

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PHILADELPHIA

STANLEY E. KORNAFEL, : CIVIL ACTION
: :
Plaintiff : :
: :
v. : :
: : NO. 03-6876
: :
GEORGE A. PAGANO, et al. : :
: :
Defendants :

MEMORANDUM

Giles, C.J

August ____, 2004

I. BACKGROUND

The current controversy arises from a March 11, 1992 two-car collision involving the United States Postal Service (“USPS”) and plaintiff’s vehicle. Kornafel v. Repetto, No.01-565, slip op. at 2 (Pa. Super. Jan. 11, 2002). As a result of this accident, damage was caused to plaintiff’s 1971 Datsun. Id. Plaintiff filed a grievance with the USPS. Id. at 4. Plaintiff lacked documentation estimating the cost of repairing the damages to his car. Id. USPS claimed that the estimated cost to repair the Datsun exceeded the Datsun’s fair market value. Id. at 5. Consequently, USPS offered Kornafel \$400 to settle the claim. Id. at 5. Plaintiff rejected this offer and, instead, instituted a pro se action against USPS in the Court of Common Pleas of Delaware County. Kornafel, No.01-565, slip op. at 5. USPS removed the action to the United States District Court for the Eastern District of Pennsylvania. Id. Thereafter, Plaintiff failed to effectuate proper service. Id. The case could not proceed. Id. Kornafel then proceeded to file another pro se action against USPS and, again, was unable to effectuate service. Id.

Subsequently, in 1994, plaintiff secured representation by Maureen Repetto Esquire. Id. Ms. Repetto negotiated a \$975.00 property settlement on plaintiff's behalf in the action pending before the Court of Common Pleas of Delaware County Pennsylvania. Kornafel, No.01-565, slip op. at 5. Plaintiff rejected this offer, and proceeded to institute another pro se action against USPS. Id.

On September 4, 1998, he also filed a legal malpractice action in the Court of Common Pleas against Ms. Repetto, alleging that she forced him to accept USPS's offer of \$975. Kornafel v. Repetto, No.98-12708, slip op. at 2 (Pa. Commw. Ct. Feb. 21, 2001). This malpractice claim was assigned to the Honorable George Pagano of the Delaware Court. Id.

On March 6, 2000, Judge Pagano issued an order assigning the matter to arbitration. Id. An arbitration hearing was held on August 18, 2000. Id. After the hearing, an arbitration award was entered in favor of Ms. Repetto. Id. at 1. Plaintiff appealed the arbitration award. Id. Ms. Repetto filed a Motion for Summary Judgment. The court granted this motion on January 4, 2001. Kornafel, No.98-12708, slip op. at 1-2. From that order, Kornafel filed a notice of appeal to the Superior Court of Pennsylvania, and simultaneously requested that the Court of Common Pleas reconsider its decision. Id. at 2. Plaintiff's motion for reconsideration was denied. Id. The Superior Court of Pennsylvania affirmed Judge Pagano's order of summary judgment. Kornafel, No.01-565, slip op. at 9.

Thereafter, on November 3, 2003, plaintiff commenced an action in the Eastern District Court of Pennsylvania against Judge Pagano and Superior Court Judges, Mc Ewen, Johnson, and Joyce, alleging constitutional violations under 42 U.S.C. § 1983. He asserted that the defendants

adjudicated his claim and his appeal with bias, unfairness, and overall deprivation of his civil rights. Kornafel v. Pagano, No.03-6040, slip op. at 1, n.1 (ED. Pa. Dec. 12, 2003). This civil action was assigned to the Honorable William H. Yohn Jr. Id. On December 12, 2003, Judge Yohn granted motions for summary judgment in favor of the judicial defendants on grounds of judicial immunity. Id.

On December 24, 2003, plaintiff initiated the present action against the same judicial defendants, again alleging substantially the same constitutional violations. The judicial defendants filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), on January 16, 2004. On January 28, 2004, plaintiff filed a brief in opposition.

At the state court trial level, plaintiff claims (1) that he was denied the right to fully state his case; (2) that his request for change of venue was denied without reason; (3) that a pre-trial hearing or conference was denied without justification; and (4) that he was denied the latitude customarily extended to pro se plaintiffs. (Pl.'s Compl. at 2.)

At the state appellate level, he claims: (1) that he was denied an appropriate amount of time for oral argument; (2) that the panel allowed misleading statements by defense counsel; and (3) that the defendants did not follow the rules of professional conduct. Id. Kornafel seeks mandamus action under 42 U.S.C. § 1983, 42 U.S.C. § 1343, and 42 U.S.C. § 1981.

Defendants assert two main grounds for dismissal: (1) that the court lacks jurisdiction, and (2) that the remedy sought by plaintiff is unavailable. (Def.'s Mot. to Dismiss. at 2.) Defendants seek dismissal with prejudice, and an order barring plaintiff from bringing this same suit again. Id. For the reasons that follow, the motion of the judicial defendants is granted in all

respects.

II. DISCUSSION

A. Legal Standard to 12(b)(6) Motion to Dismiss

When considering a motion to dismiss a complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6), the court must “accept as true all of the factual allegations pleaded in the complaint and draw all reasonable inferences in favor of the non-moving party.” Bd. of Trs. of Bricklayers & Allied Craftsmen Local 6 of N.J. Welfare Fund v. Wettlin Assocs., Inc., 237 F.3d 270, 272 (3d Cir. 2001). Furthermore, a court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations.” Hishon v. King & Spalding, 467 U.S. 69, 73 (1984).

Defendants argue that federal courts lack jurisdiction to hear appeals of matters decided by state courts, and that plaintiff is precluded from bringing this cause of action because of the doctrine of res judicata, in that his complaint is virtually identical to the claim previously made against the same defendants, adjudicated in their favor, by Judge Yohn.

B. This Court Lacks Subject Matter Jurisdiction

Defendants properly argue that plaintiff’s claim is just a disagreement with the state court’s holding, and that this Court lacks jurisdiction to hear what is virtually an appeal from a state court’s final adjudication. (Def.’s Mot. Dismiss at 3.) Defendants cite Rooker v. Fidelity Trust, 263 U.S. 413, 416 (1923), and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 483, n.16 (1983), to support these propositions. The Supreme Court held that the jurisdiction of federal district courts is strictly original. Rooker v. Fidelity Trust Co., 44 U.S. 413, 416 (1923). A complaint ‘which is in essence’ an appeal of a final state court decision must

be dismissed for lack of subject matter jurisdiction. Feldman, 460 U.S. at 483, n.16. In Feldman, the Supreme held that district courts lack subject matter jurisdiction to review state court final adjudications, or to evaluate constitutional claims that are ‘inextricably intertwined’ with final state court adjudications. Id. at 486.

The procedural history of plaintiff’s present claims demonstrate that what is presented in this complaint is virtually an appeal from the state court’s decisions at the trial and appellate stages. Furthermore, his claim is inextricably intertwined with the final state court’s adjudications because in effect he seeks a declaration that what was done judicially in state court proceedings was erroneous under state law. Under such circumstances, the federal court is required to abstain from hearing this matter in deference to the state courts. Accordingly, this suit must be dismissed under the Rooker-Feldman doctrine.

C. Kornafel’s Claim is Precluded by the Doctrine of Res Judicata

Even if the court had jurisdiction, plaintiff’s claim could not proceed because the doctrine of res judicata is clearly applicable to the claim he seeks to raise here. “‘Under the doctrine of res judicata or claim preclusion, a subsequent suit based on the same cause of action as a prior suit that involved the same parties or their privies is barred where there has been a final judgment on the merits of the prior suit.’” Labelle Processing Co. v. Swarrow, 72 F.3d 308, 313 (3d Cir. 1995)(quoting Bd. of Trs. of Trucking Employees v. Centra, 983 F.2d 495, 504 (3d Cir.1992)). Furthermore,

merely adding some facts, naming additional defendants, or proposing a different theory of recovery will not convert one cause of action into a second cause of action and thereby evade the preclusive effect that the first cause of action has if both involve the same liability creating conduct on the part of the defendants and the same alleged invasion of the plaintiff’s rights.

Wood v. Coleman, No. CIV.A.83-27, 1989 WL 29250, at *15 (E.D. Pa. Mar. 29, 1989).

Plaintiff's cause of action has already been adjudicated by Judge Yohn. Kornafel v. Pagano, No.03-4735, slip op. at 1 (E.D. Pa. Dec. 15, 2003). The allegations and parties listed in plaintiff's complaint are identical to those litigated previously before him. Accordingly, the doctrine of res judicata would preclude plaintiff from proceeding with the same claims.

III. CONCLUSION

For the reasons stated, this Court lacks jurisdiction and is required to dismiss this case with prejudice. An appropriate order follows.

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JUDGMENT ORDER

AND NOW, this _____ day of August, 2004, upon consideration of the Motion filed on behalf of all judicial defendants, named in the above-captioned matter, to Dismiss plaintiff's Complaint pursuant to Fed. R Civ. P. 12(b)(1) and 12(b)(6), and plaintiff's response thereto, it is hereby ORDERED as follows:

1. Defendant's Motion to Dismiss is GRANTED;
2. Plaintiff's Complaint shall be DISMISSED WITH PREJUDICE;
3. Judgment is entered in favor of defendants and against plaintiff;
4. All pending motions are DENIED as MOOT.

IT IS FURTHER ORDERED, inasmuch as this is the second time the same claim has been made in this Court against the same defendants, that plaintiff is barred from bringing the identical claim again in this Court. The Clerk of Court shall note this directive. Any subsequent case filed shall be assigned to me to review whether plaintiff has complied with this order.

Copies by FAX on
to

BY THE COURT

JAMES T. GILES C.J

