

APPENDIX INDEX

Exhibit	Description
App. A	Order of the United States Court of Appeals for the Seventh Circuit, Cole v. Faulkner, Nos. 25-1449 & 25-2029 (Jan. 21, 2026)
App. B	Order Denying Petition for Rehearing, United States Court of Appeals for the Seventh Circuit, Cole v. Faulkner, Nos. 25-1449 & 25-2029 (Jan. 29, 2026)
App. C	Memorandum Opinion and Order, United States District Court for the Northern District of Illinois, Cole v. Faulkner, No. 24 C 12117 (May 9, 2025) (ECF No. 152)
App. D	Order Recalling Mandate, Illinois Appellate Court, First District, 1205 Milwaukee, LLC v. Cole, No. 1-24-1467 (Sept. 16, 2025)
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App. G	Mandate of the United States Court of Appeals for the Seventh Circuit, Cole v. Faulkner, Nos. 25-1449 & 25-2029 (Feb. 6, 2026)
App. H	Relevant portions of the District Court record, including: (1) Order dismissing federal foreclosure action with prejudice, Wells Fargo Bank, N.A. v. Cole, No. 22-cv-4821 (N.D. Ill. Jan. 9, 2024); (2) Rule 216 admissions by respondent Jin Hwi Lee; and (3) Chancery Court orders preserving petitioner's equitable claims, 1205 Milwaukee, LLC v. Cole, No. 2024-CH-06317 (Ill. Cir. Ct. May–July 2025).

No.

**IN THE
SUPREME COURT OF THE UNITED STATES**

TONY COLE,

Petitioner,

v.

JOSEPH FAULKNER, 1205 MILWAUKEE LLC, JIN HWI LEE a/k/a Jin Lee, DAVID
YANOFF, CHRISTOPHER ACUNA,

Respondents.

**APPENDIX TO PETITION FOR
A WRIT OF CERTIORARI**

**On Petition for Writ of Certiorari to the
United States Court of Appeals for the Seventh Circuit**

/s/ Tony Cole

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Appendix

A

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted January 20, 2026*
Decided January 21, 2026

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

Nos. 25-1449 & 25-2029

TONY COLE,
Plaintiff-Appellant,

v.

JOSEPH C. FAULKNER, et al.,
Defendants-Appellees.

Appeals from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 24 C 12117

Jorge L. Alonso,
Judge.

ORDER

This case arises from Tony Cole's eviction from a building in Chicago that he alleges was improper, retaliatory, and based on a fraudulent transfer of the property. He sued his former landlord, a property company, and other persons for retaliatory eviction under the Fair Housing Act, *see* 42 U.S.C. § 3617, due process violations under

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

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the Fourteenth Amendment, *see* 42 U.S.C. § 1983, and state-law claims of fraudulent transfer, retaliatory eviction, and legal malpractice. The district judge dismissed Cole's claims. We affirm.

I.

The procedural background for this case, involving multiple proceedings in state court, is complicated. The backdrop is a property near Chicago's Wicker Park neighborhood, at 1205 North Milwaukee Avenue. In April 2018, Cole leased a second-floor residential unit at this address from Jin Lee, who also lived in the unit. On the first floor, the building featured a commercial space, which Cole used for his various businesses. According to Cole, Lee (a defendant in the federal suit here) orally agreed to sell him the entire property for \$475,000.

Lee twice—in 2022 and March 2023—commenced state-court eviction actions against Cole to remove him from the property's commercial and residential units. Both actions were dismissed. *Lee v. Cole*, No. 20221709496 (Ill. Cir. Ct. Mar. 20, 2023); *Lee v. Cole*, No. 20231704999 (Ill. Cir. Ct. Dec. 18, 2023).

In April 2023, Cole filed a wide-ranging lawsuit against Lee in state court, alleging among other things attempted illegal eviction and intentional infliction of emotional distress. After a joint bench-and-jury trial, the state judge entered judgment against Cole. *Cole v. Lee*, No. 20231108836 (Ill. Cir. Ct. Oct. 6, 2025). Cole's appeal in that case is pending.

Several months later, Cole filed another state-court lawsuit against Lee, this time for breach of contract, seeking to enforce the oral-purchase agreement. A state judge dismissed this suit because it involved the same parties and claim for relief as Cole's other case against Lee. The Illinois Appellate Court affirmed. *Cole v. Lee*, No. 1-24-1231, 2025 WL 1010398 (Ill. App. Ct. Apr. 4, 2025).

In December 2023, Lee sold the property to 1205 Milwaukee LLC. That company's sole member is Southern Capital, LLC, which in turn has two members, Joseph Faulkner (a defendant here) and one non-party person.

In February 2024, 1205 Milwaukee, represented by Christopher Acuna (also a defendant here), filed two separate state-court lawsuits seeking to evict Cole from the commercial and residential spaces, respectively. The commercial-eviction case proceeded to a jury trial, and in July 2024, a state court judge entered a judgment for

possession in favor of 1205 Milwaukee. The residential-eviction case also went to trial, and in December 2024, a state court judge entered a judgment for possession in favor of 1205 Milwaukee. Cole appealed multiple orders in both the residential and commercial eviction cases, and the Illinois Appellate Court—consolidating the appeals—affirmed. *See 1205 Milwaukee, LLC v. Tony Cole*, Nos. 1-24-1434, 1-24-2224, 1-24-2234, 1-24-2611, 2025 WL 3161979 (Ill. App. Ct. Nov. 10, 2025); *1205 Milwaukee, LLC v. Tony Cole*, No. 1-24-1467, 2025 WL 253062 (Ill. App. Ct. Jan. 21, 2025).

In the meantime, in July 2024, 1205 Milwaukee filed another lawsuit in state court against Cole for slander of title and quiet title. Cole counterclaimed, asserting fraudulent transfer, slander of title, breach of contract, and abuse of process. *1205 Milwaukee, LLC v. Tony Cole*, No. 2024CH06317 (Ill. Cir. Ct. case disposed Nov. 19, 2025). The case is ongoing.

Around this same time, Cole also brought two similar lawsuits against Lee's attorney, David Yanoff (also a defendant here), for legal malpractice. Both suits were dismissed because the state judge deemed Yanoff to be protected by the Illinois absolute litigation privilege. The state appellate court affirmed those judgments. *Cole v. Yanoff*, No. 1-24-1017, 2025 WL 354700 (Ill. App. Ct. Jan. 31, 2025); *Cole v. Yanoff*, No. 1-24-1230, 2025 WL 432981 (Ill. App. Ct. Feb. 7, 2025).

In November 2024, the Cook County Sheriff evicted Cole from the commercial space.

That same month, Cole filed this federal lawsuit against Lee, Faulkner, 1205 Milwaukee, Yanoff, and Acuna for retaliatory eviction under the Fair Housing Act, *see* 42 U.S.C. § 3617, due-process violations under the Fourteenth Amendment, *see* § 1983, and state-law claims of fraudulent transfer, retaliatory eviction, and legal malpractice. Cole sought \$375,000 in compensatory damages, \$500,000 in punitive damages, and \$200,000 in emotional and psychological damages. He also sought injunctive relief in the form of the restoration of utilities, a stay of "retaliatory" legal actions, and a declaration that the property transfer to 1205 Milwaukee was fraudulent and void.

A few months later, the Cook County Sheriff's office evicted Cole from the residential space.

Faulkner then moved to dismiss the federal case, arguing that the district court did not have jurisdiction over Cole's federal claims under the *Rooker-Feldman* doctrine because Cole sought federal review of state-court judgments. See *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983). Cole countered that his federal claims fell under the fraud-based exception to *Rooker-Feldman* because the defendants had colluded with state court judges to evict him.

At a hearing on the motion to dismiss, the district judge dismissed Cole's case, concluding under *Rooker-Feldman* that the court lacked jurisdiction over Cole's federal claims for damages and injunctive relief because his case was inextricably intertwined with the state-court proceedings. The judge, quoting our decision in *Hadzi-Tanovic v. Johnson*, 62 F.4th 394, 405 (7th Cir. 2023) (internal citation omitted), also ruled that there was no fraud-based exception to *Rooker-Feldman* because "no matter how wrong a state court judgment may be under federal law, lower federal courts do not have jurisdiction to review it." The judge next determined that Cole did not adequately state a claim under the Fair Housing Act because he did not allege what right he was exercising under the statute that triggered its anti-retaliation provisions. The judge declined to exercise jurisdiction over any remaining state-law claims.

Cole then filed two post-judgment motions. He moved for the judge to recuse himself on grounds of bias. In a separate filing, Cole also sought reconsideration, mostly rehashing arguments he made in response to the defendants' motion to dismiss. In a single order, the judge denied both motions. The judge determined first that Cole's disagreement with adverse rulings did not warrant recusal. As for the motion for reconsideration, the judge corrected his previous order and ruled that *Rooker-Feldman* did not preclude Cole's federal claims for damages arising from the harms of the state-court proceedings. See *Gilbank v. Wood Cnty. Dep't of Hum. Servs.*, 111 F.4th 754, 793 (7th Cir. 2024) (en banc). The judge, however, stood by his prior rulings. He reaffirmed the dismissal of Cole's claims for injunctive relief because there was no fraud-based exception to the *Rooker-Feldman* doctrine. Regarding Cole's claims under the Fair Housing Act, the judge reiterated that Cole failed to allege what right he was exercising under the statute that triggered its anti-retaliation provisions. As for Cole's § 1983 claim, the judge explained that Cole could not allege that the defendants were acting under the color of law because they did not become state actors for § 1983 purposes merely by pursuing eviction or other state-court proceedings against him.

II.

On appeal, Cole raises two related challenges to the district judge's application of *Rooker-Feldman* to bar his claims for injunctive relief from the state-court eviction judgments. He argues, first, that *Rooker-Feldman* does not apply because he alleges "fraud" in the state litigation. But we have rejected the notion of a "fraud exception" to *Rooker-Feldman* because claims of corruption in a state court proceeding require federal courts to evaluate and vacate state-court judgments. See *Gilbank*, 111 F.4th at 783–84.

Cole also argues that *Rooker-Feldman* does not apply because final judgments in his state cases had yet to be issued when he filed his federal lawsuit. See *id.* at 766. But even if we accept Cole's chronology of events, his attempt to overturn those judgments is barred by the affirmative defense of claim preclusion. See, e.g., *H.A.L. NY Holdings, LLC v. Guinan*, 958 F.3d 627, 632–33 (7th Cir. 2020). Under this affirmative defense, which the defendants raised in the district court and again on appeal, "there must be (1) a final judgment on the merits rendered by a court of competent jurisdiction, (2) the same cause of action, and (3) the same parties or their privies." *Bonnstetter v. City of Chicago*, 811 F.3d 969, 975 (7th Cir. 2016) (internal quotation omitted). Here all three requirements are met: The state courts issued final judgments in the residential and commercial eviction cases; this case and the state eviction cases involve the same parties; and the eviction cases arose out of the same group of operative facts as Cole's federal claims—his eviction from the property—so they are considered the same claim for relief even if they assert different theories of relief. See *Parungao v. Cmty. Health Sys., Inc.*, 858 F.3d 452, 457 (7th Cir. 2017).

Likewise, claim preclusion bars Cole's claims against Yanoff for legal malpractice. Cole alleges the same state-law claim for relief against the same defendant. And the state judge's dismissal of this claim for relief with prejudice constitutes a final judgment on the merits.

Next, Cole takes aim at the dismissal of his § 1983 claim and argues that he sufficiently pleaded state action by alleging collusion between the state judges, a federal judge, and the defendants. In his complaint, Cole alleged that the defendants were acting under the color of law because they filed "baseless eviction lawsuits" and relied on "state judicial mechanisms" to evict him from the property. But Cole had to "identify a sufficient nexus between the state and the private actor to support a finding that the deprivation committed by the private actor is 'fairly attributable to the state.'" *L.P. v. Marian Catholic High Sch.*, 852 F.3d 690, 696 (7th Cir. 2017) (quoting *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982)). And his "mere allegations of joint action or a

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conspiracy do not demonstrate that the defendants acted under color of state law and are not sufficient to survive a motion to dismiss.” *Spiegel v. McClintic*, 916 F.3d 611, 616 (7th Cir. 2019) (quoting *Fries v. Helsper*, 146 F.3d 452, 458 (7th Cir. 1998)).

Turning next to the dismissal of his claim under the Fair Housing Act, Cole argues that the judge erred by dismissing his claim of retaliatory eviction. Cole argues that to state a claim under the Fair Housing Act, he had to allege only that he was retaliated against for asserting his housing rights. But that formulation is incomplete. To state a claim of retaliatory eviction under the Fair Housing Act, Cole needed—but failed—to allege that he was subjected to discriminatory housing practices based on his race, color, religion, sex, familial status, national origin, or disability. *See Block v. Frischholz*, 587 F.3d 771, 776 (7th Cir. 2009).

Cole also renews his charge of bias against the district judge based on rulings against him and the denial of many of his motions as moot. But he provides no evidence to support this assertion, and judicial determinations alone almost never establish bias. *See Liteky v. United States*, 510 U.S. 540, 555–56 (1994).

Last, Cole argues for the first time that his rights under the First Amendment were violated when a state court judge held him in criminal contempt after he announced his intention to file a federal civil rights lawsuit. But Cole waived this argument by not raising it in the district court. *See Bradley v. Vill. Univ. Park*, 59 F.4th 887, 897 (7th Cir. 2023).

We have considered Cole’s other arguments, and none merits discussion.

AFFIRMED

Appendix

B

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

January 29, 2026

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

Nos. 25-1449 & 25-2029

TONY COLE,
Plaintiff-Appellant,

v.

JOSEPH C. FAULKNER, *et al.,*
Defendants-Appellees.

} Appeals from the United States District
Court for the Northern District of
Illinois, Eastern Division.

} No. 24 C 12117

} Jorge L. Alonso,
Judge.

ORDER

Plaintiff-Appellant filed a petition for rehearing on January 26, 2026. All the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

Appendix

C

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Tony Cole,

Plaintiff,

v.

Joseph Faulkner, *et al.*,

Defendants.

Case No. 24 C 12117

Judge Jorge L. Alonso

Memorandum Opinion and Order

Plaintiff Tony Cole has filed several motions. As explained below, the Court grants in part and denies in part Cole's motion for reconsideration [94] and maintains the dismissal of Cole's claims; denies Cole's motion for recusal [96], motion to stay pending appeal [108], and motion for sanctions [112]; grants Cole's motion to appeal in forma pauperis [103] and his motions for leave to file additional materials [131] [139]; and denies Cole's other pending motions [92] [119] [142] [144] [146] [148].

Background

This case arose from Cole's eviction from a building in Chicago pursuant to state proceedings, which Cole alleged in his complaint was improper, retaliatory, and based on a fraudulent transfer of the property. Cole therefore brought federal claims against various individuals and a corporate entity for retaliatory eviction under the Fair Housing Act and for violation of his Fourteenth Amendment due-process rights under 42 U.S.C. § 1983, and state-law claims for fraudulent transfer, retaliatory eviction, and legal malpractice. Am. Compl., ECF No. 18. Cole's requested relief included compensatory and punitive damages and injunctive relief,

including declaring the property transfer fraudulent and void and enjoining Defendants from pursuing eviction proceedings against him.

During the early stages of the litigation, Cole sought preliminary injunctive relief to halt eviction proceedings, which the court denied after concluding Cole was unlikely to succeed on the merits of his claims, and Defendants filed motions to dismiss Cole's claims, to which Cole responded. *See* ECF Nos. 54, 55, 62. At a hearing on March 6, 2025, and after temporarily prohibiting Defendants from disposing of Cole's personal property from the building at issue, the Court granted Defendants' motions to dismiss, and final judgment was entered. *See* Tr., ECF No. 91; ECF No. 86. Specifically, the Court found that the *Rooker-Feldman* doctrine prevented the Court from exercising jurisdiction over Cole's federal claims because Cole's case was inextricably intertwined with the state-court eviction rulings and proceedings and declined to exercise jurisdiction over any remaining state-law claims.

Cole has since filed several motions, including a motion for reconsideration of the Court's dismissal of his claims, along with motions for recusal, for a stay, for sanctions against Defendants, and for leave to appeal in forma pauperis.¹

Discussion

The Court addresses Cole's various motions in turn.

1. Cole's motion for recusal [96]

Cole has requested the recusal of the undersigned judge, claiming that the Court's rulings represent bias, procedural errors, and abuse of discretion. A federal judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned," or "[w]here

¹ The Court grants Cole's motion [131] for leave to file additional exhibits in support of his reply for his motion for reconsideration and his motion for leave to file additional admissions [139].

he has a personal bias or prejudice concerning a party.” 28 U.S.C. § 455. Cole argues the Court prematurely dismissed his case, improperly struck his filings, did not timely rule on his motions, and misapplied the law.

The Court concludes that recusal is not warranted here. “A party bears a heavy burden when seeking a judge’s recusal for rulings made during litigation or for opinions the judge forms based on facts introduced during a case.” *United States v. Perez*, 956 F.3d 970, 975 (7th Cir. 2020). As explained below, Cole was provided with an ample opportunity to challenge Defendants’ motions to dismiss and assert his arguments—and took that opportunity—before the Court dismissed the case. Further, given that the Court concluded it lacked jurisdiction over Cole’s claims, and now maintains the dismissal of his claims, the Court appropriately denied Cole’s various motions as moot. And though Cole may disagree with the Court’s rulings and administration of the case, that disagreement does not warrant recusal. *See Liteky v. United States*, 510 U.S. 540, 555–56 (1994) (“[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion. . . . A judge’s ordinary efforts at courtroom administration . . . remain immune.”). Ultimately, Cole’s claim for recusal is based merely on his dissatisfaction with the case and the Court’s rulings, and the Court concludes that its prior rulings did not reflect any actual bias and its impartiality could not reasonably be questioned. *See United States v. Walsh*, 47 F.4th 491, 499 (7th Cir. 2022) (“To establish a judge’s actual bias . . . a party must show, by ‘compelling evidence,’ that a reasonable observer would conclude that the judge was biased.”); *Thomas v. Dart*, 39 F.4th 835, 844 (7th Cir. 2022) (“By itself, an adverse judicial ruling does not provide a valid basis for questioning a judge’s impartiality.”).

2. Cole's motion for reconsideration [94]

“To prevail on a motion for reconsideration under Rule 59, the movant must present either newly discovered evidence or establish a manifest error of law or fact.” *Oto v. Metro. Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000). Cole's motion for reconsideration largely re-raises arguments Cole previously made in response to Defendants' motions to dismiss. *See id.* at 606 (denying motions for reconsideration where they “merely took umbrage with the court's ruling and rehashed old arguments”). Nevertheless, the Court on further review will reconsider its prior ruling regarding the *Rooker–Feldman* doctrine in light of recent Seventh Circuit caselaw.

Cole argues that the Court misapplied the *Rooker–Feldman* doctrine and that his claims are not barred by the doctrine as the Court concluded. In particular, he argues that his claims in this case were independent claims of fraud, civil-rights violations, and constitutional violations that did not seek review of his state-court proceedings and therefore fall outside of *Rooker–Feldman* given the Supreme Court's opinion in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005).

In *Exxon Mobil*, the Supreme Court stated that “*Rooker–Feldman* is not triggered simply by the entry of judgment in state court” and “[i]f a federal plaintiff presents some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party, then there is jurisdiction.” *Exxon Mobil*, 544 U.S. at 292–93 (cleaned up). Here, Cole alleged that Defendants fraudulently misused state eviction courts to harm him, thus violating his civil rights, and asked the Court to award damages based primarily on the injuries he suffered because of the state-court proceedings, declare the property transfer fraudulent and void, and halt state-court eviction proceedings against him.

The Seventh Circuit recently clarified, in a case neither party cited during briefing or since, that in determining whether the *Rooker–Feldman* doctrine applies to purportedly independent federal claims, “identifying what the plaintiff has requested is the key *Rooker–Feldman* inquiry.” *Gilbank v. Wood Cnty. Dep’t of Hum. Servs.*, 111 F.4th 754, 793 (7th Cir. 2024), *cert. denied*, 145 S. Ct. 1167 (2025).² In *Gilbank*, circuit court clarified “that *Rooker–Feldman* does not apply when, given the relief sought, a plaintiff . . . does not seek to reverse a state court judgment.” *Id.* In light of *Gilbank*, the “*Rooker–Feldman* doctrine does not bar a federal suit that seeks damages relating to a state court order that did not impose monetary penalties.” *Wang v. City of Indianapolis*, No. 24-2664, 2025 WL 1000158, at *3 (7th Cir. Apr. 3, 2025); *see also Gilbank*, 111 F.4th at 793 (“[A]warding damages usually does not affect a state court judgment not sounding in monetary terms.”).

Here, Cole requests as relief that the Court declare certain state-court proceedings void and undo state eviction actions—that is not allowed under *Rooker–Feldman*. But he also asks for damages for the harm he suffered as a result of those proceedings based on Defendants’ allegedly unlawful conduct related to them. That requested relief does not seek reversal of a state-court judgment but merely asks for collateral damages. *See id.*; *see also Johnson v. Pushpin Holdings, LLC*, 748 F.3d 769, 773 (7th Cir. 2014) (“Such a suit does not seek to disturb the judgment of the state court, but to obtain damages for the unlawful conduct that misled the court into issuing the judgment.”). Cole’s federal claims as to damages therefore survive a *Rooker–Feldman* challenge, though his requests for injunctive relief against the state-court proceedings do not. *See Pushpin*, 748 F.3d at 773 (“It’s true that the plaintiff is also asking that the default judgments be vacated,

² Though Judge Kirsch’s opinion is identified as a concurrence in part, this section regarding applying *Rooker–Feldman* constitutes the majority opinion.

and that is relief that would violate the *Rooker–Feldman* doctrine; but that claim can be rejected without affecting the damages claim.”).

Separately, the Court notes that as to Cole’s allegations of fraud and collusion in the state-court proceedings as they relate to his non-damages claims, the Seventh Circuit has specifically rejected a “fraud” or “corruption” exception to the *Rooker–Feldman* doctrine. *See Gilbank*, 111 F.4th at 785 (expressing disapproval for “an exception to *Rooker–Feldman* based on a federal plaintiff’s allegations that her state-court opponents or others misled or defrauded the state court into causing her injury” and stating that “*Rooker–Feldman* is simply not concerned with *why* a state court’s judgment might be mistaken” and “fraud accusations do not change the calculus” (cleaned up); *Hadzi-Tanovic v. Johnson*, 62 F.4th 394, 401–02 (7th Cir. 2023) (rejecting plaintiff’s argument that “because she claims to have been injured by defendants’ corruption of the state court proceedings, her injury is independent of the state court judgment for purposes of *Rooker–Feldman*” and overruling cases recognizing a “corruption exception” to *Rooker–Feldman*). The Court therefore reconsiders its prior ruling only as to Cole’s federal damages claims and finds that the *Rooker–Feldman* doctrine does not apply to those claims.

Nevertheless, Cole’s federal claims fail for other reasons. As the Court explained at its March 6, 2025 hearing, Cole’s claims under the Fair Housing Act fail because Cole has not alleged what right he was exercising under that statute that triggered its anti-retaliation provisions—he merely alleges he was “asserting his legal rights related to the property” generally. *See* Tr. at 7; 42 U.S.C. § 3617 (prohibiting retaliation based on the exercise of “any right granted or protected by section 3603, 3604, 3605, or 3606 of this title”); *Johnson v. Flannery*, 3:21-cv-50421, 2022 WL 103710, at *2 (N.D. Ill. Jan. 11, 2022) (“Johnson, however, has not alleged that he was retaliated against for exercising one [of] his rights *under one of those provisions*. . . . That may be retaliation,

but it is not retaliation under the Fair Housing Act.” (emphasis added)); *see also Bloch v. Frischholz*, 587 F.3d 771, 783 (7th Cir. 2009) (allowing plaintiffs to “proceed under § 3617 for interference with their § 3604 rights” (emphasis added)).³ Cole’s Fair Housing Act Claim thus failed to state a claim and is properly dismissed.

Cole’s civil-rights claim under § 1983 likewise fails to state a claim. A § 1983 plaintiff “must prove (1) the deprivation of a right secured by the Constitution or federal law and (2) that defendants were acting under color of state law.” *Wilson v. Warren Cnty.*, 830 F.3d 464, 468 (7th Cir. 2016). Defendants in this case are private persons and entities. “For a private actor to act under color of state law he must have had a meeting of the minds and thus reached an understanding with a state actor to deny plaintiff[] a constitutional right.” *Id.*

Cole argues that his § 1983 claim can proceed because Defendants misused the state courts to harm him, which in his view transforms their conduct into actions done under color of state law. But Defendants did not become state actors for § 1983 purposes merely by pursuing eviction or other state-court proceedings against Cole. *See Hu v. Huey*, 325 F. App’x 436, 439–40 (7th Cir. 2009) (“Hu argues that Huey became a state actor by filing an eviction proceeding in state court. . . . But Hu is wrong. . . . Illinois has no interest in the outcome of the eviction proceeding, and it did not transform Hu into a state actor merely by holding its courts open to litigation” (cleaned up)); *Winterland Concessions Co. v. Trela*, 735 F.2d 257, 262 (7th Cir. 1984) (“Mere use of the courts by a private party, without more, does not constitute governmental action for purposes of § 1983[.]”); *Walker v. Fed. Land Bank of St. Louis*, 726 F. Supp. 211, 214 (C.D. Ill. 1989)

³ Cole purports to cite cases allowing retaliation claims under the Fair Housing Act in similar circumstances: “*Village of Bellwood v. Al-Raheem*” and “*Penzell v. Chicagoland Association for the Disabled*.” The Court was unable to find those cases using the citations provided or otherwise.

("[N]either the mere institution of a foreclosure proceeding nor the use of a state's tribunals establish state action[.]"). Cole therefore has not adequately alleged that Defendants were acting under color of state law and his § 1983 claim must be dismissed for failure to state a claim. Cole's federal claims thus shall remain dismissed.

Cole also argues that he was not given a meaningful opportunity to be heard before the Court dismissed his case because briefing had not yet completed for Defendants' motions to dismiss. But the only briefing that was left at the time was Defendants' own reply—Cole had responded to the motions and the Court had reviewed Cole's response before ruling on the motions. Cole had an ample opportunity to present his arguments on the dismissal issues—and availed himself of that opportunity—and the Court considered Cole's arguments in reaching its conclusions.

Cole additionally argues that the Court should have remanded his state-law claims rather than dismissing them. But Cole's claims originated in this Court—they were not removed from state court. Dismissal, rather than remand, therefore was appropriate. *See Daugherty Speedway, Inc. v. Freeland*, 520 F. Supp. 3d 1070, 1079 (N.D. Ind. 2021) ("Because the federal claims are being dismissed, the court will decline to exercise supplemental jurisdiction over Daugherty's state law claims. These claims will be dismissed without prejudice to Daugherty and it may bring them, if it chooses, in state court.").

The Court therefore grants in part and denies in part Cole's motion for reconsideration [94] and does not reinstate Cole's claims—they remain dismissed.

3. Cole's motion to stay pending appeal [108]

To decide whether to grant a stay pending appeal, the Court applies the same standard as it would for granting a preliminary injunction—the Court "consider[s] the moving party's

likelihood of success on the merits, the irreparable harm that will result to each side if the stay is granted or denied in error, and whether the public interest favors one side or the other.” *In re A & F Enters., Inc. II*, 742 F.3d 763, 766 (7th Cir. 2014). A stay is not warranted here. At the outset, there is nothing meaningful for the Court to stay—its prior judgment merely dismissed Cole’s case and did not order any other injunctive or monetary relief. Instead, what Cole really seeks is a new injunction against Defendants, which is beyond the scope of a stay he purportedly seeks and is not warranted in light of the Court’s dismissal of his claims. Moreover, Cole does not have a likelihood of success on the merits for the reasons explained above and in the Court’s prior rulings, including its prior rulings denying him an injunction: Cole’s claims fail in this Court for lack of jurisdiction and failure to state a claim. The Court therefore denies Cole’s motion for a stay pending his appeal of the Court’s dismissal of his claims.

4. Cole’s motion for sanctions [112]

The Court denies Cole’s motion for judicial notice and for Rule 11 sanctions against Defendants and their counsel. First, as Cole acknowledges, the motion was not properly served on Defendants as required. *See* Fed. R. Civ. P. 11(c)(2). Second, Cole’s sanctions motion targets an entity that is not part of this case regarding matters that are irrelevant given the Court’s dismissal of Cole’s case. Cole’s claims have been dismissed for lack of jurisdiction and failure to state a claim—none of that is affected by the alleged fraud Cole attempts to present to the Court. The Court therefore will not award sanctions against Defendants or their counsel.

5. Cole’s motion to appeal in forma pauperis [103]

Cole has filed an affidavit regarding his in forma pauperis status for appeal [103], which the Court construes as a motion for leave to appeal in forma pauperis. Given Cole’s in forma pauperis status, he may not appeal if this Court certifies that his appeal is not taken in good faith.

28 U.S.C. § 1915(a)(3); Fed R. App. P. 24(a)(3)(A). Defendants have not responded to Cole's motion, and the Court grants it. *See Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000) (“[T]o determine that an appeal is in good faith, a court need only find that a reasonable person could suppose that the appeal has some merit.”); *Jennings v. United States*, 472 F. Supp. 2d 1067, 1070 (S.D. Ill. 2006) (“[A]lthough Jennings’s asserted grounds for appeal are meritless, they have been raised in good faith. Therefore, the Court will not certify that Jennings’s appeal is taken in bad faith.”).

6. Cole’s other motions

Given the Court’s dismissal of Cole’s action, the Court denies all other pending motions as moot.

Conclusion

The Court grants in part and denies in part Cole’s motion for reconsideration [94]. Cole’s claims remain dismissed. The Court denies Cole’s motion for recusal [96], motion to stay pending appeal [108], and motion for sanctions [112]. The Court grants Cole’s motion to appeal in forma pauperis [103] and his motions for leave to file additional materials [131] [139]. The Court denies Cole’s other pending motions [92] [119] [142] [144] [146] [148].

SO ORDERED.

ENTERED: May 9, 2025



HON. JORGE ALONSO
United States District Judge

Appendix

F

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

January 29, 2026

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

Nos. 25-1449 & 25-2029

TONY COLE,
Plaintiff-Appellant,

v.

JOSEPH C. FAULKNER, *et al.*,
Defendants-Appellees.

} Appeals from the United States District
Court for the Northern District of
Illinois, Eastern Division.

} No. 24 C 12117

} Jorge L. Alonso,
Judge.

ORDER

Plaintiff-Appellant filed a petition for rehearing on January 26, 2026. All the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

January 30, 2026

By the Court:

Nos. 25-1449 & 25-2029	v.	TONY COLE, Plaintiff - Appellant
		JOSEPH C. FAULKNER, et al., Defendants - Appellees
Originating Case Information		
District Court No: 1:24-cv-12117		
Northern District of Illinois, Eastern Division		
District Judge Jorge L. Alonso		

On January 30, 2026, this court received a petition for rehearing en banc from the appellant. This court denied the appellant's first petition for rehearing on January 29, 2026. The petition for rehearing en banc will be filed without action. *See* Fed. R. App. P. 40(a) ("a party seeking both forms of rehearing [by the panel and by the court en banc] must file the petitions as a single document").