IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GORDON WAYNE WATTS,	)	
	)	
Plaintiff,	)	Case No. 19-cv-3473
	)	
v.	)	Judge Robert M. Dow, Jr.
	)	
CIRCUIT COURT OF COOK COUNTY, et al.,	)	
	)	
Defendants.	)	

ORDER

For the reasons explained below, Plaintiff's motion to alter or amend the judgment and for other relief from judgment [20] is granted in part and denied in part. Plaintiff's claims for prospective declaratory relief against the individual Defendants—all state judges—are reinstated to the extent permissible under 42 U.S.C. § 1983 and the *Ex parte Young* doctrine. The caption of the complaint will be deemed to be corrected in two respects: (1) Plaintiff will be listed individually and not on behalf of a prospective class and (2) all seven Justices of the Illinois Appellate Court named in the body of the complaint will be included as Defendants. However, summons shall not issue at this time. Plaintiff is directed to file a supplemental brief no later than March 20, 2020 explaining why he should be permitted to proceed with his complaint given that (1) declaratory judgments "are meant to define the legal rights and obligations to the parties in the anticipation of some future conduct," and "are not meant simply to proclaim that one party is liable to another." *Johnson v. McCuskey*, 72 Fed. Appx. 475, 477-78 (7th Cir. Aug. 5, 2003); (2) "a plaintiff may not seek reversal of a state court judgment simply by casting his complaint in the form of a civil rights action." *Ritter v. Ross*, 992 F.2d 750, 754 (7th Cir. 1993); and (3) "[l]itigants who believe that a state proceeding has violated their constitutional rights must appeal that decision through their

state courts and ultimately to the United States Supreme Court." *Cichowski v. Hollenbeck*, 397 F. Supp. 2d 1082, 1086 (W.D. Wis. 2005) (citing *Garry v. Veils*, 82 F.3d 1362, 1368 (7th Cir. 1996), and *Wright v. Tackett*, 39 F.3d 155, 157-58 (7th Cir. 1994). Plaintiff's motion for a waiver of PACER fees [23] is denied without prejudice to refiling before the Executive Committee of the Northern District of Illinois, which is the entity responsible for ruling on such motions as the waiver would apply to all cases in this district, not just this one. Plaintiff's request in that same motion [23] for expedited summons, summary judgment, and/or show cause order is denied without prejudice to renewal if Plaintiff's supplemental brief overcomes the potential hurdles to proceeding in this Court identified above.

STATEMENT

I. Background

The background to this case is set out in greater detail in the prior orders entered by a District Judge in the Middle District of Florida [14] and by this Court [18]. Rather than repeating those prior summaries of the facts alleged and claims advanced, the Court refers the reader to those documents, which are incorporated by reference. For present purposes, it will suffice to note that at its core, Plaintiff's lengthy complaint "seek[s] redress against the circuit and appellate courts in Illinois, as well as the individual judges, for denial of his federal civil rights." [See 14, at 2.]

In the early stages of this case, the Florida court determined that venue was not proper there, but was here, so it transferred the case. [14, at 9.] The Florida court also expressed its "doubts regarding subject matter jurisdiction," but concluded that the issue "requires more analysis under *Rooker-Feldman*, which the court will leave for determination by a judge in the Northern District of Illinois." [*Id.*] This Court dismissed the lawsuit on the basis that all of the Defendants were either not suable entities or individuals entitled to judicial immunity. [See 18, at 1-2.]

Plaintiff filed a motion for reconsideration, which the Court finds well-taken in some respects and thus is granted in part and denied in part as explained further below. However, like the Florida court, this Court harbors doubts about its jurisdiction. Given that Plaintiff is *pro se*, the Court has set out the bases for its doubts, including citations to cases from the Seventh Circuit and the district courts in the circuit. Plaintiff will be permitted to file a supplemental brief addressing those issues, and summons shall not issue unless and until the Court is satisfied of its jurisdiction.

II. Discussion

As Plaintiff accurately states, the Court's prior order [18] made a number of rulings, "some correct, some incorrect." [See 20, at 1.] After careful review of Plaintiff's motion and the authorities cited, as well as some independent research given the Court's independent obligation to police its own jurisdiction, the motion is granted in part and denied in part.

Specifically, Plaintiff's motion is denied and the Court's prior order is upheld in the following respects:

(1) The class allegations remain stricken as Plaintiff, a non-lawyer, may not represent other individual litigants.

(2) The claims against all of the state actors (courts and judges) for money damages remain dismissed, as they are barred by the Eleventh Amendment and/or judicial immunity.

(3) The Section 1983 claims against the Circuit Court of Cook County remain dismissed because the Circuit Court, "as a unit of state government, is not a 'person' for the purpose of § 1983." *Tibor v. Kane County, Illinois*, 485 Fed. Appx. 840, 841 (7th Cir. Dec. 6, 2012).

(4) In addition, Plaintiff's claims for injunctive relief against the individual Defendants remain dismissed. Section 1983 states that "injunctive relief shall not be granted" in an action brought against "a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable." 42 U.S.C. § 1983. Given that express statutory limitation, the Seventh Circuit has explained that "§ 1983 limits the type of relief available to plaintiffs who sue [both federal and state] judges to declaratory relief." *Johnson v. McCuskey*, 72 Fed. Appx. 475, 477

(7th Cir. Aug. 5, 2003); *Sudduth v. Donnelly*, 2009 WL 918090, at *5 (N.D. Ill. Apr. 1, 2009).[1]

Plaintiff's motion is granted and the Court's prior order is vacated in the following respect:

(1) Because neither judicial immunity nor Section 1983 bar actions for declaratory relief "requiring a state official to conform his or her behavior to the requirements of federal law in the future" (*Hadi v. Horn*, 830 F.2d 779, 783 (7th Cir. 1987), any claims seeking prospective, declaratory relief are reinstated and will be permitted to proceed under the *Ex parte Young* doctrine, provided that no other basis for dismissal applies (see below). See *Pulliam v. Allen*, 466 U.S. 522, 541-42 (1984).

Plaintiff is given leave to file a supplemental brief addressing the additional potential hurdles that must be cleared before he can proceed with any claims under *Ex parte Young*:

(1) Declaratory judgments "are meant to define the legal rights and obligations to the parties in the anticipation of some future conduct," and "are not meant simply to proclaim that one party is liable to another." *McCuskey*, 72 Fed. Appx. at 477-78 (affirming dismissal of complaint that "was not seeking declaratory relief in the true legal sense," but instead was asking district court to "declare" that other judges had "acted improperly in various ways when deciding the motion for a change in venue").

(2) In addition, the Seventh Circuit has held that "a plaintiff may not seek reversal of a state court judgment simply by casting his complaint in the form of a civil rights action." *Ritter v. Ross*, 992 F.2d 750, 754 (7th Cir. 1993). In other words, "[t]ossing about 'RICO' and 'due process' does not make a claim arise under federal law when the effort is a 'transparent . . . attempt to move a state-law dispute to federal court." *Johnson v. Lockyer*, 115 Fed. Appx. 895, 897 (7th Cir. Nov. 1, 2004) (quoting *Williams v. Aztar Ind. Gaming Corp.*, 351 F.3d 294, 299-300 (7th Cir. 2003)).

(3) Because "federal courts have no power to review state-court civil judgments" (*Lockyer*, 115 Fed. Appx. at 896)—either directly or indirectly through clever pleading—"[l]itigants who believe that a state proceeding has violated their constitutional rights must appeal that decision through their state courts and ultimately to the United States Supreme Court." *Cichowski v. Hollenbeck*, 397

[1] This line of authority appears to moot any potential application of the Anti-Injunction Act, 28 U.S.C. § 2283, for there is a statutory bar to injunctive relief in any event. See also *Tibor*, 485 Fed. Appx. at 841 (explaining the relationship between Section 1983 claims, the Anti-Injunction Act, and the Younger abstention doctrine). It also bears mentioning that the statutory language quoted above was added by Congress after the Supreme Court's decision in *Mitchum v. Foster*, 407 U.S. 225, 237 (1972), and thus any reliance on *Mitchum* in support of a claim for *injunctive* relief against judicial officers [see 20, at 14-15] is no longer viable.

F. Supp. 2d 1082, 1086 (W.D. Wis. 2005) (citing *Garry v. Veils*, 82 F.3d 1362, 1368 (7th Cir. 1996), and *Wright v. Tackett*, 39 F.3d 155, 157-58 (7th Cir. 1994). These cases suggest that the last stop on the legal highway for Plaintiff is not this Court in a separate lawsuit, but the Supreme Court of the United States on direct review of each of the state court rulings giving rise to Plaintiff's claims.

Date: February 20, 2020

Robert M. Dow, Jr.
United States District Judge