

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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ETHAN BOOK, JR.	:	3:04 CV 442 (JBA)
	:	
v.	:	
	:	
RICHARD TOBIN AND	:	
MARTIN L. NIGRO	:	DATE: AUGUST 26, 2010
-----X	:	

RULING ON PLAINTIFF'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND
ON PLAINTIFF'S MOTION FOR LEAVE TO SUPPLEMENT

On March 16, 2004, plaintiff, appearing pro se, commenced this lawsuit against defendant Richard Tobin and Martin L. Nigro, both of whom were Superior Court Judges assigned to the Connecticut Superior Court in Stamford, with respect to a criminal matter against him (Dkt. #1),¹ followed by an Amended Complaint, filed on May 17, 2004 (Dkt. #12), and a [Second] Amended Complaint, filed on September 17, 2004. (Dkt. #40). After an array of motions were filed, on August 17, 2005, U.S. District Judge Janet Bond Arterton filed her ten-page Ruling on Defendants' Motion to Dismiss (Dkt. #81), which granted defendants' motion in that defendants were entitled to absolute judicial immunity for their judicial acts, and because the Rooker-Feldman doctrine barred the federal court from exercising jurisdiction over claims that already had been decided by the state court. Judgment was entered for defendants the next day. (Dkt. #82).

Thereafter, plaintiff filed multiple post-judgment motions, all of which were denied by Judge Arterton in her Order on Motions, filed March 20, 2006 (Dkt. #104), whereupon

¹The electronic docket sheet reflects that plaintiff paid the \$150 filing fee.

plaintiff filed his Notice of Appeal on May 10, 2006. (Dkt. #109).² Thereafter, plaintiff continued to file repetitive motions with the court, which were denied by Judge Arterton on August 6, 2007. (Dkt. #125). On February 8, 2008, the Second Circuit filed its Summary Order, which affirmed all of Judge Arterton's rulings in their entirety. (Dkt. #129).³ In the two-and-one-half years since the Second Circuit's affirmance, plaintiff has continued to file motions in this case, which Judge Arterton has denied in her Orders, filed December 16, 2008, January 16, 2009, April 29, 2009 (Dkts. ##138, 140, 152), following which plaintiff filed another Notice of Appeal on May 28, 2009. (Dkt. #155). Despite the matter again being with the Second Circuit, plaintiff continued to file motions here, which were denied by Judge Arterton on August 4, 2009. (Dkt. #164). In the past year, plaintiff has filed nine additional motions, which are pending before Judge Arterton. (Dkts. ##165, 166, 168, 172, 175, 180, 181, 182, 183).

Currently pending before the Court is plaintiff's Motion to Proceed In Forma Pauperis, filed December 21, 2009 (Dkt. #173) and plaintiff's Motion for Leave to Supplement (Dkt. #178). As the Second Circuit emphasized in a ruling filed less than two months ago, a district court "shall dismiss" a complaint filed in forma pauperis "at any time if the court determines that . . . the action . . . seeks monetary relief against a defendant who is immune from such relief." Stancuna v. New Haven Legal Assistance, No. 09-4827-CV, 2010 WL 2616873, at *1 (2d Cir. June 30, 2010)(quoting 28 U.S.C. § 1915(e)(2)(B)(iii)). See also Patterson v. Rodgers, 3:10 CV 579 (CSH), 2010 WL 1704403, at *4-5 (D. Conn. Apr. 28,

²The electronic docket sheet similarly indicates that plaintiff paid the \$455 filing fee for the appeal.

³The U.S. Supreme Court denied plaintiff's petition for certiorari on January 12, 2009. No. 08-6670, 2009 WL 56320, at *1 (U.S. Jan. 12, 2009).

2010)(Haight, S.J.)(dismissing as part of in forma pauperis consideration lawsuit against thirteen judges (among other defendants) with respect to adverse rulings in state court lawsuit regarding plaintiff's great-grandfather's estate, on the basis of judicial immunity (among other grounds)); Gyadu v. Appellate Court, 09 CV 27 (SRU), 2009 WL 5110842, at *2-3 (D. Conn. Dec. 17, 2009)(Underhill, J.)(dismissing as part of in forma pauperis consideration lawsuit against Connecticut Appellate Court for adverse rulings in state court lawsuits regarding plaintiff's condominium, under Rooker-Feldman doctrine).

In this case, Judge Arterton dismissed the lawsuit in August 2005, some five years ago, on the basis of judicial immunity and the Rooker-Feldman doctrine, which ruling was affirmed by the Second Circuit on these same grounds in February 2008, two-and-one-half years ago. Judge Arterton has issued four Orders denying plaintiff's multiple post-appeal motions, he has filed yet another appeal, and has nine additional motions pending, besides the two addressed in this ruling. For these reasons, plaintiff's Motion for Leave to Supplement (Dkt. #178) is granted to the limited extent that it permits plaintiff to expand upon his financial woes, but plaintiff's Motion to Proceed In Forma Pauperis (Dkt. #173) is denied.

See 28 U.S.C. § 636(b)(**written objections to ruling must be filed within fourteen calendar days after service of same**); FED. R. CIV. P. 6(a) & 72; Rule 72.2 of the Local Rules for United States Magistrate Judges, United States District Court for the District of Connecticut; Small v. Sec'y, H & HS, 892 F.2d 15, 16 (2d Cir. 1989)(**failure to file timely objection to Magistrate Judge's recommended ruling may preclude further appeal to Second Circuit**).

Dated at New Haven, Connecticut, this 26th day of August, 2010.

/s/ Joan G. Margolis, USMJ
Joan Glazer Margolis
United States Magistrate Judge