

DAVID MARTIN,)
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Plaintiff,)
)
vs.) No. 22 CV 6296
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ATTORNEY GENERAL KWAME RAOUL, JUDGE) Chicago, Illinois
GREGORY EMMETT AHERN, JR., UNNAMED) November 30, 2023
COOK COUNTY CLERKS, COOK COUNTY,) 9:00 a.m.
)
Defendants.)

BEFORE THE HONORABLE ANDREA R. WOOD

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1 (Proceedings heard via telephone:)

2 THE COURT: Good morning. This is Judge Wood joining
3 the line. I think we're ready to get started this morning so
4 we'll go ahead and call the first case.

5 Amanda.

6 THE CLERK: 22 CV 6296, Martin versus Ahern.

7 MR. MARTIN: Martin here.

8 THE COURT: Thank you, Mr. Martin.

9 Do we have defense counsel?

10 MS. JOHNSTON: Good morning, Your Honor. Assistant
11 Attorney General Mary Johnston.

12 THE COURT: Thank you.

13 Okay. So, Mr. Martin, I see that just a little bit
14 earlier this week, you filed a motion to amend your reply to
15 the motion in support of the temporary restraining order.

16 It looks like you just wanted to fix a typo; is that
17 correct?

18 MR. MARTIN: For the most part. And just for the
19 record, I think I'm referring to -- originally, I referred to
20 the part of the statute that describes when a case becomes
21 removable as (c)(3). It's actually (b)(3). So I just wanted
22 to correct that because that would cause a lot of confusion.
23 But, basically, (b)(3) describes cases that may become
24 removable.

25 THE COURT: So are you asking to file a new document

1 that corrects the mistake, or do you just want to rely on the
2 fact that you've pointed out the mistake to me today and I can
3 go ahead and rule based on the papers that I have?

4 MR. MARTIN: I think there could be some confusion.
5 The amended motion -- you know what? I never -- are you
6 referring to the original removal documents, or are you
7 referring to the --

8 THE COURT: Sure. So what I have from you,
9 Mr. Martin, was filed on the 27th which was Monday.

10 MR. MARTIN: Right.

11 THE COURT: And it's a motion to amend your reply so
12 I assume that what you want to amend is the reply that you
13 filed last week on the 22nd which was Wednesday. You wanted
14 to fix something that you made a mistake on in the reply brief
15 so it's really just me trying to figure out what you want to
16 do.

17 MR. MARTIN: I see. So when I filed -- so there's --
18 okay. So there's going to be a little confusion.

19 So there was actually -- on 11/20 -- what is that --
20 it actually was done on November 22nd. And on November 22nd,
21 you should have a copy of the corrected -- of the amended
22 document. So you should have everything.

23 THE COURT: Oh, I see. So your reply that has the
24 mistake is the document that was filed on the 21st at Docket
25 Number 38?

1 MR. MARTIN: Right.

2 Okay. So let me really go into it. So on the 21st,
3 I did -- okay. So on the 20th, I filed everything a little
4 bit early. On the 21st, which was the deadline, I made an
5 amendment. Then on the 22nd, I noticed a typo.

6 So there's actually two amended documents. The one
7 that you should be taking was filed on November 22nd, if you
8 could take that. So along with that, you should have an
9 amended reply that was filed on the 22nd. Yeah, the 22nd.

10 THE COURT: Yes. Okay. Thank you. That is very
11 helpful, Mr. Martin.

12 I see that there is a document, and then there's --
13 your affidavit of proceedings is attached as an exhibit. So
14 what I will consider is the brief that was filed on
15 November 22nd at Docket Number 40. So I'm granting your
16 request to file the amended reply. So that's at Number 39.

17 And I now understand that you were making clear that
18 you were asking for leave to file what had already been filed
19 right before Thanksgiving at Docket Number 40.

20 All these things, since they happened over the
21 holiday weekend when the court wasn't open, it showed up on my
22 radar screen at about the same time, Mr. Martin, so it's
23 helpful for me to get that clarification.

24 MR. MARTIN: I see. I see. Okay.

25 Just one quick question. I'm not sure how much

1 longer I'll be in federal court, but is it easier if I just
2 put all the documents in one packet instead of -- because what
3 I've been doing in the past is separating the motions and, you
4 know, documents and submitting them.

5 THE COURT: That's the correct thing to do. What
6 you're doing is fine.

7 MR. MARTIN: Okay.

8 THE COURT: Yes. So the motion is usually separate
9 from the brief.

10 I have everything now that I need for your motion for
11 the TRO as well as the motion to dismiss. I will issue a
12 written order on both of those things.

13 I think your motion on the -- or your reply brief
14 answers any questions that I had about what was going on in
15 the state court proceeding so I don't have any additional
16 questions for you today.

17 What I will do is first see if the parties have
18 anything you want to raise. Otherwise, I will give a written
19 ruling within the next couple of weeks, I think, addressing
20 all of the outstanding issues, probably the TRO first and then
21 a separate ruling on the motion to dismiss. And then I'll
22 have a status date so that if there are any further
23 proceedings that we need to address, we can get moving on
24 them.

25 Mr. Martin, did you have any other questions or

1 things that you needed to raise this morning?

2 MR. MARTIN: I did want to just make one quick
3 emphasis on something, if I could.

4 THE COURT: Go ahead.

5 MR. MARTIN: And it shouldn't take long.

6 The long story, the brief will explain that Ahern
7 does not -- Judge Ahern does not have the right to question or
8 to measure or gauge my removal. He doesn't have this ability
9 because the statute prevents him from doing it. That is the
10 responsibility of the state court litigants.

11 And Ahern has essentially determined that the removal
12 is no good, and therefore, he started issuing orders despite
13 the fact that the state court already acknowledged the removal
14 twice. And yet so he conceives, like, orders.

15 And this Court, you have full authority to delete
16 these orders because according to the law, those orders are
17 void, and Federal Rule of Civil Procedure 60(B)(4) gives you
18 the ability to basically give relief from void orders. And
19 there's case law on how state court judgments become
20 federalized when a removal is filed.

21 Now, regardless of whether or not the removal is bad
22 or good, it still doesn't give Ahern the ability to write
23 orders while the removal is going on.

24 And Ahern shouldn't even be able to actually question
25 the removal now because the statute prevents him from

1 questioning the removal. So all of his arguments are
2 irrelevant.

3 So that's it. That's all I'll say.

4 THE COURT: Thank you, Mr. Martin.

5 Is there anything that you wanted to raise today,
6 Ms. Johnston?

7 MS. JOHNSTON: No. I'm willing to rest on, you know,
8 the response brief that I've already submitted.

9 I do just want to clarify, so we are going with the
10 operative reply brief that you are reviewing as the one that's
11 on the docket as ECF Number 40?

12 THE COURT: That is correct.

13 MS. JOHNSTON: I just wanted to make sure for my
14 records. That's what I thought as well, but, again, with
15 everything coming in around the holiday, as you said, I wanted
16 to make sure that when I'm looking at things, I know exactly
17 what it is that the Court's reviewing.

18 THE COURT: Yes. So my understanding is that
19 Mr. Martin's request to amend his reply was -- even though it
20 was filed after was intended to address the reply at Number
21 40. That fixes the mistakes that he wanted to fix. That's
22 the one I will consider and not what was filed at 37 or 38.

23 MR. MARTIN: Yes. The date on the document should be
24 November 22nd --

25 THE COURT: Yes.

1 MR. MARTIN: -- that everyone should be paying
2 attention to.

3 THE COURT: Yes.

4 And then so what I'm going to do is set a future
5 status date. You will get rulings within the next couple of
6 weeks. I will see the parties again, if necessary, after the
7 first of the year. If the case is proceeding in front of me,
8 that will be when we discuss a discovery schedule.

9 I'm going to set the hearing for January 30th at
10 10:00 a.m. as a telephone hearing. Are the parties available
11 then?

12 MR. MARTIN: Yes.

13 MS. JOHNSTON: Your Honor, I am --

14 MR. MARTIN: Go ahead.

15 THE COURT: Yes, Ms. Johnston?

16 MS. JOHNSTON: I am currently scheduled to be on
17 trial that week. Hopefully, that will change, but as of now,
18 I will be on a trial for the week of the 29th till the 2nd.

19 THE COURT: What if I move it to January 25th -- I'm
20 sorry. You said your trial begins when?

21 MS. JOHNSTON: January 29th.

22 THE COURT: Okay. So if I were to move it to
23 10:00 a.m. on January 25th, would that resolve your issue?

24 MS. JOHNSTON: Yep. That's fine. Thank you very
25 much.

1 THE COURT: Does that work for you, Mr. Martin?

2 MR. MARTIN: Yes, it does, but there's quite a bit of
3 issue here because Ahern has issued a body attachment order,
4 and I think I'm entitled -- I believe I'm entitled to be
5 relieved from that order. Nothing that the defendants have
6 provided would justify Ahern violating the statute.

7 So this is kind of an urgent situation. I even
8 actually tried to purge his body attachment by going down to
9 the clerk of the court and putting the money owed on a credit
10 card, and they wouldn't accept any money.

11 THE COURT: Mr. Martin, I apologize for interrupting
12 you, but I thought you said that the body attachment issue had
13 been resolved, that Judge Ahern was no longer pursuing the
14 writ of body attachment. Is this a new one?

15 MR. MARTIN: It was issued after our court date,
16 after we discussed it, you know, after -- you know, after the
17 last court date. So after I made that statement, he issued a
18 body attachment.

19 THE COURT: And so is it your understanding that you
20 are subject to that right now and that he may be sending the
21 sheriffs to pick you up?

22 MR. MARTIN: That's my understanding, yeah. And my
23 understanding is also that I'm entitled to relief from those
24 orders because they're already void.

25 THE COURT: I understand.

1 Do you have a next court date in front of Judge
2 Ahern?

3 MR. MARTIN: I do not. And I actually tried to pay
4 on credit card and I actually filed a motion asking for a
5 court date. They didn't give me a court date, and I said,
6 "Hey, look, I have all of \$1,500 in my bank account" and I
7 asked for some type of payment arrangements, and they didn't
8 assign a court date. So I'm in a state of limbo right now.

9 THE COURT: I understand.

10 So I'm going to keep the status date where it is.
11 I'll go ahead and issue the order on the TRO very shortly. I
12 understand that there's been this body attachment order issued
13 and you'd like to have that resolved so I will address that.

14 The status date is not for a ruling. The ruling will
15 come by email now that I've got the full briefing.

16 MR. MARTIN: Okay.

17 THE COURT: Okay. And thank you for that update.

18 So we have a next status date. I'll get the ruling
19 on the TRO out first. That will be followed by a ruling on
20 the motion to dismiss.

21 Thank you for your time this morning.

22 MR. MARTIN: Okay. Thank you.

23 MS. JOHNSTON: Thank you, Your Honor.

24 THE COURT: That's all on the Martin matter.

25 (Proceedings adjourned at 9:13 a.m.)

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C E R T I F I C A T E

I, Brenda S. Varney, certify that the foregoing is a complete, true, and accurate transcript from the record of proceedings on November 30, 2023, before the HONORABLE ANDREA R. WOOD in the above-entitled matter.

<u>/s/Brenda S. Varney, CSR, RMR, CRR</u>	<u>June 17, 2024</u>
Official Court Reporter	Date
United States District Court	
Northern District of Illinois	
Eastern Division	