

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 DAVID MARTIN,

5 Plaintiff,

6 vs.

7 ATTORNEY GENERAL KWAME RAOUL, JUDGE
8 GREGORY EMMETT AHERN, JR., UNNAMED
9 COOK COUNTY CLERKS, COOK COUNTY,

10 Defendants.

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)
)
) No. 22 CV 6296
)

) Chicago, Illinois
) April 5, 2023
) 9:10 a.m.
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11 TRANSCRIPT OF PROCEEDINGS - TELEPHONIC STATUS HEARING

12 BEFORE THE HONORABLE ANDREA R. WOOD

13 APPEARANCES:

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1 (Proceedings heard via telephone:)

2 THE CLERK: Calling the next case, 22 CV 6296, Martin
3 versus Ahern, et al., for status.

4 MR. MARTIN: David Martin.

5 THE COURT: Good morning, Mr. Martin. Thank you.

6 And I don't know if we have anyone on the line
7 representing any of the defendants. I don't see anyone, but
8 let me just double check to make sure that none of the
9 defendants are represented this morning. No one is speaking
10 up.

11 Okay. Mr. Martin, I see that you've filed a motion
12 for entry of default.

13 MR. MARTIN: Correct.

14 THE COURT: And that's as to just the one judge. It
15 looks like you're seeking default against Judge Ahern.

16 MR. MARTIN: Correct.

17 THE COURT: So the summons that was returned executed
18 shows that they were just served on March 20th and that their
19 answers are due April 10th.

20 It looks like your default is based on service of the
21 original complaint which was filed back in November of 2022,
22 but you did file an amended complaint. And so the amended
23 complaint is the current complaint against the defendants so
24 they would not be required to appear until after they were
25 served with the amended complaint and their time had run. And

1 based on the return of summons from the sheriff that you
2 filed, it looks like they still have several days before they
3 would be due to answer. So, based on that, your motion for
4 entry of default as to Judge Ahern is premature.

5 MR. MARTIN: Okay. So did you want me to re-file it,
6 or do we just simply wait and --

7 THE COURT: So I'm going to set -- I will set another
8 status date to see if they file.

9 I will say, in looking at your amended complaint, it
10 does look like most of the things that you've included in
11 there are things that you have to take to state court that I
12 would not have jurisdiction over as a federal court judge.

13 I will give a more detailed read because there's more
14 in the complaint than what there was before, but I do want to
15 make sure that you're aware that if I don't have subject
16 matter jurisdiction, I have an obligation to dismiss the case.

17 I will give it a good read and make sure that I know
18 one way or the other, but, either way, they do still have
19 until April 10th to respond.

20 I'll set another --

21 MR. MARTIN: Well --

22 THE COURT: Yes? You have a question?

23 MR. MARTIN: Well, sure. I'm trying to figure out
24 what makes you believe you don't have jurisdiction.

25 THE COURT: It appears that what you want is for me

1 to tell the state court that they should be doing things
2 differently in your cases that are pending there. And, as a
3 general rule, a federal court just doesn't have jurisdiction
4 to do that.

5 You either have to appeal and go through the entire
6 state system, and then you can go to the United States Supreme
7 Court, or, if your case is over, sometimes, in limited
8 circumstances, you can bring a suit for damages, but there are
9 certain doctrines. One is called the *Younger* doctrine, one is
10 called *Rooker-Feldman*. Basically, they all stand for the idea
11 that I have to respect the jurisdiction of the state courts.

12 And there are things that are going on there. They
13 have the obligation to fix it, and you have to exhaust your
14 efforts to get them to fix it before you can ask me to make
15 them do something differently.

16 So, for example, in your relief section, you're
17 saying that you want me to order them to give you a fair and
18 impartial hearing and you want me to order the certification
19 of the circuit court record and you want me to order the Cook
20 County Clerk to do certain things. The state court has to do
21 that. I can't order the court clerk to change the court
22 records, the circuit court.

23 MR. MARTIN: Okay. So if I could respond?

24 THE COURT: Sure. Go ahead.

25 MR. MARTIN: Okay. So with regards to the

1 *Rooker-Feldman* doctrine, I think that's not really going to
2 apply to this. And the reason I'm going to argue that is
3 first off, I was actually never served for that particular --
4 I was never served for the issue of college expenses so I
5 never received notice and opportunity.

6 And then, from there, a jury trial was already
7 pending. So before the plaintiffs in the state case filed for
8 contribution of college expenses, I had already requested a
9 jury trial. And that jury trial basically involves the exact
10 same set of facts and circumstances as the contribution of
11 college expenses case.

12 So, basically, I have a right to a jury. And I speak
13 about a lot of that stuff in the actual complaint. So they're
14 violating, you know, the federally protected constitutional
15 right.

16 The purpose of the 1983 statute is to protect the
17 federal rights of citizens, so, you know, I argue that they're
18 actually violating my right to a trial by jury.

19 There's also extrinsic fraud, I allege, because they
20 actually transferred the case to a judge who I'm alleging is
21 biased. They're refusing to certify the record, and they're
22 essentially trying to evade the actual jury trial.

23 And I'm also -- when I look back, even though I was
24 never served, I did go back and dig through the court records,
25 and there's no -- there's Zoom information that was actually

1 provided. Even though I wasn't served, I did go back and I
2 looked at the Zoom information. The Zoom information was
3 incorrect.

4 So extrinsic fraud is basically anything that
5 prevents a person from presenting their case in court. So as
6 regards to the state court, I'm not able to actually -- I
7 wasn't able to actually present a case there because the Zoom
8 information was incorrect, and that led to the actual
9 judgment.

10 And most of this -- you mentioned the appeal several
11 times. Most of this is actually about the appeal because in
12 order for me to appeal, I actually need these state court
13 records. And if I don't have the state court records, I can't
14 appeal. The appeal would be 100 percent completely
15 ineffective.

16 So I think that you have jurisdiction to provide
17 injunctive relief according to *Pulliam v. Allen* which
18 basically says that you can provide injunctive relief, and
19 it's based on the concept of the writ of mandamus even though
20 it's in federal court. You do have that power and you do have
21 the ability to provide relief.

22 I think I'm asking for any remedy the Court can
23 provide because, essentially, what I'm trying to do is get the
24 court record so that I can appeal.

25 Another aspect of this is that the clerks themselves

1 are -- I'm alleging that the clerks themselves are actually
2 sabotaging the record as I explained. Some of the documents
3 have been altered. And then once I put forth an effort to get
4 that corrected, then documents are missing. And it just
5 creates a situation where it's just going to be impossible to
6 appeal this thing if I'm not able to get a federal court
7 judgment.

8 So this is mostly about the appeal. None of it is
9 really about the actual judgment for the contribution of
10 college expenses but, you know, more so just to get the
11 appeals record.

12 But on top of that, even the statute that they're
13 using for contribution of college expenses I'm alleging is
14 unconstitutional because of vagueness and because of the jury
15 violation.

16 So I honestly believe that you are 100 percent in
17 your right under 1983 to provide relief here. And I believe
18 that *Rooker-Feldman* doesn't really apply because like I said,
19 I was never served, there was a jury trial requested, and most
20 importantly, the case is still pending in state court. Right?
21 I still have the jury trial to attend, you know, so that case
22 is pending. So *Rooker-Feldman* doesn't really apply.

23 So I would like to see the defendants respond to this
24 so that I can properly respond to any *Younger* doctrine
25 arguments they may have or *Rooker-Feldman* doctrine arguments

1 they may have, but, honestly, *Rooker-Feldman* does not apply.

2 I haven't really had a chance to look at the *Younger*
3 doctrine because I'm just hearing about it.

4 THE COURT: Yes. So *Younger* deals with a situation
5 where you have a case that's ongoing in state court, and it
6 basically says that you can't ask the federal court to do
7 something in a separate case that would basically keep the
8 state court proceeding from moving forward sort of
9 independently. In other words, I can't jump in and interfere
10 with an ongoing state court case.

11 I will consider everything that you've said, and I
12 will take a look at it again.

13 At this point, based on the return of service from
14 the sheriff, the defendants still have until April 10th in
15 order to answer the complaint because they weren't served
16 until March. So I will set a date after they're due to
17 answer, and we'll see if they file anything.

18 I will take a look at the complaint. Even if they
19 don't appear, even if they don't file something asking me to
20 dismiss based on subject matter jurisdiction, I have an
21 obligation to look at these issues and to consider them. That
22 is clear from the Court of Appeals that I answer to that I
23 have an obligation to do that. But, for now, we need to see
24 if they're going to answer.

25 Their answer date is -- I think I said April 10th so

1 I'm going to ask my courtroom deputy to set another telephone
2 hearing to give them time potentially to answer and for me to
3 review your amended complaint.

4 Due to my trial schedule -- I do have a trial that's
5 going on in the second half of April -- I'm going to set our
6 date at the beginning of May. The same call-in number.
7 Laritza is going to give you the date and time now.

8 Laritza, can we get a date and time in the beginning
9 of May?

10 MR. MARTIN: And just to --

11 THE CLERK: Sure.

12 MR. MARTIN: I have two quick questions after that.

13 THE COURT: Okay. Let me get a date and time, and
14 I'll let you ask your question.

15 THE CLERK: Yes, Judge. We can do May 2nd at 10:30.

16 THE COURT: Would you be able to call in then?

17 MR. MARTIN: May 2nd? Could we do -- is it possible
18 to do something around May 15th?

19 THE COURT: Sure.

20 Laritza, if you could take a look at our calendar.

21 THE CLERK: Yes, Judge. We can do May 16th at 9:30.

22 MR. MARTIN: That sounds great.

23 THE COURT: Very good.

24 One thing I do want to make sure that you do,
25 Mr. Martin, is I understand that you disagree about subject

1 matter jurisdiction. I might look at it and I might decide
2 that you're right. Either way, I don't want you to lose any
3 of your rights in state court because you didn't file a notice
4 of appeal or anything else that you're required to do in state
5 court. So make sure that even while you're arguing with me
6 about subject matter jurisdiction here that you're still doing
7 everything you need to do to preserve your rights in state
8 court. Okay?

9 MR. MARTIN: Right. There's a lot of craziness going
10 on so I've actually already been to the appeals court, and it
11 got pushed back down because of subject matter jurisdiction.
12 They said that I need to have my jury trial first. So this
13 court really isn't holding up any litigation in state court.

14 So my question was: Would I be able to address your
15 concerns in some type of a document and get the opportunity to
16 respond to your concerns for the *Younger* doctrine and the
17 *Rooker-Feldman* doctrine just so that I have something?

18 THE COURT: Sure. Here's what I will do, actually,
19 because I appreciate that you've thought about the issue and
20 you want a chance to respond. I will not dismiss your case
21 without giving you an opportunity to put something in writing.
22 So if I look at your complaint and I think there's a subject
23 matter jurisdiction issue, I will issue an order, and it will
24 tell you exactly what my concerns are, and it will give you a
25 time period to respond in writing.

1 MR. MARTIN: Okay. And the last thing is that I do
2 intend -- just to let you know, I do intend to file an entry
3 of default for Kwame Raoul.

4 THE COURT: So as soon as you get past that date on
5 the docket -- hopefully, you have access online to be able to
6 see the docket entries or you're getting notice by mail, but
7 you will see that the sheriff -- I guess you filed the proof
8 of service, actually.

9 MR. MARTIN: Right.

10 THE COURT: Okay. So it says April 10th for Attorney
11 General Raoul as well. So, after that date, you file what you
12 feel you need to file.

13 MR. MARTIN: Okay. And you do not need me to re-file
14 the default for Ahern?

15 THE COURT: A formal request. You don't need to
16 re-file the proof of service. It would be best for you to
17 re-file the request for entry of default since the first one
18 is premature so it will be terminated as a pending motion.

19 MR. MARTIN: Okay. Thank you. Thank you so much.
20 Bye-bye.

21 THE COURT: Okay. Thank you.

22 (Proceedings adjourned at 9:24 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 April 5, 2023, before the HON. ANDREA R. WOOD in the above-entitled matter.

<u>/s/Brenda S. Varney, CSR, RMR, CRR</u>	<u>July 18, 2024</u>
Official Court Reporter	Date
United States District Court	
Northern District of Illinois	
Eastern Division	