

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.

)  
)  
)  
) No. 22 CV 6296  
)

) Chicago, Illinois  
) June 13, 2023  
) 9:17 a.m.  
)  
)

11 TRANSCRIPT OF PROCEEDINGS - TELEPHONIC STATUS HEARING

12 BEFORE THE HONORABLE ANDREA R. WOOD

13 APPEARANCES:

14 For the Plaintiff: MR. DAVID MARTIN, Pro Se  
15 5352 South Princeton Avenue  
16 Chicago, Illinois 60609  
17 (773) 893-0813  
18 martinvtthompson@gmail.com

19 For the Defendants: ILLINOIS ATTORNEY GENERAL  
20 BY: MS. MARY ALICE JOHNSTON  
21 115 South LaSalle Street, 27th Floor  
22 Chicago, Illinois 60603  
23 (312) 814-4417  
24 mary.johnston@ilag.gov  
25

26 Court Reporter: Brenda S. Varney, CSR, RMR, CRR  
27 Official Court Reporter  
28 219 South Dearborn Street, Suite 2144D  
29 Chicago, Illinois 60604  
30 (312) 554-8931  
31 brenda\_varney@ilnd.uscourts.gov

1 (Proceedings heard via telephone:)

2 THE COURT: Good morning. This is Judge Wood  
3 rejoining the line. I believe we are ready to call the next  
4 case so my courtroom deputy will do that, and then we will get  
5 appearances from the parties.

6 Go ahead, Laritza.

7 THE CLERK: Calling case 22 CV 6296, Martin versus  
8 Ahern, et al., for status.

9 THE COURT: Okay. Do we have the plaintiff,  
10 Mr. Martin, on the line?

11 MR. MARTIN: I'm here.

12 THE COURT: Thank you, Mr. Martin.

13 And do we have counsel for the defendants?

14 MS. JOHNSTON: Good morning, Your Honor. This is  
15 Mary Johnston on behalf of the defendant.

16 THE COURT: Thank you.

17 So this is set for a status hearing today. I believe  
18 that a status hearing was set before the recent extension that  
19 I granted in the briefing of the motion to dismiss so  
20 Mr. Martin's response to the motion is not yet due. I believe  
21 it is due June 29th.

22 Mr. Martin, are you on track to file a motion or a  
23 response to defendants' motion?

24 MR. MARTIN: I am on track. I could use a little bit  
25 more time, but other than that, I am on track.

1           THE COURT: If you think you need an extension, this  
2 would be the time to ask for it. You've already had a little  
3 bit more time. What do you think you need in order to file  
4 your response?

5           MR. MARTIN: I would -- so it's due on the 29th. If  
6 possible, I would like to extend that another two weeks,  
7 making it due on the 13th. But it's possible I could have it  
8 done way before July 13th, but having a little buffer, a  
9 two-week buffer, would be nice.

10          THE COURT: Ms. Johnston, do you have any objection  
11 to the further extension?

12          MS. JOHNSTON: No objection, and I am just -- sorry.  
13 I'm looking at my calendar. That would then bump my reply out  
14 to August 3rd which should be fine. I just wanted to look at  
15 my calendar before -- yeah, I have no objection.

16          THE COURT: So, Mr. Martin, if I give you the two  
17 weeks now, you can always file early. You don't have to wait  
18 until the due date, but I won't be inclined to give any  
19 further extensions just because we do need to get the briefing  
20 wrapped up so that I can get a ruling to you.

21                 So your new date would be July 13th. And it sounds  
22 like you're confident that you will be able to make your  
23 filing by that date; is that correct?

24          MR. MARTIN: That's correct, but there are other  
25 issues.

1 THE COURT: What are the other issues?

2 MR. MARTIN: One of the issues being that when I  
3 actually went to try to get a summons issued for the other  
4 plaintiffs, the Clerk of the Court would not issue it because  
5 I didn't name them properly.

6 THE COURT: I'm sorry. Do you mean for the other  
7 defendants?

8 MR. MARTIN: I'm sorry. For the other defendants,  
9 yeah. I'm sorry. I didn't have any coffee yet.

10 Another defendant is actually the Cook County clerks,  
11 and in the original complaint or in the amended complaint, I  
12 put them as unknown, but I actually know who they are.

13 I just thought that I'd be able to address that once  
14 I issued the summons to the clerks, but they wouldn't issue a  
15 summons. So as a result, they haven't responded.

16 THE COURT: Yes. So you do have to actually identify  
17 who the individuals are that you are seeking to bring suit  
18 against. Describing them as unnamed clerks is not going to be  
19 sufficient because the summons actually includes a name of a  
20 person, and it's very important to make sure that the proper  
21 person is named and served and responds. And the only way for  
22 you to add the names of individual clerks would be to file an  
23 amended complaint in order to do that.

24 I don't believe the current amended complaint which  
25 is at Docket Number 10 includes any names of the clerk's

1 office employees.

2 MR. MARTIN: That's correct.

3 And I was thinking that maybe if we could do that  
4 after your ruling simply because -- it's sort of a separate  
5 defendant, and your ruling dismissing the complaint against  
6 Ahern and Raoul wouldn't necessarily affect the clerks.

7 THE COURT: I can't speak to that, but it's possible  
8 it wouldn't. They have different positions. I'd have to see  
9 what you are saying exactly that the individual clerks did and  
10 what their specific positions are.

11 MR. MARTIN: Yeah. So the allegations against the  
12 individual clerks is actually in the amended complaint. I  
13 just didn't name them, but the allegations against them is  
14 that they modified the records and they omitted records. So  
15 that's the complaint against them, but I just didn't name the  
16 clerk in question.

17 I was in communication with the clerk, and I can name  
18 them. And subsequently, because -- yeah, I can name them.  
19 It's just that I thought I would have an opportunity to do  
20 that, and it wasn't until we kind of got deep into the weeds  
21 and I realized that, you know, I couldn't get the summons and  
22 then I realized that, you know, I had this issue.

23 THE COURT: So right now, I do not have any request  
24 to amend the complaint.

25 MR. MARTIN: Correct.

1           THE COURT: We do have a briefing schedule on the  
2 defendants' motion to dismiss. I can go ahead and will go  
3 ahead and rule on that motion, particularly if you don't file  
4 an amended complaint.

5           If you do file an amended complaint, then depending  
6 on the amendment and whether it changes any of the allegations  
7 as to the other two defendants, it's possible that the  
8 briefing on the motion to dismiss might have to start over.

9           I'm guessing that the arguments would likely be the  
10 same for the two defendants.

11          MR. MARTIN: Right.

12          THE COURT: So it is also possible for the arguments  
13 for this motion to simply be applied to an amended complaint.

14          So my suggestion is that if you want to file an  
15 amended complaint: One, you'll need to file a motion seeking  
16 leave to do that because we're sort of past the time frame  
17 when you can do it just as a matter of right. You do need  
18 leave of Court. So if that's what you want to do, file a  
19 motion asking permission to file an amended complaint.

20          You should attach your proposed amended complaint to  
21 the motion so I can see what it is you want to do if it's just  
22 putting in names for the unnamed clerks or if there's  
23 something else that you'd like to change. And that way, I can  
24 make a decision on whether to allow the amended complaint.  
25 And you can do that whenever you're in a position to.

1 MR. MARTIN: Okay. Yeah. Awesome. All right.

2 So I'll probably do that after I've responded to the  
3 motion to dismiss just so, you know, I can maintain my focus  
4 in terms of responding.

5 And there will also be some amendments I'll ask for  
6 in relation to the motions to dismiss according to the Civil  
7 Rules of -- the Federal Civil Rules of Procedure, but I will  
8 put all that in the motion for leave to amend.

9 THE COURT: I will take a look at it at that time.

10 I would just remind you to just be aware of any  
11 statute of limitations issues. I am not sure off the top of  
12 my head how long ago it was that you had these issues with the  
13 clerk's office. I think it's still relatively recent, but I  
14 do just want to remind you that the clock would still be  
15 continuing to run as to anybody that, you know, hasn't already  
16 been named in the complaint and doesn't know that they're  
17 subject to litigation. But I believe most of the stuff that  
18 you're complaining about has happened within the past year or  
19 so.

20 MR. MARTIN: Yeah, so -- yeah. Okay. Yeah.

21 THE COURT: Thank you, Mr. Martin.

22 Ms. Johnston, do you have any issues that you'd like  
23 to discuss today?

24 MS. JOHNSTON: No, no issues. Just confirming, so  
25 that will put -- his response deadline will now be July 13th?

1 MR. MARTIN: 13th.

2 MS. JOHNSTON: And the reply deadline will be  
3 August 3rd?

4 THE COURT: That is correct.

5 And so what I will do is I'm going to set my next  
6 status date for probably about the second week of August,  
7 shortly after the briefing, just to make sure that I have  
8 everything and that it's ready for ruling.

9 MS. JOHNSTON: Judge, if I could, just to let you  
10 know, I am planning to be out of the office on Friday,  
11 August 11th and then Monday, the 14th. Otherwise, I'm very  
12 open there, but I will be unavailable. So if you're setting a  
13 status date, I would prefer if we could do it not on that  
14 Friday or the Monday.

15 THE COURT: Thank you. Thank you for letting me know  
16 that.

17 I'm going to ask my courtroom deputy now to take a  
18 look at our calendar, take that into account, and give us a  
19 date for what will be a telephone status.

20 Laritza.

21 THE CLERK: Judge, we can do August 10th at 9:15.

22 THE COURT: Okay. Mr. Martin, would you be able to  
23 call in then?

24 MR. MARTIN: What was the date again? I'm sorry. I  
25 got distracted.



1 THE CLERK: August 10th at 9:15.

2 MR. MARTIN: Yes, that should be fine.

3 THE COURT: Ms. Johnston, does that work for you?

4 MS. JOHNSTON: That works for me. Thank you.

5 THE COURT: Very good. Thank you both for your time  
6 and for checking in for the status hearing. Have a good day.

7 MS. JOHNSTON: Thank you. Have a good day.

8 (Proceedings adjourned at 9:29 a.m.)

9 \* \* \* \* \*

10 C E R T I F I C A T E

11

12 I, Brenda S. Varney, certify that the foregoing is a  
13 complete, true, and accurate transcript from the record of  
14 proceedings on June 13, 2023, before the HON. ANDREA R. WOOD  
15 in the above-entitled matter.

16

17

18 /s/Brenda S. Varney, CSR, RMR, CRR

June 17, 2024

19 Official Court Reporter  
20 United States District Court  
21 Northern District of Illinois  
22 Eastern Division

Date

21

22

23

24

25