APPENDIX

Appendix
Table of Contents

1. Table of Contents.....A-1
2. 5th Circuit Court of Appeals November 11, 2025 decision in *Prewitt v. McDaniel*, No. 25-60225.....A-2
3. District Court decision in No. 3:23-cv-03015....A-9
4. Dist. Ct. Recusal Motion.....A-27
5. Plaintiff-Appellant's principal appellate brief in *Prewitt v. McDaniel*, No. 25-60225.....A-31
6. Plaintiff's complaint in No. 3:23-cv-03015.....A-60
7. Traffic Ticket.....A-72

GEORGE DUNBAR PREWITT, JR.
Plaintiff-Appellant,

v.

JAMES KENT McDANIEL, Defendant-Appellee.

No. 25-60225 Summar Calendar.

United States Court of Appeals, Fifth Circuit.

Filed November 11, 2025.

Appeal from the United States District Court for the Southern District of Mississippi USDC No. 3:23-CV-3015.

Before WIENER, WILLETT, and WILSON, Circuit Judges.

PER CURIAM.

Pro se Plaintiff-Appellant George Dunbar Prewitt, Jr. appeals the district court's denial of his claims against County Court Judge James Kent McDaniel arising from a speeding-ticket conviction and its denial of his motion to disqualify the district judge. Prewitt now also moves to disqualify certain Fifth Circuit judges. We affirm the judgment of the district court and deny Prewitt's motion.

I.

In May 2019, George Dunbar Prewitt, Jr. received a speeding ticket for driving 78 mph in a 65 mph zone in Yazoo County, Mississippi. After being found guilty in Yazoo County Justice Court, Prewitt appealed the conviction to the County Court of Yazoo

County. For administrative reasons, the Chief Justice of the Mississippi Supreme Court appointed Judge James Kent McDaniel, then a judge on the County Court of Rankin County, Mississippi, to preside over Prewitt's appeal by trial de novo. On October 19, 2023, Judge McDaniel conducted that trial, again finding Prewitt guilty and ordering him to pay a $179.50 fine.

> On October 18, 2023, the day before Prewitt's speeding-ticket appeal was heard, however, Prewitt filed a federal lawsuit against Judge McDaniel, asserting that his original speeding-ticket proceeding (the one in Yazoo County Justice Court, rather than the one presided over by Judge McDaniel in Yazoo County Court) violated his constitutional rights. [l]

Specifically, Prewitt argued that the trial was held without a jury and in a county where the offense did not occur. He also used this as an opportunity to challenge the legitimacy of the 1890 Mississippi Constitution. He then moved to disqualify the federal district judge, based on his belief that an alleged "progeny of American enslavers" could not "fairly adjudicate" his case because Prewitt is "a descendant of American slaves."

The district court dismissed Prewitt's complaint, ruling that he failed to establish an injury in fact and thus lacked standing under Article Ill. The court also denied Prewitt's motion to disqualify the district judge. On appeal, Prewitt challenges these rulings.

He separately moves to disqualify certain Fifth Circuit judges.

> We review a district court's decision on a Rule 12(b)(6) motion de novo, accepting all well-pleaded facts as true and viewing those facts in the light most favorable to the plaintiff." Ferquson v. Bank of New York Mellon Corp. 802 F.3d 777 ,780 (5th Cir. 2015) (citation modified) (quoting Stokes v. Gann 498 F.3d 483 484 (5th Cir. 2007)).

A recusal motion under 28 U.S.C. S 455 is committed to the sound discretion of the district judge. Chitimacha Tribe of La. v.Harry L. L. Co. 690 F.2d 1157 1166 (5th Cir. 1982). "In reviewing a district court's denial of a motion to recuse, 'we ask only whether [the judge] has abused that discretion.'" Matter of Billedeaux 972 F.2d 104 106 (5th Cir. 1992) (quoting Chitimacha Tribe 690 F.2d at 1166).

Federal courts are not "publicly funded forums for the ventilation of public grievances." Valley Forge Christian Coll. v. Ans. United for Separation of Church & State, Inc., 454 U.S. 464, 473 (1982). A plaintiff must have standing to proceed in federal court. Id. Article Ill of the United States Constitution requires an actual case or controversy giving the court subject matter jurisdiction. See id. To establish Article Ill standing, a plaintiff must prove three things: (1) an injury in fact; (2) a traceable causal connection; and (3) redressability. Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992). "Abstract injury is not enough." City of Los Angeles v. Lyons, 461 U.S.

95, 101 (1983). Rather, the "plaintiff must show that he has sustained or is immediately in danger of sustaining some direct injury as the result of the challenged . conduct and the injury or threat of injury must be both real and immediate, not conjectural or hypothetical." [d. at 101-02 (internal quotation marks omitted).

Prewitt's constitutional claims fail at every turn. His speeding ticket was a petty offense carrying a maximum penalty of six months, so he had no right to a jury trial under either the Sixth Amendment or Article Ill. See Blanton v. City of N. Las Vegas% 489 U.S. 538, 541 (1989) ("It has long been settled that there is a category of petty crimes or offenses which is not subject to the Sixth Amendment jury trial provision.") (quotation omitted); Landry v. Hoepfner, 840 F.2d 1201, 1205 n. 10 (5th Cir. 1988) ("[T]here is no distinction between the jury trial provisions of Article Ill, Section 2, and the Sixth Amendment with respect to the grade or character of offense which gives rise to entitlement to a jury."). Because no jury trial right attached, the Sixth Amendment's venue clause—requiring trial in the "State and district wherein the crime shall have been committed"—is likewise inapplicable. Prewitt's contention that the proceeding occurred in the wrong county therefore raises no constitutional concern.

Nor does Prewitt plausibly allege a violation of his right to a public trial. His conclusory assertion that others were asked to wait in the lobby while trial occurred behind closed doors without any indication of duration, justification, or resulting harm —does not establish a Sixth Amendment deprivation. See

United States v. Lipscomb, 539 F.3d 32, 42-43 (1 st Cir. 2008) (bare assertion that the courtroom was temporarily locked, supported only by a short, unsworn, handwritten note, was insufficient to show deprivation of defendant's Sixth Amendment right to public trial), cert. denied, 555 U.S. 1124 (2009). In sum, Prewitt's bare allegations fall well short of showing any concrete injury or constitutional violation. Accordingly, the district court was correct to dismiss Prewitt's complaint.

Prewitt's contention that the 1890 Mississippi Constitution is "illegal" is likewise without merit. The United States Supreme Court has repeatedly adjudicated disputes involving the Mississippi Constitution and has never suggested that its manner of adoption renders it illegitimate. See, e.g., Yazoo & M. V.R. Co. v. Adams, 180 U.S. 1 (1901); Mobile, Jackson & Kansas City R. Co. v. Turnipseed, 219 U.S. 35 (1910); Mississippi v. Arkansas, 415 U.S. 289 (1974). Prewitt fails to show otherwise.

B.

To obtain recusal under 28 U.S.C. S 455, "[t]he movant must show that, if a reasonable man knew of all the circumstances, he would harbor doubts about the judge's impartiality." Chitimacha Tribe 690 F.2d at 1165. "A *remote, contingent, or speculative' interest is not one "which reasonably brings into question a judge's partiality.'" Matter of Billedeaux, 972 F.2d at 106 (quoting In re Drexel Burnham Lambert Inc., 861 F.2d 1307, 1313 (2d Cir. 1988), cert. denied, 490 U.S. 1102 (1989)).

Disagreement with a court's prior decisions is not a proper basis to seek recusal. See Wiley v. Dep't of Energy No. CV 21933, 2021 WL 2853110, at *4 (E.D. La. July 8, 2021). "[A] federal judge has a duty to sit where not disqualified which is equally as strong as the duty to not sit where disqualified." Laird v. Tatum, 409 U.S. 824, 837 (1972).

The court finds no abuse of discretion in the district court's denial of Prewitt's recusal motion. Prewitt's allegations of bias, based on the judge's alma mater and speculative claims about his ancestry, rest on conjecture, not fact. And dissatisfaction with a judge's prior rulings provides no basis for disqualification. Nor may a litigant dictate the assignment of a judge. [2] The district court properly rejected these meritless arguments.

Prewitt also moves to disqualify certain Fifth Circuit judges. [3] His motion lacks any valid basis. Under 28 U.S.C. S 455, recusal is required only where a judge's impartiality might reasonably be questioned based on objective facts, not on conjecture or broad sociopolitical criteria. Prewitt offers none. His proposed disqualifications—encompassing any judge with ancestral ties to slavery, prior rulings with which he disagrees, or membership in unspecified organizations—are speculative, overbroad, and unrelated to any personal bias in this case. Accordingly, the court finds no reasonable basis for recusal.

For the foregoing reasons, the judgment of the federal district court is AFFIRMED. Prewitt's motion to disqualify certain Fifth Circuit judges is DENIED.

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

[I] The complaint names Judge McDaniel but does not explain why Prewitt chose to sue him in particular.

Prewitt mistakenly believes that he can dictate the qualities of the judge assigned to his case.

Specifically, Prewitt wishes to disqualify any judge "(a) whose family tree history indicates ties with American Slavery in any respect, (b) judicial decisions indicate a possibility enmity, or reticence, to enforce the constitutional guarantees of equality of all, (c) who has participated, at any time, in any activity that seeks to humiliate or ostracize the American Slaves and the descendants whether in *blackface' or some similar behavior, and (d) who has been, or is now, a member of any organization that seeks to defund any governmental benefit designed to benefit the descendants of American Slaves, including federal, state, and private programs that are aimed at ameliorating the lasting effects of American Slavery."

United States District Court
For the Southern District of Mississippi
Northern Division

GEORGE DUNBAR PREWITT, JR. PLAINTIFF

VS. CIVIL ACTION NO. 3:23-cv-03015-DCB-ASH

JAMES KENT MCDANIEL DEFENDANT

MEMORANDUM OPINION AND ORDER

BEFORE THE COURT are: (i) George Dunbar Prewitt, Jr. ("Plaintiff")'s Motion for Recusal of David C. Bramlette pursuant to 28 U.S.C. § 455 (a), [ECF No. 4]; (ii) James Kent McDaniel ("Defendant")'s Motion to Dismiss, [ECF No. 5]; and (iii) Plaintiff's Motion to Strike the Defendant's Motion to Dismiss, [ECF No. 7]. Plaintiff indicates in his complaint, [ECF No. 1] ¶ 1, and in his civil cover sheet, [ECF No. 1-2], that he filed this lawsuit under several Reconstruction era statutes: 14 Stat. 428 (March 2, 1867), 15 Stat. 2 (March 23, 1867), and 16 Stat. 67 (February 23, 1870) (the "Readmission Act"). Having examined the motions, the parties' submissions, and the applicable legal authority, the court finds that the Motion for Recusal should be denied and that the Motion to Dismiss should be granted. Given

the court's decision to dismiss this case, Plaintiff's Motion to Strike will be dismissed as moot.

BACKGROUND

The Complaint recounts the exact same traffic incident and repeats similar arguments that Plaintiff recently presented to this court in his unsuccessful attempt to remove an appeal of his misdemeanor speeding ticket conviction from the county court of Yazoo County, Mississippi, to federal court. See Yazoo County, Mississippi v. George Prewitt, Jr., Criminal No. 3:22-cr-113-DCB-LGI (S.D. Miss. Jan. 23, 2023) (order granting motion to remand; not reported in Westlaw or Lexis), aff'd Cnty. of Yazoo, Mississippi v. Prewitt, No. 23-60073, 2023 WL 7381440 (5th Cir. Nov. 7, 2023), cert. denied sub nom. Prewitt v. Yazoo Cnty., MS, No. 23-990, 2024 WL2116310 (U.S. May 13, 2024).

The underlying facts as recounted in the Complaint are: A state highway patrol officer issued a speeding ticket to Plaintiff in Yazoo County, Mississippi on Highway 49 "at/near" its intersection with Five Mile Road for driving 78 m.p.h. in a 65-m.-.h. zone. [ECF No. 1-1]. In his complaint, Plaintiff does not dispute that he was speeding. Rather, he disputes where the "speeding incident" occurred and claims that he was wrongly prosecuted without a "public trial" in a Yazoo County justice court in violation of the United States Constitution's Sixth Amendment. (ECF No. 1] ¶¶ 7-10 (emphasis in the

original). The Yazoo County justice court found Plaintiff guilty. Id. ¶ 10. Plaintiff appealed the judgment to the County court of Yazoo County, Mississippi. Id. ¶ 7. Mississippi supreme court chief justice, michael randolph, appointed Defendant, judge James Kent McDaniel, to preside over Plaintiff's appeal by trial de novo. Id. ¶¶ 3-7. Plaintiff claims that his pending state court appeal before Defendant violates the Sixth Amendment and Article III, Section 2 of the United States Constitution because it will "be held without a jury in Yazoo County court." Id. ¶ 3 (emphasis in the original).

I.

PLAINTIFF'S MOTION FOR RECUSAL

To obtain recusal under 28 U.S.C. § 455, a movant must show that a reasonable person, knowing all the circumstances, would harbor doubts about the judge's impartiality. Chitimacha Tribe of La. v. Harry L. Laws Co., Inc., 690 F.2d 1157, 1165 (5th Cir. 1982). The fifth circuit routinely holds that a reasonable person would not harbor doubts based on mere speculation. E.g., Matter of Billedeaux, 972 F.2d 104, 106 (5th Cir. 1992) ("A 'remote, contingent, or speculative' interest is not one 'which reasonably brings into question a judge's partiality.'")(quoting In re Drexel Burnham Lambert, Inc, Inc., 861 F.2d 1307, 1313 (2d Cir. 1988), cert. denied, 490 U.S. 1102 (1989); Chitimacha,

690 F.2d at 1167. Thus, a judge should not recuse himself based on unsupported or irrational speculation. Chitimacha, 690 F.2d at 1167 (remote and unrealistic speculation does not justify disqualification). "...[A] federal judge has a duty to sit where not disqualified which is equally as strong as the duty to not sit where disqualified." Laird v. Tatum, 409 U.S. 824, 837 (1972) (emphasis in the original). A recusal motion under Section 455(a) is committed to the sound discretion of the district judge. Id. at 1166.

In Liteky v. United States, 510 U.S. 540 (1994), the United States Supreme Court set forth principles generally applicable in Section 455(a) recusal cases:

First, judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. See United States v. Grinnel Corp., 384 U.S., at 583, 86 S.Ct., at 1710. ... Second, opinions formed by the judge on the basis of facts introduced or events occurring in the course of current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge. They may do so if they reveal an opinion that derives from an extrajudicial source; and they will do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible. Not establishing bias or partiality, however, are expressions of impatience,

dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display. A judge's ordinary efforts at

courtroom administration-even a stern and short-tempered judge's ordinary efforts at courtroom administration-remain immune. Liteky v. United States, 510 U.S. 540, 555-56 (1994) (Scalia, J.).

Applying precedent to the allegations of bias in Plaintiff's motion, the court finds that Plaintiff has stated no reasonable grounds for recusal. Among other things, Plaintiff complaints that the undersigned graduated from Princeton]University, which is not to Plaintiff's liking, [ECF No. 4] at 1, and he speculates, without factual support, that someone in the undersigned's family tree likely owned slaves. Id. at 1-2. Plaintiff also bases much of his motion for recusal on the adverse remand ruling that he received in this court, which was affirmed by the fifth circuit. Cnty. of Yazoo, Mississippi v. Prewitt, No. 23-60073, 2023 WL 7381440, (5th Cir. Nov. 7, 2023), cert. denied sub nom. Prewitt v. Yazoo Cnty., MS, No. 23-990, 2024 WL 2116310 (U.S. May 13, 2024). In short, the court finds that Plaintiff's arguments for recusal are based on speculation, overstatements, and dissatisfaction with prior judicial rulings, none of which is evidence of bias or a legitimate basis for recusal under federal law.

Plaintiff further requests in his motion that the undersigned be replaced by a "white person with no connection to slave-holding families...." [ECF No. 4]. This request

must be denied. Plaintiff does not have the authority to choose which judge hears his case. See Sgromo v. Scott, No. 19-cv-08170-HSG, 2020 WL 6136092, at *3 (N.D. Cal. Oct. 19, 2020), aff'd, No. 22-15199, 2023 WL 4703333 (9th Cir. July 24, 2023). In this District, judges are assigned according to the United States District Court for the Southern District of Mississippi Internal Rule 1, as amended (Case Assignment Order) (effective on 3/1/2024). ... This case was assigned in accordance with that rule. Plaintiff has presented no valid reason for the recusal or replacement of the assigned judge; his Motion for Recusal is therefore denied.

II.

DEFENDANT'S MOTION TO DISMISS

In his Motion to Dismiss, Defendant urges the Court to dismiss this lawsuit for lack of subject-matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1), or, alternatively, for failure to state a claim upon which relief can be granted under Rule (b)(6). [ECF No. 5] at 1. Specifically, Defendant argues that the court lacks subject matter jurisdiction under 12(b)(1) because: "Plaintiff

...Internal Rule 1 can be found on our District's website at: https://www.mssd.uscourts.gov/sites/mssd/files/Internal Rule 12 0240301.pdf

lacks standing to seek declaratory relief against judge McDaniel; and ... any claims sought to be asserted against judge McDaniel as a proxy for the State of Mississippi are barred by sovereign immunity. " Id. ¶ 4. Under Rule 12(b)(6), the defense contends that Plaintiff has failed to assert a viable claim against Defendant in his official capacity as a Yazoo County Court judge because there are "no allegations implicating any policy, practice, or custom of Yazoo County ... ." Id. ¶ 5. Additionally, Defendant asserts that there is no claim against him in his individual capacity because "(a) Plaintiff has not alleged any plausible facts to support a § 1983 claim for declaratory relief, and (b) any and all other claims are barred by judicial immunity." Id.

Plaintiff has not filed a response in opposition to the jurisdictional and other legal issues raised in Defendant's dispositive motion. Instead, Plaintiff moved to strike Defendant's motion by alleging a defect in the motion's service of process, [ECF No. 7], which Defendant disputes. [ECF No. 8].

Standard of Review under FRCP 12 (b)(1)

Under Federal Rule of Civil Procedure 12(b)(1), a party may challenge by motion the subject-matter

jurisdiction of the district court to hear a case. Fed. R. Civ. P. 12(b)(1). "The district court... has the power to dismiss for lack of subject

matter jurisdiction on any one of three separate bases: (1) the complaint alone; (2) the complaint supplemented by undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts." Williamson v. Tucker, 645 F.2d 404, 413 (5th Cir.), cert. denied, 454 U.S. 897 (1981)); accord, e.g., Ramming v. United States, 281 F.3d 158, 161 (5th Cir. 1996); Voluntary Purchasing Groups, Inc. v. Reilly, 889 F.2d 1380, 1384 (5th Cir. 1989). The initial jurisdictional burden of proof is on Plaintiff to demonstrate that jurisdiction exists. Ramming, 281 F.3d at 161 (relying on Menchaca v. Chrysler Credit Corp., 613 F.2d 507, 511 (5th Cir. 1980)).

Subject-matter jurisdiction fails where the plaintiff lacks Article III standing. Stallworth v. Bryant, 936 F.3d 224, 232 (5th Cir. 2019); Moore v. Bryant, 853 F.3d 245, 248 n.2 (5th Cir. 2017 ("Dismissals for lack of Constitutional standing are granted pursuant to Rule 12(b)(1)."). Sovereign immunity also deprives the court of subject matter jurisdiction. Walker v. Beaumont Indep. Sch. Dist., 938 F.3d 724, 734 (5th Cir. 2019). When a Rule 12 (b)(1) motion is filed in conjunction with other Rule 12 motions, as is the case here, the court should consider the Rule 12(b)(1) jurisdictional attack first. Ramming, 281 F.3d at 161.

Discussion

The parties have raised a wide range of issues, arguments, and alternative arguments that the court must prioritize and distill into what is essential: whether Plaintiff has standing under Article III of the United States Constitution to litigate his Complaint in federal court. Lujan v. Defs. of Wildlife, 504 U.S. 555, 558 (1992) ("The preliminary issue, and the only one we reach, is whether respondents ... have standing to seek judicial review ...."). If Plaintiff lacks standing, there is no case or controversy over which this court has jurisdiction. Id. at 559-60. At a constitutional minimum, three elements are required to establish Article III standing:

(1) The plaintiff must have suffered an "injury in fact" that is concrete, particularized, and actual or imminent;

(2) There must be a causal connection between the injury and the conduct complained of (i.e., the injury must be fairly traceable to the challenged action of the defendant; and

(3) It must be likely (not merely speculative) that the injury will be redressed by a favorable decision.

E.g., Spokeo, Inc. v. Robins, 578 U.S. 330, 338-39, (2016), as revised (May 24, 2016); Lujan, 504 U.S. at 560-61; Stallworth, 936 F.3d 229-30. (5th Cir. 2019).

The court need look no further than Plaintiff's alleged injury. Using best efforts to

accurately construe Plaintiff's Complaint, ... the gist of his alleged injury appears to be that his misdemeanor speeding case was heard in a non-public trial without a jury in a county where he claims the speeding incident did not occur and that the de novo appeal of his conviction will be heard by a Defendant in a non-jury trial in the same county. Plaintiff argues that this is a violation of the United States Constitution's Sixth Amendment... and Article III, Section 2. ... The court finds no

---

... The Court is reminded of an apt analogy from a district court in our Northern District as that court described its attempts to construe a petitioner's claims: "[Petitioner] has dropped a jigsaw puzzle in the laps of the respondents and the court with pieces missing and pieces that don't belong at all. He should not be heard to complain if the respondents and the court have failed to put the puzzle together to his liking." Jones v. Waller, No. CIVA 106CV21-MPM-JAD, 2007 WL 1826904, at *1-4 (N.D. Miss. May 30, 2007).

... The Sixth Amendment to the United States Constitution provides:

Amendment VI. Jury trials for crimes, and procedural rights

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Const. amend. VI

... Article III, Section 2 of the United States Constitution provides:

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the

federal constitutional violation and no injury to Plaintiff, concrete or otherwise, that has resulted from his speeding conviction.

First, Plaintiff is mistaken regarding his federal constitutional right to a jury trial for a crime that he concedes is a misdemeanor. "It has long been settled that 'there is a category of petty crimes or offenses which is not subject to the Sixth Amendment jury trial provision.'" Blanton v. City of N. Las Vegas, Nev., 489 U.S. 538, 541 (1989)

United States, and Treaties made, or which shall be made, under their authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all cases of admiralty and maritime jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;--between a State and Citizens of another State;--between Citizens of different States,--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make. The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

U.S. Const. art. III, § 2.

(Marshall, Justice, writing for a unanimous court) (quoting Duncan v. Louisiana, 391 U.S. 145, 159 (1968) and citing additional Supreme Court precedent). In determining whether an offense is

"petty", courts should look to the severity of the maximum authorized penalty, with a primary emphasis placed on the maximum authorized period of incarceration. Blanton, 489 U.S. at 542. The Supreme Court found it appropriate to presume for purposes of the Sixth Amendment that an offense carrying a maximum prison term of six months or less qualifies as a "petty" offense. Id. at 543. Mississippi appellate courts concur. Harkins v. State, 735 So.2d 317, 318 (Miss. 1999). (citing with approval Blanton and other United States Supreme Court decisions supporting the presumption that offenses carrying maximum sentences of six months or less are "petty offenses" to which the Sixth Amendment right to trial by jury does not apply); Frazier v. State, 817 So.2d 663, 664 (Miss. Ct. App. 2002) (United States Constitution guarantees "a jury trial to all persons charged with a 'serious offense.' A serious offense is one for which the defendant could be sentenced t more than six months in jail for committing."); see also Ude v. State, 992 So.2d 1213, 1217 (Miss. Ct. App. 2008) (relying on both Blanton and Frazier). The statutory maximum penalties for speeding in Mississippi

are found in Section 63-9-11 of the Mississippi Code. ... The maximum penalty for a first offense speeding ticket is a fine of not more than One Hundred Dollars ($100.00) or imprisonment of not more than ten (10) days. Second and third speeding convictions likewise carry maximum penalties of incarceration of six months or less. Under long-established precedent, the

court concludes that Plaintiff's speeding conviction is a petty offense that is not subject to the Sixth Amendment jury trial provision.

The analysis is the same with respect to the jury trial provision of Article III, Section 2. The fifth circuit

---

§ 63-9-11. Criminal liability; first time violators

(1) It is as misdemeanor for any person to violate any of the provisions of Chapter 3, 5 or 7 of this title, unless such violation is by such chapters or other law of this state declared to be a felony.

(2) Every person convicted of a misdemeanor for a violation of any of the provisions of such chapters for which another penalty is not provided shall for first conviction thereof be punished by a fine of not more than One Hundred Dollars ($100.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year thereafter such person shall be punished by a fine of not more than Two Hundred dollars ($200.00) or by imprisonment for not more than twenty (20) days or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

Miss. Code Ann. Miss. Code Ann. § 63-9-11 (1)-(2). (West).

instructs that "there is no distinction between the jury trial provisions of Article III, Section 2, and the Sixth Amendment with respect to the grade or character of offense which gives rise to a jury." Landry v. Hoepfner, 840 F.2d 1201, 1205 n. 10 (5th cir. 1988). Following controlling precedent, the court rejects Plaintiff's claim of a federal constitutional right to a jury trial for his misdemeanor speeding offense.

Second, Plaintiff alleges that he was denied his Sixth Amendment right to a public trial because his trial in the Yazoo County justice court was conducted behind closed courtroom doors with only armed Highway Patrol employees permitted inside the courtroom. [ECF No. 1] ¶¶ 8-10. For the purposes of making a factual determination that decides the court's jurisdiction to hear this case, Plaintiff's unsupported allegations are insufficient. The fact that courtroom doors are closed and only certain employees are permitted to enter the courtroom-without any evidence to explain the surrounding circumstances-does not automatically mean that a Sixth Amendment public trial right was violated or that a litigant suffered an "injury in fact" that satisfies the Article III standing requirement. Nothing in the record indicates whether the doors were locked, how long the alleged courtroom restrictions were in place, the reasons for implementing the alleged restrictions, or what concrete harm (if

any) resulted to Plaintiff. On this record, the Court finds that Plaintiff has failed to demonstrate a violation of his Sixth Amendment right to a public trial and also has failed to show any injury resulting therefrom. See United States v. Lipscomb, 539 F.3d 32, 42-43 (1st Cir. 2008), cert. denied, 555 U.S. 1124 (2009) (unsupported allegation that courtroom was locked for a period of time was insufficient to demonstrate that defendant was deprived of his Sixth Amendment right to a public trial).

Finally, Plaintiff claims another Sixth Amendment violation because his non-jury justice court trial took place in Yazoo County, Mississippi, and his pending non-jury appeal before Defendant also is taking place in that county. Plaintiff argues that his trials should not take place in Yazoo County because, he alleges, the speeding incident occurred elsewhere. As with his other constitutional claims, Plaintiff demonstrates no resulting injury. It is important to note the precise language of the Sixth Amendment, which grants to the criminally accused "the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed ...." (emphasis added); see full text of the amendment at note 3 supra. The court already has determined that the Sixth Amendment does not entitled Plaintiff to a jury trial of his petty speeding offense. Thus, Plaintiff has no Sixth

Amendment right to an impartial jury of the district where the crime was committed, and there is no need for this court to enter the factual fray of determining the exact location of Plaintiff's offense.

The court finds that Plaintiff has not demonstrated injury-in-fact sufficient to satisfy the first element of Article III standing. In short, there is no case or controversy before the court, and the court lacks subject matter jurisdiction to proceed.

Conclusion

Although there may be multiple reasons that support dismissal of this lawsuit such a state sovereign immunity, judicial immunity, the Younger abstention doctrine, and a failure to demonstrate a private right of action under the Reconstruction and Readmission Act statutes upon which Plaintiff filed his lawsuit, ... the court, having made an initial determination that subject matter jurisdiction is absent, will refrain from addressing other grounds for dismissal.

... See private right of action analysis of the Readmission Act in Williams on behalf of J.E. v. Reeves, 981 F.3d 437, 445 (5th cir. 2020) (Jones, J., dissenting in the en banc poll for rehearing) ("There is nothing in the text, structure, or history of the Readmission Act that suggests any congressional intent to create a private right of action ....").

ACCORDINGLY, IT IS ORDERED that Plaintiff's Motion for Recusal pursuant to 28 U.S.C. $ 455(a) [ECF No. 4] is DENIED;

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss [ECF No. 5] is GRANTED and this case is dismissed with prejudice;

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike [ECF No. 7] is dismissed as moot. A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 14th day of August 2024.
/s/ David Bramlette
UN]TED STATES DISTRICT JUDGE

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