**APPELLATE BRIEF**

David Martin

v.

Attorney General Kwame Raoul, Judge Gregory Emmett Ahern Jr., Unnamed Cook County Clerks, Cook County, Chief Deputy Clerk Gretchen Peterson, Unknown employee of the Illinois, Department of Employment Security

Appeal No. xxxx

March 19, 2021

Appeal from the United States District Court for the Northern District of Illinois.

**Brief of Appellant David Martin**

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**STANDARD OF REVIEW**

I am requesting a De Novo Review of all issues.

**PARTIES TO THE PROCEEDING**

1. The Plaintiff

Name: David Martin, a natural person.

Street Address: 5352 S. Princeton Ave

City and County: Chicago, Cook County

State and Zip Code: Illinois, 60609

E-Mail Address: [MartinvThompson@gmail.com](mailto:MartinvThompson@gmail.com)

The Defendant(s)

1. Name: Attorney General Kwame Raoul individually

and in his official capacity

Represented by: Mary Johnston

Street Address: 115 South LaSalle Street, 27th Floor

City and County: Chicago, Cook County

State and Zip Code: Illinois 60603

Phone: (312) 814-4417

E-Mail Address: mary.johnston@ilag.gov

2. Name: Judge Gregory Emmett Ahern Jr. , individually

and in his official capacity

Represented by: Mary Johnston

Street Address: 115 South LaSalle Street, 27th Floor

City and County: Chicago, Cook County

State and Zip Code: Illinois 60603

Phone: (312) 814-4417

E-Mail Address: mary.johnston@ilag.gov

**STATEMENT OF JURISDICTION**

The US District Courts jurisdiction is based on 42 U.S. Code § 1983, 28 U.S.C. § 1331, 28 U.S. Code § 1446 and § 1441(c)… A civil rights complaint was filed against the defendants in the US District Court. Among many things, the complaint alleges deprivations of rights under the color of law, and it seeks declaratory relief. The district court has made a final and appealable order on May 23rd 2024. The US Court of Appeals for the Seventh Circuit has jurisdiction under 28 U.S.C. §§ 1291-1292.

Defective allegations of jurisdiction can be amended in the court of appeals. See 28 U.S.C. § 1653**…** **“the court of appeals can order a party to file an amended pleading which establishes jurisdiction or file a notice with the court explaining why that cannot be done”. See Heinen v. Northrup Grumman Corp., 671 F.3d 669, 670 (7th Cir. 2012).** Given the afore mentioned case law, I would like to amend my jurisdictional claim in US District Court to include 28 US Code section 151 Declaratory Judgments… I am seeking several declaratory judgments. Most notably, I’m seeking declaratory judgment that would allow me to appeal the state case in the state court of appeals.

**STATEMENT OF THE ISSUES**

1. Whether the District Court erred in dismissing my claims for declaratory and injunctive relief against Judge Ahern on the grounds of judicial immunity.
2. Whether the District Court erred in dismissing the claims against the Cook County Clerks (Gretchen Peterson), for lack of service without providing me an opportunity to properly effectuate service.
3. Whether the District Court erred in denying injunctive and declaratory relief that would allow me to record online court hearings for the purpose of preparing and filing bystander reports.
4. Whether my due process rights were violated by the District Court's failure to address the lack of notice and opportunity to be heard in the state court proceedings, which formed the basis of my federal claims.
5. Whether the District Court has jurisdiction to hear constitutional challenges against the Illinois statute governing the Contribution to College Expenses (750 ILCS 5/513), and whether my claims regarding this statute were improperly dismissed.

DISMISAL BASED ON:

**A. Federal Abstention Doctrine**

1. Federal abstention doctrines and immunity.
2. Defendants Ahern and Raoul move to dismiss the Complaint based on Rules

12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

1. Defendant Ahern alleges this suit should be dismissed because: (1) this Court lacks jurisdiction under the Rooker-Feldman doctrine, the Younger doctrine, or the principles of federal abstention; and/or (2) Plaintiff cannot state a claim based on judicial immunity.
2. Defendant Raoul argues that there cannot be a viable claim against him based on sovereign immunity and that Plaintiff cannot properly challenge the Illinois Marriage and Dissolution of Marriage Act’s constitutionality.

5. The Seventh Circuit’s holding in J.B. v. Woodard is instructive. 997 F.3d 714 (7th Cir. 2021). In *Woodard*, the plaintiff filed suit in district court alleging due process violations and a constitutional challenge to a section of the Illinois Marriage and Dissolution of Marriage Act. *Id*. at 719. When plaintiff filed suit, the state court appeal remained pending. *Id.* at 718-19. The Seventh Circuit reasoned that none of the established abstention doctrines were well-suited to this case due to the timing of the federal suit and the constitutional claims alleged:

MOST OF THE FOLLOWING STATEMENT IS NOT TRUE “Specifically, Plaintiff argues that the due process violations he suffered—failure to receive a fair impartial hearing, failure to be provided videoconference hearing information, failure to receive proper certified records for appeal, and failure of Judge Ahern to certify a bystander report—interfered with his ability to appeal in state court. 2 Plaintiff requests that this Court review the procedures of the state court, order a new hearing, force Judge Ahern to certify the bystander report, and hold sections of the Illinois Marriage and Dissolution of Marriage Act and Illinois Supreme Court Rule 63(A)(8) unconstitutional. Plaintiff filed this action while the state court action and appeals were pending in 2022.3”

“reasonable opportunity” to raise his federal issues in state court, see Swartz v. Heartland Equine Rescue, 940 F.3d 387, 392 (7th Cir. 2019)

HAJANI’S INTERPRETATION OF WOODARD “As in Woodard, it is not enough for Plaintiff to invoke § 1983 and point to constitutional violations to compel the adjudication of claims that would inject a federal court into a state court proceeding. Plaintiff here seeks a favorable federal court judgment so that he can influence ongoing state court decision making, which is exactly what federal abstention seeks to prevent. Woodard, 997 F.3d at 722 (“Allowing that federal disruption and interference would offend the principles on which the abstention doctrines rest.”). State courts are also perfectly capable of adjudicating whether state statutes violate the federal constitution. See Huffman v. Pursue, Ltd., 420 U.S. 592, 605 (1975). For these reasons, this Court must decline jurisdiction based on federal abstention.”

**B. Immunity and Failure to Effectuate Service**

Alternatively, Plaintiff’s claims would still fail based on the doctrines of judicial immunity, sovereign immunity, and failure to effectuate service. As noted above, Plaintiff’s ten count complaint alleges due process violations and extrinsic fraud against Judge Ahern, Attorney General Raoul, unnamed Cook County Clerks, and Cook County. Each of these defendants must be dismissed.

Plaintiff initially brings claims against Judge Ahern for his conduct in the underlying action. Namely, Plaintiff takes issue with Judge Ahern’s decisions to exercise jurisdiction over Plaintiff’s case and not to certify his bystander report. A judge enjoys absolute immunity for an act or admission taken in their judicial capacity. 42 U.S.C. § 1983; see also Kowalski v. Boliker, 893 F.3d 987, 999 (7th Cir. 2018).

Judge Ahern appeared to act squarely within his jurisdiction.

…Here, the Court takes judicial notice of the documents from the state court action because they form the basis for Defendants’ motion to dismiss.

waiting until after the Illinois Appellate Court dismissed the appeal to continue the case and hold Plaintiff in contempt.

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Defendant Attorney General Kwame Raoul also must be dismissed because of sovereign immunity. Under the 11th Amendment, the sovereign cannot be sued without its consent. U.S. Const. amend. XI; see also Driftless Area Land Conservancy v. Valcq, 16 F.4th 508, 520 (7th Cir. 2021). “The Amendment bars actions in federal court against a state, state agencies, or state officials acting in their official capacity.” Driftless, 16 F.4th at 520 (cleaned up). Here, Plaintiff is suing the Attorney General based on the alleged unconstitutional nature of Illinois statute 750 ILCS 5/513 and Illinois Supreme Court Rule 63(A)(8).

Plaintiff invokes Ex parte Young (the exception allowing a state official to be sued for enforcing state law) as a means of saving their argument. This is unavailing. The Amended Complaint is void of any allegations that Attorney General Raoul enforced either Illinois statute 750 ILCS 5/513 or Illinois Supreme Court Rule 63(A)(8) and thus Ex parte Young cannot apply. Id. at 520-21 (citing Green v. Mansour, 474 U.S. 64, 68 (1985)). Thus, he is afforded sovereign immunity and the claims against him must be dismissed.

Last but certainly not least, Plaintiff brings claims against unnamed Cook County Clerks and Cook County. Pursuant to Rule 4(m) “[i]f a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant.” Fed. R. Civ. P. 4(m).

The Illinois constitution grants state citizens the right to appeal.

Woodard does not apply:

1. First of The court had several hearings in the circuit court in cook county in which both state court litigants participated in. I did not have any hearings. In addition I did not receive notice and opportunity to be heard. I found out about the state court suit when I phoned in to schedule a court date to correct the court record. Several hearings held in state court. October 10th (the court found that abuse had occurred and entered a protective order for supervised parenting time)…. November 30th (The court suspended Edwin’s parenting time until anger management counseling.)… (Around December 21, 2018 permitted Edwin to have visitation at the therapist office)… (unspecified court date. Hearing to restore Emergency parenting time. To which the court ruled that Edwin could not rely on Statements made by his child in counseling)… (February 2019 judment was entered to dissolve the marriage and maintain Edwin’s termination of parenting time until he completed counseling)… (in 2019, the Illinois Appellate court largely Affirmed the judgment, but remanded the domestic relations court for final judgment on parenting time…. Edwin filed his 42 U.S.C section 1983 complaint sometime after and before final judgement)
2. Second, The judgment I am seeking against Ahern does not have an impact on his judgment for college expenses(quote federal records). I believe my claim against Ahern is being confused with my other claims, some of which are not against Ahern. The only claim that applies to Ahern is that concerning the bystandards report. I am seeking injunctive/declaratory relief so that I may preserve my appeal. The right to appeal has not been brought before Ahern to abjudicate. The state constitution grants me the right to appeal(quote relevant state constitution). However, I need the bystanders report to appeal my case(quote federal court records argument on why appeal is necessary). Without it I cannot appeal. In this case declaratory / injunctive relief could not be used to over turn Ahern’s order for college expenses. I already have a basic right to appeal. Granting relief would simply mean that I would be able to use the bystanders report, this would simply allow the state appeals court to properly adjudicate my appeal. Woodard does not apply because granting declarative / injunctive relief would have no impact on Ahern’s judgment for college expenses. Relief from this court would not allow me to overturn Ahern’s judgment. I would simply allow me to appeal. The right to appeal cannot be brought before Ahern for abjudication.   
   When Edwin filed his federal complaint in June 2019, the state court proceedings were ongoing, and the facts underpinning his loss of parenting time in state court are the same alleged facts he relies on to support his due process claims. Now in federal court, Edwin observes that he has a fundamental right to familial association....He invokes that right as a constitutional hook to bring federal claims under § 1983, thereby seeking federal court intervention to resolve essentially the same dispute that remains pending on the state court's docket. Right to it, Edwin's complaint leaves us with the clear and unmistakable impression that he seeks a favorable federal court judgment so that he can use that judgment to influence ongoing state court decision making. Therein lies the jurisdictional problem.
3. It is not enough for Edwin to invoke § 1983 and point to his constitutional right to familial association. He cannot compel the adjudication of claims that would inject a federal court into a contested and ongoing family court custody dispute. Yet that is precisely what is going on. Edwin came to federal court to go on the offensive—to use a favorable federal court judgment in state court to influence the state judge's parenting time decisions.
4. Allowing that federal disruption and interference would offend the principles on which the abstention doctrines rest. Edwin seeks a level of intrusion by the federal courts that is "simply too high." Id. at 1074. Exercising federal jurisdiction over his claims would "reflect a lack of respect for the state's ability to resolve [these issues] properly before its courts." SKS & Assocs., 619 F.3d at 679.
5. Observing that no abstention doctrine is an exact fit does not resolve the jurisdictional inquiry, though. To insist on literal perfection—based on the allegations in Edwin's complaint—risks a serious federalism infringement. The domestic relations proceeding remains ongoing in the local Circuit Court of Cook County, and Edwin's complaint makes plain that the entire design of his federal action: to receive a favorable federal constitutional ruling that can be used affirmatively or offensively to shape—or perhaps change—the direction and course of the state court proceedings. Edwin's requests for declaratory and injunctive relief reinforce this observation. Indeed, granting declaratory or injunctive relief would provide Edwin with an offensive tool to take to state court to challenge that judge's orders. In these circumstances, federal courts need to stay on the sidelines.
6. "Abstention from the exercise of federal jurisdiction is the exception, not the rule." Id. at 677 (citing Colo. River Water Conservation Dist. v. United States, 424 U.S. 800, 813, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976)). Indeed, "[w]hen a Federal court is properly appealed to in a case over which it has by law jurisdiction, it is its duty to take such jurisdiction." New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 358-59, 109 S.Ct. 2506, 105 L.Ed.2d 298 (1989) (emphasis added) (quoting Willcox v. Consol. Gas Co., 212 U.S. 19, 40, 29 S.Ct. 192, 53 L.Ed. 382 (1909)).
7. Certifying a bystander’s report is a routine function of a circuit court judge of cook county. Nothing in law allows Ahern to consider refusing a timely bystanders report. The law simply allows Ahern to settle any disputed facts and certify the report. I would like to appeal my case, but there is simply to state court remedy available that would allow me to effectively resolve the issue regarding the bystanders report. I argue that this court should intervene because the state court has refused to resolve the constitutional issues regarding the bystanders report….According to woodard this court can intervene…"Unless and until the state courts have proven unwilling to address" Edwin's alleged constitutional claims, "the federal courts should not exercise jurisdiction over the matter." Courthouse News Serv., 908 F.3d at 1071.

On May 24th 2024, my case was dismissed in the US District Court. The dismal was based on federal abstention doctrines and immunity… A detailed list of reasons for the dismissal can be found in the Judge’s order. I will Summarize those reasons here. In his order dismissing my complaint Judge Sunil R. Harjani wrote:

1. **A. Federal Abstention Doctrine.** “Plaintiff requests that this Court review the procedures of the state court, order a new hearing, force Judge Ahern to certify the bystander report, and hold sections of the Illinois Marriage and Dissolution of Marriage Act and Illinois Supreme Court Rule 63(A)(8) unconstitutional. Plaintiff filed this action while the state court action and appeals were pending in 2022.3 As in Woodard, it is not enough for Plaintiff to invoke § 1983 and point to constitutional violations to compel the adjudication of claims that would inject a federal court into a state court proceeding. Plaintiff here seeks a favorable federal court judgment so that he can influence ongoing state court decision making, which is exactly what federal abstention seeks to prevent. Woodard, 997 F.3d at 722 (“Allowing that federal disruption and interference would offend the principles on which the abstention doctrines rest.”). State courts are also perfectly capable of adjudicating whether state statutes violate the federal constitution. See Huffman v. Pursue, Ltd., 420 U.S. 592, 605 (1975). For these reasons, this Court must decline jurisdiction based on federal abstention

The Court notes that even though Plaintiff filed a notice of removal on November 14, 2022 in the state court proceeding, this Court did not receive the underlying action via removal, for reasons that are currently unknown. Instead, Plaintiff filed a new complaint (this action) in the Northern District of Illinois on November 10, 2022.”

1. **B. Immunity and Failure to Effectuate Service.**“Alternatively, Plaintiff’s claims would still fail based on the doctrines of judicial immunity, sovereign immunity, and failure to effectuate service. As noted above, Plaintiff’s ten count complaint alleges due process violations and extrinsic fraud against Judge Ahern, Attorney General Raoul, unnamed Cook County Clerks, and Cook County. Each of these defendants must be dismissed…The Court’s review of the state court docket indicates that since the filing of this action, the appeal has been terminated, Judge Ahern held Plaintiff in contempt of court, and judgment was entered. Nevertheless, abstention doctrines require analysis of the state court docket at the time this district court action was filed… waiting until after the Illinois Appellate Court dismissed the appeal to continue the case and hold Plaintiff in contempt. Judge Ahern is afforded absolute judicial immunity for the actions in the Amended Complaint and must be dismissed. Here, Plaintiff is suing the Attorney General based on the alleged unconstitutional nature of Illinois statute 750 ILCS 5/513 and Illinois Supreme Court Rule 63(A)(8). Plaintiff invokes Ex parte Young (the exception allowing a state official to be sued for enforcing state law) as a means of saving their argument. This is unavailing. The Amended Complaint is void of any allegations that Attorney General Raoul enforced either Illinois statute 750 ILCS 5/513 or Illinois Supreme Court Rule 63(A)(8) and thus Ex parte Young cannot apply. Id. at 520-21 (citing Green v. Mansour, 474 U.S. 64, 68 (1985)). Thus, he is afforded sovereign immunity and the claims against him must be dismissed.  
    “[i]f a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant.” Fed. R. Civ. P. 4(m). The decision of whether to dismiss is inherently discretionary. Cardenas v. City of Chicago, 646 F.3d 1001, 1005 (7th Cir. 2011). To this day, Plaintiff has failed to notify these parties of the lawsuit filed against them. Therefore, these parties must be dismissed. ”

**STATEMENT OF THE CASE**

**I. Introduction to the Case**

This appeal arises from the district court’s denial of my complaint. In that complaint I sought several forms of relief. Among which were injunctive and declaratory relief. In addition, I sought to challenge the constitutionality of the state statute for contribution of college expenses. The district court improperly concluded that my claims were barred by judicial immunity and federal abstention doctrines.

**II. Procedural History**

On [date], Appellant filed a complaint in the [name of lower court], seeking declaratory and injunctive relief against the named defendants. The defendants filed a motion to dismiss on [date], arguing that the claims were barred by judicial and sovereign immunity. The district court granted the motion to dismiss on [date], citing [case law].

**III. STATEMENT OF FACTS**

**CIRCUIT COURT OF COOK COUNTY**

1. **May 2017:** The Illinois Department of Healthcare and Family Services (HFS) filed a petition for child support arrearages. Ms. Thompson was the plaintiff but did not provide a mailing address or email address. I responded with a 2-619 motion to dismiss and a counterclaim, arguing against Ms. Thompson's claims for contribution to college expenses.
2. **August 24, 2020:** I filed a claim against Ms. Thompson, requesting a trial by jury.
3. **May 25, 2021:** Judge Mackoff entered a final and appealable judgment. After the hearing, Judge Mackoff advised Ms. Thompson to hire a lawyer, warning her about potential consequences if she did not. He then held a private meeting with Ms. Thompson.
4. **June 7, 2021:** I filed a notice of appeal for the child support judgment. Ms. Thompson was served at her address, 3550 South Giles Avenue Unit 4N, Chicago, IL 60653.
5. **June 16, 2021:** I filed the docketing statement with the court of appeals. Ms. Thompson was served at her address.
6. **June 22, 2021:** Attorney Keith L. Spence filed an appearance on behalf of Ms. Thompson.
7. **July 13, 2021:** Attorney Spence filed a petition for contribution to college expenses.
8. **October 29, 2021:** Judge Marita Sullivan issued an order for me to appear in court.
9. **December 3, 2021:** Ms. Thompson did not appear in court, and Judge Julie Aimen struck the case from her call.
10. **January 7, 2022:** Judge Julie Aimen issued an order for me to appear on January 31, 2022, via Zoom.
11. **January 10, 2022:** I refiled my motion to correct the court record, which had been previously filed on November 29 and December 13.
12. **January 12, 2022:** I was diagnosed with COVID-19.
13. **January 31, 2022:** A default order for contribution to college expenses was entered against me by Judge Julie B. Aimen.
14. **March 10, 2022:** Judge Ahern entered a judgment against me for contribution of college expenses. I did not participate in Ahern’s hearing for college expenses.
15. **June 8, 2022:** Judge Ahern denied my motion to certify the bystanders report, and I filed a notice of appeal in state court on June 10, 2022.
16. **September 8, 2022:** The state court appeal for child support was dismissed for lack of jurisdiction.
17. **December 15, 2022:** The state court appeal for college expenses was dismissed for lack of jurisdiction.

**U.S. DISTRICT COURT**

1. **November 10, 2022:** I filed a complaint in the U.S. District Court for the Northern District of Illinois, with Judge Ahern as one of the defendants.
2. **November 14, 2022:** I filed a notice of removal in state court and provided copies to the opposing party.
3. **November 14, 2022:** The state court entered the notice of removal into its record.
4. **November 18, 2022:** I appeared in state court via Zoom to notify Judge Ahern and the opposing parties of the case's removal to federal court.
5. **March 17, 2023:** Judge Ahern continued to conduct court hearings despite the removal notice.
6. **April 26, 2023:** I refiled the notice of removal in state court.
7. **April 26, 2023:** The state court entered the refiling of the notice of removal into its record.
8. **August 23, 2023:** I received an email indicating a potential body attachment if I failed to appear in state court. A case search revealed that I was held in contempt of court on August 10, 2023.
9. **September 14, 2023:** I filed a motion for a temporary restraining order to vacate the arrest warrant.
10. **October 10, 2023:** I presented the motion to Judge Andrea Wood, with oral arguments from both parties.
11. **November 30, 2023:** Oral arguments were held regarding the case's removal from state court, and Judge Wood scheduled a judgment for January 25, 2024.
12. **January 25, 2024:** The court date was rescheduled to February 2, 2024.
13. **February 2, 2024:** Further oral arguments were held regarding the removal, and Judge Wood scheduled a judgment for February 28, 2024.
14. **February 28, 2024:** The court date was rescheduled to March 13, 2024.
15. **March 13, 2024:** I expressed concern about the arrest warrant to Judge Wood, who scheduled a judgment for April 29, 2024.
16. **April 2, 2024:** A general order transferred my case to Honorable Sunil R. Harjani.
17. **April 15, 2024:** I filed a motion to retain Judge Andrea Wood, arguing she had heard all oral arguments and only needed to enter a judgment.
18. **April 22, 2024:** My motion to retain Judge Wood was denied.

**IV. Legal Proceedings**

I had two cases in the Illinois Court of Appeals, both stemming from the same circuit court case number. The first was an appeal of a child support order, and the second was an appeal of Judge Ahern’s judgment regarding college expenses. The Appeals Court designated both cases as related. On September 8, 2022, the child support appeal was dismissed for lack of jurisdiction, as I still had an active claim against Ms. Thompson that needed resolution before the Illinois Court of Appeals could exercise jurisdiction. This reasoning equally applied to the appeal from Ahern’s judgment for college expenses, which was technically over when the child support appeal was dismissed, though it would not be officially dismissed until much later.

I filed a federal complaint on November 10, 2022, and subsequently refiled it on November 29, 2022 **(see docket #1 & 5).** The complaint was primarily motivated by my need for accurate court records to appeal the child support judgment in state court, as well as to obtain a bystander’s report to appeal Judge Ahern’s judgment on college expenses. In the complaint, I allege that the defendants were attempting to sabotage my appeal by withholding these necessary documents. Additionally, I sought several other remedies, including the ability to record online court sessions for the purpose of creating a bystander report, as well as challenging the constitutionality of the state statute on contribution for college expenses. It is important to note that my claims for the court records and bystander reports are separate from my challenge to the constitutionality of the state statute.

During the conference call on February 2, 2023 I had an initial call with Judge Wood. Essentially she expressed her concern for the claims against judge Ahern. Stating that Judge Ahern could not be sued because he has judicial immunity. Essentially, I argued that Ahern did not have Judicial Immunity in this situation. Sense the defendant’s had not responded at this point, I asked her if I could be allowed to provide more information later… Judge Wood also expressed concern about adding Ms. Thompson to the lawsuit, because there was no specific claims against her. As a result, I removed Ms. Thompson from the complaint. **(See Docket # 76)**

On March 6 2023, I filled an amended complaint, arguing…“that “Pulliam v. Allen, 466 US 522 - Supreme Court 1984 establishes that the United States District Courts has jurisdiction to provide injunctive and declaratory relief against a judge. The issue at hand is that Judge Ahern was repeatedly refusing to produce an account for the proceedings so that I could appeal his judgment… Without the bystanders report, I am unable to effectively appeal.” **(Docket # 10 page 14).**

During the conference call on April 5th 2023, I argued that my case should not be dismissed because I was seeking declaratory and Injunctive relief and that Ahern does not have judicial immunity against those claims. I also argued that my complaint was mostly about getting the necessary documents for the state court appeal. **(see docket # 83)**

On May 8th 2023, the defendant’s filed a motion to dismiss my complaint... In that motion they indicated that they understood that I was seeking declaratory and Injunctive relief stating that **“Plaintiff seeks declarative and injunctive relief against Judge Ahern” (Docket # 21 page 1)**

During a conference call on June 13, 2023, Judge Wood informed me that all defendants needed to be named in my complaint. On August 10, 2023, I confirmed that all defendants had been named in an amended complaint. However, I discussed with Judge Wood the possibility of severing Judge Ahern from the other defendants because Ahern had already responded to my complaint with a motion to dismiss, and Judge Wood indicated she was close to entering a judgment. Serving the amended complaint to the other defendant (Gretchen Peterson) would have allowed Ahern to file a new motion to dismiss, further delaying Judge Wood’s judgment and potentially causing us to lose the progress made thus far. This would effectively restart the case. After discussing this with Judge Wood, I was led to believe that it was acceptable to refile the complaint and serve the other defendant after Judge Wood had entered a judgment for Ahern **(see Docket #79 & 80)**

During the conference call on February 8, 2024, there was further discussion about my claim against Judge Ahern. Judge Wood acknowledged that my claim primarily concerned my ability to appeal Ahern’s judgment in state court. To summarize Judge Wood’s remarks, she noted that **(“it may be impossible to appeal Ahern’s orders without relief.”)** I further argued that, with respect to Ahern, my federal complaint was aimed at obtaining the necessary documents to pursue an appeal in state court, not at challenging Ahern’s judgment on college expenses in federal court. I also alleged that county clerks were intentionally altering documents to sabotage my appeal **(see Docket #77).**

During the conference call on November 30th, 2023 Judge Wood said that she would enter a judgment on January 25th 2024. However, a judgment was never entered, and the case was eventually transferred to Judge Harjani. **(see Docket # 82)**

Soon thereafter, my case was transferred to District Court Judge Harjani, who subsequently dismissed my complaint. Judge Harjani's reasoning for his dismissal was threefold: first, that Ahern was entitled to judicial immunity; second, that my claims were barred by federal abstention doctrines as set forth in J.B. v. Woodard; and third, that I failed to properly serve the Cook County Clerks **(see Docket #61)**. (have another look at the final paragraph, maybe you should word it better)

On August 5th 2024, I was forced to liquidate my retirement account. On August 14th 2024 I paid the judgment for college expenses to Ms. Thompson.

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

In the district court, Appellant argued that [summarize main legal arguments]. The district court’s decision on [date] found that [summary of court’s rationale and findings]. This appeal challenges the district court’s application of judicial immunity and the procedural errors related to the removal of the case to federal court.

I allege that the defendants are trying to sabotage my appeal in state court. A litigant needs two things to appeal a case in state court… The record of proceedings (bystanders report), and the court records.

Judge Ahern is refusing to certify my bystanders report. Other defendants are altering and omitting state court records so that they can’t be used in the state court of appeals. My case cannot be appealed in state court without the bystanders report and the state court records. I am seeking declaratory relief declaring that I have a right to the bystanders report and accurate state records. Alternatively, I am seeking any other declaratory relief that would allow me to appeal in state court.

In addition, I am seeking declaratory relief for; 1) The right to record state court zoom proceedings, 2) The right to metadata contained in zoom and 3) The right to proper notice of future state court hearings.

That Ahern is being forced to certify the bystanders report. (it’s his job to certify the bystanders report. There is no option to not certify it, unless he simply does not want to do his job.)

Most importantly, why does he not want to certify the bystandards report? Its apart of his job and it’s a routine task?

**SUMMARY OF ARGUMENT**

I argue that Judge Harjani’s dismissal of my case was improper due to a misinterpretation of my claims. His orders suggest that I am attempting to rectify past wrongs and that Judge Ahern is shielded by judicial immunity. However, Ahern is not being sued for due process violations or extrinsic fraud. The sole claim against Ahern concerns the bystander’s reports. My complaint explicitly seeks declaratory and injunctive relief, not retrospective redress. In addition to the clarity of my complaint, there have been multiple conversations where Judge Wood and the defendants acknowledged my request for such relief. Furthermore, under the law, a judge does not have judicial immunity from prospective relief.

I also allege that Judge Ahern has repeatedly refused to provide an accurate record of the proceedings, which is necessary for appealing his judgment. This refusal is not only improper but also unlawful. Moreover, I seek declaratory and injunctive relief to facilitate an appeal of a child support judgment. I allege that the Cook County clerks have repeatedly provided altered documents, despite being ordered to supply accurate records for the appeal process.

Judge Harjani’s decision relied on **Woodard, 997 F.3d at 722.** I argue that a cursory review of Woodard reveals that **"Abstention from the exercise of federal jurisdiction is the exception, not the rule."** In fact, Woodard supports this court's duty to grant relief because **“When a Federal court is properly appealed to in a case over which it has by law jurisdiction, it is its duty to take such jurisdiction.” (\*Woodard\*, 997 F.3d at 722).**

Woodard does not apply to my claims against Ahern because I am not seeking a federal court judgment to impact ongoing state proceedings. Unlike Edwin in Woodard, my proceedings in the court of domestic relations have concluded. The only remaining matter is my right to appeal, for which I require the bystander’s report. Granting injunctive and declaratory relief in this instance would not interfere with state court domestic relations proceedings; it would simply enable me to exercise my right to appeal. Even if ongoing proceedings existed in the Circuit Court of Cook County, a federal judgment would not affect them. A federal judgment concerning Ahern would be limited to the bystander’s report and would not impact issues such as contribution for college expenses or any other matters pending in state court.

Moreover, Woodard is inapplicable because, unlike the plaintiff in Woodard, I never had a trial. In Woodard, the plaintiff Edwin had notice and an opportunity to be heard, participating in state court hearings. In contrast, my case lacked proper notice, an opportunity to be heard, and a trial altogether.

Judge Harjani also dismissed my claim due to a perceived failure to effectuate service on the unnamed Cook County clerks. I argue that this decision was based on Harjani's limited access to all relevant information. There was an extensive conversation with Judge Wood regarding the service of the county clerks, resulting in the identification of the specific clerk to be served. However, it was decided not to serve them at that time, as the case had already made significant progress, and serving them would have disrupted that progress. The plan was to amend the complaint and serve the named Cook County clerks after a judgment on the claims against Ahern. This approach was chosen because, while related, the claims against Ahern and the clerks were distinct.

Finally, Judge Harjani dismissed my claim against Attorney General Kwame Raoul. In truth, I never intended to file a claim directly against Attorney General Raoul. My intention was simply to give notice to Raoul in accordance with Federal Rule of Civil Procedure 5.1(a)(1)(B), which requires that an Attorney General be notified of a challenge to state laws **(see Docket # 26, page 27)**. The constitutional challenge was directed at Ms. Thompson; however, I was admonished to remove Ms. Thompson from this case.

**ARGUMENT**

**Misinterpretation of the Relief Sought**

**and the Misapplication of Judicial Immunity**

Judge Harjani misinterpreted the nature of my complaint. He stated, **“Plaintiff’s ten-count complaint alleges due process violations and extrinsic fraud against Judge Ahern… Judge Ahern is afforded absolute judicial immunity for the actions in the Amended Complaint and must be dismissed.” (See Docket #61).** This interpretation wrongly suggests that I am attempting to address past actions taken by Judge Ahern, which would indeed be barred by judicial immunity. However, this is not the case. I am not seeking to rectify past wrongs; rather, I am pursuing declaratory and injunctive relief—a fact that has been made clear throughout these proceedings.

For instance, on February 2, 2023, the issue of Judge Ahern’s immunity was specifically addressed, where I clarified that my claim seeks prospective relief, not retrospective correction of Ahern’s actions. **(See Docket #76)**. Furthermore, on March 6, 2023, I amended my complaint, citing **\*Pulliam v. Allen\*, 466 U.S. 522 (1984), which affirms that federal courts have jurisdiction to grant injunctive and declaratory relief against a judge when appropriate (See Docket #10, page 14)**. On April 5, 2023, I explicitly argued against the dismissal of my case, reiterating that I seek declaratory and injunctive relief, for which Judge Ahern does not have judicial immunity. **(See Docket #83)**. Even the defendants themselves acknowledged this in their own filings, stating that “Plaintiff seeks declarative and injunctive relief against Judge Ahern.” **(See Docket #21, page 1).**

Moreover, Judge Wood, in her remarks, underscored the practical significance of my claims, noting that it might be impossible to appeal Ahern’s orders without the relief sought. **(See Docket #77).** This acknowledgment emphasizes the necessity of the relief I am pursuing, which is primarily concerned with securing an accurate account of the state court proceedings—a bystander’s report that Judge Ahern has repeatedly refused to provide. Without this report, I am effectively barred from appealing Ahern’s judgment in the Illinois Court of Appeals.

Given these facts, I am puzzled by Judge Harjani’s conclusion that I am somehow attempting to correct past wrongs committed by Judge Ahern. If his judgment is based on the belief that judicial immunity shields Ahern from declaratory and injunctive relief, this would be a misapplication of the law. The precedent set by **\*Pulliam v. Allen\*** clearly establishes that a judge may be subject to prospective relief, such as the relief I am seeking. According to state law, I am responsible for obtaining the bystander’s report and an accurate record of the proceedings. I will automatically lose if I attempt to appeal without these documents. **(See Docket #26, page 8).** My Section 1983 complaint was filed precisely because there is no other avenue available to obtain the bystander’s report necessary for my appeal.

Given the denial of my ability to obtain a bystander’s report, which is essential for my appeal, I respectfully request that this appellate court issue a declaratory judgment affirming my right to the bystander’s report. Such a judgment would clarify the legal obligation of the state court to provide the report, ensuring that I can effectively exercise my right to appeal.

**Woodard Does Not Apply to Ahern—If Anything, It Justifies Federal Relief**

On February 8, 2024, a hearing was held before Judge Wood regarding the merits of my case and the jurisdictional issues presented by \*Woodard\*, 997 F.3d at 722. During that hearing, I argued, **“So you're not making a ruling as it pertains to his judgments in state court as regards to domestic relations. You're just making a judgment saying, ‘Okay, he has the right to get the bystander's report so he can appeal** **in state court.’”** I further argued, **“So as it pertains to Ahern, the issue of domestic relations is not even an issue because you're not making a ruling that's going to impact domestic relations.” (See Docket #48)**.

In \*Woodard\*, federal courts refused to exercise jurisdiction because the plaintiff was **“seeking a favorable federal court judgment so that he can use that judgment to influence ongoing state court decision making.” (997 F.3d at 722).** I argue that \*Woodard\* does not apply to Ahern. In my claim against Ahern, I am not trying to overturn his judgment for college expenses; I am simply trying to preserve my right to appeal his judgment. A federal order granting relief would have absolutely no influence on Ahern’s judgment for college expenses. According to the **Constitution of the State of Illinois, Article VI, Section 6,** individuals have a right to appeal. My right to appeal was never a question put before Ahern to decide. However, by refusing to provide the bystander’s report, Ahern effectively prevents me from appealing. These circumstances are completely different from those in \*Woodard\*, where the plaintiff was seeking a judgment that would influencing ongoing proceedings in the court of domestic relations.

Moreover, \*Woodard\* does not apply because the plaintiff in that case had several ongoing proceedings in the Circuit Court of Domestic Relations. Currently, I do not have any ongoing proceedings in the Circuit Court of Domestic Relations. Without jurisdiction, Judge Ahern entered an order for body attachment until a bond was paid to Ms. Thompson. However, Ms. Thompson received payment on August 14, 2023, which resolved the bond. I argue that even if she had not received the payment, a judgment for relief from this court still would not have impacted any state court proceedings. Additionally, the defendants have never specifically argued how a judgment in this case would influence any state court proceedings; they are simply trying to apply \*Woodard\* generically to my case.

Furthermore, \*Woodard\* does not apply because, unlike the plaintiff in \*Woodard\*, I was not given proper notice of the proceedings, and I never had a trial. In fact, I never participated in the case as it pertains to the judgment and award of college expenses. Judge Harjani insinuates that I somehow participated, stating that Ahern “held motion hearings and reviewed the exhibits and motions filed on the docket. This included denying Plaintiff’s motion to substitute Judge Ahern for cause.” This gives the illusion that there was some participation on my part. The reality is that nothing could be further from the truth.

In the first section of my complaint, I explain that I was not given proper notice of the proceedings. I only found out about the proceedings when I attempted to correct the court record. Even then, I was given incorrect Zoom information. A post-investigation revealed that the Zoom information on the notice I was supposed to have received was incorrect. As a result of not receiving proper notice and being given incorrect Zoom information, a default judgment was entered against me by Julie Aimen. (See Docket #10, page 8). Later, Ahern held a hearing to prove the expenses, and I did not participate in that hearing. This is the source of contention and the reason I am requesting the bystander’s report. My original complaint contains an affidavit of the proceeding. In the affidavit, I clearly state that there was no participation on my part **(See Docket #1).** Due to a clerical error, the affidavit was not attached to the amended complaint but was attached to the second amended complaint. **(See Docket #28).**

On the other hand, the plaintiff in \*Woodard\* had extensive participation in his state case. The plaintiff participated in a hearing on October 10, 2018, where the court found that abuse had occurred and entered a protective order for supervised parenting time. The plaintiff participated again on November 30, 2018, when the court suspended Edwin’s parenting time until he completed anger management counseling. Around December 21, 2018, Edwin was permitted to have visitation at the therapist's office. At an unspecified court date, the plaintiff participated in a hearing to restore emergency parenting time, during which the court ruled that Edwin could not rely on statements made by his child in counseling. The plaintiff participated in another hearing in February 2019, where a judgment was entered to dissolve the marriage and maintain Edwin’s termination of parenting time until he completed counseling. In 2019, the Illinois Appellate Court largely affirmed the judgment but remanded the domestic relations court for final judgment on parenting time. Edwin filed his 42 U.S.C. § 1983 complaint sometime after and before final judgment.

As is evident, the plaintiff had extensive participation in his case. He eventually appealed his case, and it was remanded back to the Circuit Court for a final judgment on parenting time. It was at this point that he filed his § 1983 claim, and it was determined that he was seeking a federal judgment to impact his claim for parenting time. I argue that my circumstances are dramatically different because I am simply trying to preserve my appeal. A federal judgment for the bystander’s report would not have any impact on any state court proceedings.

If anything, I would argue that \*Woodard\* actually provides reasoning for this court to grant relief, as \*Woodard\* states that abstention is not the rule but the exception.

**Impact of Judicial Reassignment on Service Effectuation**

There was no failure to effectuate service in my case. The delays and complications arose from the last-minute reassignment of my case from Judge Wood to Judge Harjani, who dismissed my claims against the Cook County Clerks without the benefit of knowing how the issue evolved under Judge Wood's oversight.

The service of claims to the Cook County Clerks was thoroughly discussed with Judge Wood. On June 13, 2023, I informed Judge Wood that I was unable to issue a summons to the Cook County Clerks. Judge Wood advised that I should name them in my amended complaint. I expressed concern about delaying her ruling, stating, **“I was thinking that maybe if we could do that after your ruling simply because -- it's sort of a separate defendant, and your ruling dismissing the complaint against Ahern and Raoul wouldn't necessarily affect the clerks” (see Docket #79).** Judge Wood indicated that a ruling was imminent, and I was concerned that filing an amended motion would delay this ruling. Given the straightforward nature of the issue with Ahern—his refusal to provide a bystander's report essential for my appeal—I did not want to risk delaying the ruling. Consequently, I eventually decided to file the amended complaint naming Gretchen Peterson **(see Docket #28).**

This issue resurfaced during a status hearing on August 10, 2023. Judge Wood explained, **“If I grant your motion for leave to file an amended complaint, the amended complaint is a new complaint. Under the rules, they do get to file a new response” (see Docket #80).** Again, to avoid delaying the ruling on Ahern, I chose to withdraw the amended complaint. Judge Wood assured me, **“For the amended complaint, after I rule on the motion to dismiss, you can file a motion for leave to amend.”** I anticipated a prompt ruling and intended to file the amended complaint and serve Gretchen Peterson at that time. However, Judge Wood’s ruling never materialized, and the case was transferred to Judge Harjani, who subsequently dismissed all my claims.

The issue with the Cook County Clerks remains unresolved. As stated in my complaint, I allege that the clerks are altering and omitting critical information from court records **(see Docket #28, page 17).** These records are crucial for appealing the child support judgment in the Illinois Court of Appeals. According to state law, the responsibility for ensuring accurate records are submitted to the appeals court lies with the appellant. **(“…The appellant… has the responsibility to present a sufficiently complete record to this court, including transcripts, to support his claims of error on appeal. Foutch, 99 Ill. 2d at 391–92, 76 Ill.Dec. 823, 459 N.E.2d 958.”) (see Docket #26 page 8 ).** I argue that using the records provided by the clerks would automatically result in the loss of my appeal. Additionally, I allege that the clerks intentionally withhold these records until the last minute, depriving me of the opportunity to review and verify that the records are free of alterations and omissions.

Although there was brief discussion about filing a separate claim against the Cook County Clerks, I did not believe this was appropriate. While the claims against Ahern and the clerks are separate, they are interrelated. Both claims involve efforts to prevent me from appealing my cases. Despite already being granted a state court order for accurate records, the clerks continue to alter and omit critical information. I still require accurate records from the Cook County Clerks to proceed with my appeal. Therefore, I respectfully request that this court allow me to refile my amended complaint naming Gretchen Peterson so that my claim can be properly heard.

First of all, I never received service of process.

First of all, I was never receive service of process.

\*\*\*\*\*\*\*” Private party enforcement of a state statute is considered state action…  
Ms. Thompson is enforcing an unconstitutional state statute.  
  
  
  
Shelley v. Kraemer… Private parties may abide by the terms of such a covenant, but they may not seek judicial enforcement of such a covenant, as that would be a state action. Thus, the enforcements of the racially restrictive covenants in state court violated the Equal Protection Clause of the Fourteenth Amendment.

If a private party is enforcing a state statute against you and the state's attorney has not brought any claims, you could argue that the enforcement by the private party, if it involves the courts, constitutes state action. You can contend that this state action violates your constitutional rights, similar to how the judicial enforcement of racial covenants in Shelley v. Kraemer was deemed unconstitutional.”

If a private party is enforcing a state statute against you and the state's attorney has not brought any claims, you could argue that the enforcement by the private party, if it involves the courts, constitutes state action. You can contend that this state action violates your constitutional rights, similar to how the judicial enforcement of racial covenants in Shelley v. Kraemer was deemed unconstitutional.

1. Lugar v. Edmondson Oil Co. (1982)

Summary: In this case, Edmondson Oil Co. used Virginia's prejudgment attachment procedure to seize Lugar's property. The Supreme Court held that this constituted state action because the private party invoked state power to achieve the seizure.

Key Points:

The use of state procedures by a private party, particularly when involving state officials, can constitute state action.

This case establishes that significant state involvement in a private party’s actions can implicate the state, making those actions subject to constitutional scrutiny.

Reference: Lugar v. Edmondson Oil Co.

2. Edmonson v. Leesville Concrete Co. (1991)

Summary: This case involved a private litigant using peremptory challenges in a civil case to exclude jurors based on race. The Supreme Court ruled that the private party’s actions constituted state action because they used the state's judicial procedures.

Key Points:

The exercise of peremptory challenges by a private party in a state court involves significant state action, as it is part of the judicial process.

This case extends the prohibition of racial discrimination in jury selection to civil cases, emphasizing the role of state action in private litigant procedures.

Reference: Edmonson v. Leesville Concrete Co.

3. Terry v. Adams (1953)

Summary: In this case, the Jaybird Democratic Association, a private organization, conducted pre-primary elections that effectively excluded African-American voters. The Supreme Court held that these private elections constituted state action because they were part of the electoral process that led to official state elections.

Key Points:

The actions of private parties can be considered state action when they are part of a process that impacts the official state electoral system.

The Court found that even though the Jaybird Democratic Association was a private organization, its elections had a direct effect on the public electoral process, thereby implicating state action.

Reference: Terry v. Adams

Legal Argument Using These Cases:

To challenge a state statute being enforced by a private party, you can argue that the enforcement involves significant state action. This implicates the state in the private party’s actions, making those actions subject to constitutional scrutiny under the Fourteenth Amendment.

Structuring Your Argument:

Cite Lugar v. Edmondson Oil Co. and Edmonson v. Leesville Concrete Co.:

Argue that the use of state judicial procedures by a private party constitutes state action.

Reference Terry v. Adams:

Emphasize that private actions that impact official state functions, such as elections or enforcement of statutes, are subject to the same constitutional standards as direct state actions.

These cases provide a robust framework for arguing that a private party's enforcement of a state statute constitutes state action, which can then be challenged on constitutional grounds.\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

\*\*\*\*\*\*\*\*\*\*\*\*”Ahern and Kwame lacks standing because much of the case does not directly apply to them. They also lack standing because they have made several arguments in controversies that do not involve them.”\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**CONCLUSION**

**RELIEF SOUGHT**

**WHEREFOR I PRAY:**

David Martin

5352 S. Princeton, Chicago IL 60649

Email: martinvthompson@gmail.com

Signature of Plaintiff

Date of Signing.

**APPENDIX A**

**APPENDIX B**

**APPENDIX** **C**

**APPENDIX** **D**