion to supplement his petition, he seeks leave to include additional analysis of the mandamus standard in his mandamus petition. Given his pro se status, granting that motion and considering his additional arguments is appropriate. *Cf. Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (recognizing that pro se filings are to be liberally construed). We have, therefore, given full consideration to the arguments he includes in his motion to supplement.

However, even in light of Jaiyeola's additional arguments, mandamus "is a 'drastic and extraordinary' remedy 'reserved for really extraordinary causes.'" *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380 (2004) (quoting *Ex parte Fahey*, 332 U.S. 258, 259–60 (1947)). "As the writ is one of the most potent weapons in the judicial arsenal, three conditions must be satisfied before it may issue." *Id.* (cleaned up). "First, the party seeking issuance of the writ must have no other adequate means to attain the relief he desires—a condition designed to ensure that the writ will not be used as a substitute for the regular appeals process." *Id.* at 380–81 (cleaned up). "Second, the petitioner must satisfy the burden of showing that his right to issuance of the writ is clear and indisputable." *Id.* at 381 (cleaned up). "Third, even if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances." *Id.* (citation omitted).

As it relates to Jaiyeola's request to vacate our order and judgment in No. 23-0105, Jaiyeola has already availed himself of other adequate means to attain the relief he desires by petitioning, albeit unsuccessfully, for rehearing. *See Rimmer v. Holder*, 700 F.3d 246, 262 (6th Cir. 2012) ("Adequacy does not depend on a party's ability to prevail on the merits . . ."). At this juncture, his petition plainly seeks to use the writ as a substitute for the regular appeals process. *See Cheney*, 542 U.S. at 380. And for substantially similar reasons, mandamus is not warranted to alter the

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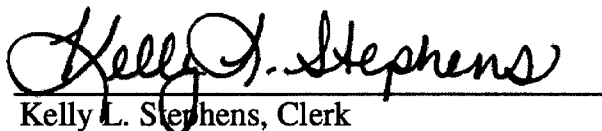
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district court's filing restrictions against him. Jaiyeola has already obtained fulsome appellate review of that issue.

Nor is mandamus appropriate for disqualification in this matter. Disqualification is required only when a judge's impartiality might reasonably be questioned or the judge has a bias based on personal knowledge, relationships, or financial interests. 28 U.S.C. § 455(a)–(b). But the bias must stem from “some source other than participation in the proceedings or prior contact with related cases.” *Youn v. Track, Inc.*, 324 F.3d 409, 423 (6th Cir. 2003) (quotation omitted). Jaiyeola cites no basis for disqualification except for our unfavorable ruling. This is insufficient to show a clear and indisputable right to the writ.

Accordingly, the motion to supplement is **GRANTED** and the petition for a writ of mandamus is **DENIED**.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GANIYU AYINLA JAIYEOLA,

Plaintiff,

v.

TOYOTA MOTOR
NORTH AMERICA, et al.,

Defendants.

Case No. 1:17-cv-562

HON. JANET T. NEFF

ORDER

On December 16, 2020, Plaintiff was placed on Restricted Filer Status (ECF No. 342 at PageID.7403). By Order “no additional filings by Plaintiff shall be docketed in this case absent an order of the Court upon a motion for leave to file by Plaintiff, showing good cause for the filing” (*id.*).

Now before the Court are the following motions from Plaintiff: Motion for Leave to file a Motion for Relief from Judgment (ECF No. 369); Motion for Leave to File Reply to Defendant’s Response (ECF No. 373); Motion for Leave to File a Motions for Sanctions (ECF No. 375); Motion for Leave to File a Reply to Defendants’ Response (ECF No. 381); Motion for Leave to File a Reply to Defendants’ Response (ECF No. 384); Motion for Leave to File a Motion for Sanctions (ECF No. 387); Motion for Leave to File a Reply to Defendants’ Response (ECF No. 392); Motion for Leave to File a Response to Defendants’ Motion (ECF No. 394); Motion for Leave to File a Motion to take Judicial Notice (ECF No. 396); Motion for Leave to File a Notice (ECF No. 398); and Motion for Leave to File a Reply (ECF No. 402).

Plaintiff continues to file frivolous motions and relitigate issues already decided. A party may not use FED. R. CIV. P. 60(b) as an occasion to relitigate the case. *See Barnes v. Clinton*, 57 F. App'x 240, 241 (6th Cir. 2003). Therefore,

IT IS HEREBY ORDERED that the Motion for Leave to file a Motion for Relief from Judgment (ECF No. 369) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File Reply to Defendants' Response (ECF No. 373) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Motions for Sanctions (ECF No. 375) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Reply to Defendants' Response (ECF No. 381) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Reply to Defendants' Response (ECF No. 384) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Motion for Sanctions (ECF No. 387) is DENIED.

IT IS FURTHER ORDERED that Defendants' Motion Requesting Ruling On and Denial of Plaintiff's Pending Motions for Leave at ECF Nos. 387, 384, 381, 375, 373 and 369 (ECF No. 391) is GRANTED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Reply to Defendants' Response (ECF No. 392) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Response to Defendants' Motion (ECF No. 394) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Motion to take Judicial Notice (ECF No. 396) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Notice (ECF No. 398) is DENIED.

IT IS FURTHER ORDERED that the Motion for Leave to File a Reply (ECF No. 402) is DENIED.

IT IS FURTHER ORDERED that the Clerk shall reject any further filings by Plaintiff in this case.

Dated: December 10, 2021

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GANIYU AYINLA JAIYEOLA,

Plaintiff,

v.

TOYOTA MOTOR NORTH
AMERICA, INC., et al.,

Defendants.

Case No. 1:17-cv-562

HON. JANET T. NEFF

ORDER

Judgment was entered in this case in favor of Defendants on August 5, 2019. This matter is before the Court on two post-judgment motions filed by Plaintiff: (1) "Plaintiff's Motion for Reconsideration of An Appeal to the District Judge (ECF No. 336)" (ECF No. 337), and (2) "Plaintiff's Motion for Disqualification of A Judge Pursuant to 28 U.S.C. § 455(a) and Constitutional Due Process Clauses, US Const, Ams V, XIV" (ECF No. 339). Defendants have filed a Response in opposition to the Motion for Disqualification (ECF No. 341).

The Court previously placed Plaintiff on notice that this case is TERMINATED, and the Court has rendered a final decision on the matter of costs; further, if Plaintiff files subsequent motions, notices or other documents that lack any appropriate legal and/or factual basis in this closed case, such filings will be summarily denied or rejected by the Court (Order, ECF No. 336). Plaintiff's instant motions essentially re-present issues already decided by the Court and will be summarily denied.

Plaintiff seeks reconsideration of this Court's November 10, 2020 Order denying Plaintiff's Appeal of the Magistrate Judge's order granting in part and denying in part Plaintiff's motion for reconsideration of a partial award of costs to Defendants following judgment in their favor. Both the Magistrate Judge and the undersigned previously, fully considered Plaintiff's arguments on costs, both initially and on reconsideration. This Court fully explained the basis for its decision in light of the applicable legal authority, and specifically, Sixth Circuit precedent, by which this Court is bound. Contrary to Plaintiff's assertion, the Court did not commit plain error warranting reconsideration by *sua sponte* modifying its determination and stating no legal standard (*see* ECF No. 337 at PageID.7359, 7365).

With regard to Plaintiff's motion for disqualification, this Court previously found that Plaintiff's motion for disqualification of Magistrate Judge Sally J. Berens had no merit, and denied the motion to the extent a further ruling was necessary by the undersigned (Order, ECF No. 336 at PageID.7349). Plaintiff's current refiling of the same motion as to the undersigned likewise has no merit for the same reasons, as set forth in Defendants' Response. Plaintiff has shown no "bias or prejudice arising from an 'extrajudicial source,'" or any other cognizable ground for disqualification (*see id.* at PageID.7349-7351, citing *Liteky v. United States*, 510 U.S. 540, 551 (1994)). Plaintiff merely attempts to infer bias from the Court's rulings; however, "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *See Liteky*, 510 U.S. at 555. The undersigned's characterization of Plaintiff's assertions as "attacks" does not change this result.

Because Plaintiff's continued, repetitive filings place an undue burden on the time and resources of the Court, Plaintiff will be placed on Restricted Filer status, and no additional filings by Plaintiff shall be docketed in this case absent an order of the Court upon a motion for leave to

file by Plaintiff, showing good cause for the filing.

Therefore:

IT IS HEREBY ORDERED that “Plaintiff’s Motion for Reconsideration of An Appeal to the District Judge (ECF No. 336)” (ECF No. 337) is DENIED.

IT IS FURTHER ORDERED “Plaintiff’s Motion for Disqualification of A Judge Pursuant to 28 U.S.C. § 455(a) and Constitutional Due Process Clauses, US Const, Ams V, XIV” (ECF No. 339) is DENIED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

IT IS FURTHER ORDERED that the Clerk of the Court shall place Plaintiff on Restricted Filer status, and no additional filings by Plaintiff shall be docketed in this case absent an order of the Court upon a motion for leave to file by Plaintiff, showing good cause for the filing.

Dated: December 16, 2020

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GANIYU AYINLA JAIYEOLA,

Plaintiff,

v.

TOYOTA MOTOR NORTH
AMERICA, INC., et al.,

Defendants.

Case No. 1:17-cv-562

HON. JANET T. NEFF

OPINION AND ORDER

This matter is before the Court on Plaintiff's Appeal (ECF No. 252) of a Magistrate Judge order denying reconsideration, and Plaintiff's Objections (ECF No. 291) to a Report and Recommendation of the Magistrate Judge, recommending that Plaintiff's Motion for Summary Judgment be denied; Defendants' Motion for Summary Judgment be granted; and this case be terminated. Plaintiff has also since filed nine additional various motions, including for further reconsideration and sanctions. The Court has reviewed the Magistrate Judge's order for error and has performed de novo consideration of those portions of the Report and Recommendation to which objection has been made. *See* 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3). The Court denies the Appeal and the Objections. None of Plaintiff's various subsequent motions affect this result, and they are therefore denied as moot. This case is properly terminated.

I. Plaintiff's Appeal

Plaintiff appeals the Magistrate Judge's order denying Plaintiff's motion for reconsideration of Plaintiff as an expert witness in this case. This Court will reverse an order of

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the Magistrate Judge only where it is shown that the decision is “clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A); *see also* FED. R. CIV. P. 72(a); W.D. Mich. LCivR 72.3(a). “‘A finding is ‘clearly erroneous’ when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.’” *United States v. Mabry*, 518 F.3d 442, 449 (6th Cir. 2008) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

The Magistrate Judge denied reconsideration of her decision that Plaintiff’s Rule 26 disclosure of himself as an expert witness was untimely and that Plaintiff is precluded from testifying in this matter as an expert witness. Plaintiff asserts that the Magistrate Judge “got the facts” wrong on “Plaintiff’s untimeliness” because Plaintiff was not required to formally file his Rule 26 disclosures (ECF No. 252 at PageID.6126). Nonetheless, Plaintiff acknowledges that he was untimely in identifying himself as an expert, and argues his untimeliness was harmless (*id.* at PageID.6130).

Plaintiff has failed to show that the Magistrate Judge’s order was clearly erroneous or contrary to law and that Defendants were not prejudiced by his untimeliness. As set forth in Defendants’ Response (ECF No. 272), the Magistrate Judge’s decision is fully supported by the record. The Magistrate Judge noted that Plaintiff conceded his Rule 26(a)(1) disclosures were untimely, but argued that Defendants were not prejudiced by Plaintiff’s untimely attempt to identify himself as an expert witness (ECF No. 245 at PageID.5716). The Magistrate Judge further noted that Plaintiff’s untimely disclosure did not comply with the requirements of Rule 26, and that the disclosure must be accompanied by a written report, as expressly required in the Case Management Order (*id.*). Plaintiff’s failure to provide the requisite expert report was prejudicial to Defendants (*id.* at PageID.5717). Moreover, Plaintiff’s failure to provide the written report was

continuing, and therefore the prejudice to Defendants continued (*id.*). The Magistrate Judge properly denied reconsideration—Plaintiff failed to “demonstrate a palpable defect by which the Court and the parties have been misled” and, that “a different disposition of the case must result from a correction thereof.” W.D.Mich. LCivR 7.4(a) (*see* ECF No. 245 at PageID.5716).

Plaintiff makes additional arguments, such as that the Magistrate Judge erred in treating Defendants’ objection to Plaintiff identifying himself as an expert, as a motion, but none of these arguments change the outcome. Plaintiff’s Appeal is denied.

II. Plaintiff’s Objections

After lengthy proceedings in this case, the Magistrate Judge issued a Report and Recommendation, recommending that Defendants’ motion for summary judgment be granted and Plaintiff’s motion for summary judgment be denied. The Magistrate Judge determined that Plaintiff’s claims, for (1) negligent production; (2) breach of implied warranty; (3) gross negligence; (4) breach of express warranty; and (5) failure to warn, were in effect, a product liability action, as Plaintiff acknowledged (ECF No. 260 at PageID.6189-6190). However, Plaintiff had failed to submit any expert testimony or expert evidence in support of his claims, as required to maintain a product liability action under Michigan law (*id.* at PageID.6190). The only “evidence” cited by Plaintiff was his own “expert report,” which was held inadmissible (*id.*). Thus, Plaintiff had failed to present or identify any admissible evidence creating a genuine factual dispute necessitating a trial, and Defendants were entitled to summary judgment (*id.*).

Plaintiff sets forth four objections to the Report and Recommendation: (1) the Magistrate Judge should have recused herself from this case before the Report and Recommendation was filed; (2) the Report and Recommendation was premature because it was filed before many of Plaintiff’s pleadings; (3) the Magistrate Judge failed to properly apply the summary judgment

standards in analyzing the parties' cross-motions; and (4) the Magistrate Judge denied Plaintiff's his due process rights by not applying any legal standard or analysis to back up the recommendation that this case be "terminated." None of the arguments raised by Plaintiff in his objections undermines the Magistrate Judge's analysis or conclusion that Plaintiff's substantive legal claims fail as a matter of law.

As set forth in Defendants' Response, nothing of record establishes personal bias or prejudice such that the Magistrate Judge was required to recuse herself from this case. At most, Plaintiff takes issue with the Magistrate Judge's adverse rulings. "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994); *see Traficant v. C.I.R.*, 884 F.2d 258, 267 (6th Cir. 1989). Further, Plaintiff fails to show how any pleadings he submitted—that allegedly were filed by the Clerk after the Report and Recommendation or that were not considered by the Magistrate Judge—change the outcome of the substantive legal claims or denied him due process with respect to the cross-motions for summary judgment.

This Court finds no merit in Plaintiff's argument that the Magistrate Judge failed to properly apply the standards for summary judgment. The Magistrate Judge set forth, and correctly applied, the summary judgment standards in the Report and Recommendation (*see* ECF No. 260 at PageID.6188-6189). The Magistrate Judge properly determined that there was no "genuine factual dispute necessitating a trial" (*id.* at PageID.6190). Plaintiff's mere disagreement with the outcome does not establish a valid objection. Finally, Plaintiff's objection to the termination of this case likewise is without merit. Having determined that Plaintiff's legal claims fail, and Defendants are entitled to summary judgment, this case is properly terminated.

The Magistrate Judge's decision is sound and is supported by the record and the governing law. Therefore, the Court denies the Objections and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court.

To the extent that Plaintiff relies on his *in forma pauperis* status in further litigating this case, the Court also certifies pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

III. Plaintiff's Motions

Plaintiff has filed numerous motions for leave to seek reconsideration of rulings in this case, as well as for sanctions, to make additional filings, and to strike Defendants' filings subsequent to the Report and Recommendation. This case has been thoroughly litigated and properly decided on the record. None of Plaintiff's pending motions affect the outcome and they are therefore denied as moot.

A Judgment will be entered consistent with this Opinion and Order. *See Fed. R. Civ. P.* 58.

Therefore:

IT IS HEREBY ORDERED that Plaintiff's Appeal (ECF No. 252) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Objections (ECF No. 291) are DENIED, and the Report and Recommendation of the Magistrate Judge (ECF No. 260) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's various subsequent Motions (ECF Nos. 264, 265, 266, 268, 277, 279, 281, 283, 285) are DENIED as moot.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

IT IS FURTHER ORDERED that Plaintiff is placed on notice that this case is now TERMINATED upon entry of this Opinion and Order and the Judgment, and if Plaintiff files motions, notices or other documents that lack any appropriate legal and/or factual basis after this case is terminated, such filings will be summarily denied or rejected by the Court.

Dated: August 5, 2019

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge

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