**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**

Pro - Se: David Martin, 5352 S. Princeton, Chicago IL 60649, Email: [martinvthompson@gmail.com](mailto:martinvthompson@gmail.com), Phone: 773-893-0813

**TABLE OF CONTENTS**

Table of contents………………………………………………………………………..…

Standard of Review……………………………………………………………………..…

Parties to the proceedings………………………………………………………………...

Statement of Jurisdiction………………………………………………………….………

Statement of Facts………………………………………………………………………...

Statement of the Issues…………………………………………………………………..

Statement of the case……………………………………………..………………………

Questions Presented………………………………………………………………………

Summary of Argument…………………………………………………………………….

Argument……………………………………………………………………………………

Conclusion………………………………………………………………………………..…

Relief sought………………………………………………………………………………..

**Table of Authorities**

**Statutes and Rules**

**Appendix of District Court judgments**

**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 FACTS   
(CIRCUIT COURT OF COOK COUNTY)**

1. On or around May 2017, Illinois Dept of HFS filed a petition for arrearages. Ms. Thompson was the plaintiff in that petition; however, she did not provide a mailing address or an email address… Among many things, I responded to Ms. Thompson’s petition with a 2-619 motion to dismiss and a counter claim. My 2-619 motion contained an argument and defense against Ms. Thompson claims for contribution of College Expenses.
2. On August 24th 2020 I filed a claim against Ms. Thompson. I requested a trial by jury for that claim.
3. On May 25th 2021, Judge Mackoff entered a final and appealable judgment. After the hearing. Judge Mackoff gave Ms. Thompson an in-depth lecture about hiring a lawyer. He told her that I was going to file a motion for a default judgment, and that bad things would happen if she did not have a lawyer. Judge Mackoff then told Ms. Thompson that he would talk to her in more detail after the call.
4. On June 7th 2021, I filed a notice of appeal for the child support judgment. Ms. Thompson was served the notice of appeal at her address 3550 South Giles Avenue Unit 4N Chicago, IL 60653.
5. On June 16th 2021, I filed the docketing statement with the court of appeals. Ms. Thompson was served the docketing statement at her 3550 South Giles Avenue Unit 4N Chicago, IL 60653.
6. On or around June 22nd 2021 Attorney Keith L. Spence filed an appearance.
7. On July 13th Attorney Spencer filed a motion for contribution of college expenses.
8. On October 29th Judge Marita Sullivan issued an order for the “Defendant to appear”
9. On December 3rd Ms. Thompson did not appear, and as a result Judge Julie Aimen Struck the case from her call.
10. On January 7th 2022, Judge Julie Aimen issued an order for the “defendant to appear” on January 31, 2022. via zoom ID: 984 1388 9930; Passcode 102870.
11. On January 10th I refiled my motions to correct the court record. These motions were previously filed several times. Most notably November 29th and December 13th.
12. On January 12th 2022, I was diagnosed with COVID 19.
13. On January 31st  2022, a default order for contribution of college expenses was entered against me.
14. On June 8th 2022, Judge Ahern denied my motion to certify the bystanders report, and subsequently a notice of appeal was filed in state court on 6/10/22.
15. On September 8th 2022, the state court appeal for child support was dismissed for lack of jurisdiction.
16. On December 15th 2022, the state court appeal for college expenses was dismissed for lack of jurisdiction.

**STATEMENT OF FACTS**

**(U.S DISTRICT COURT)**

1. On 11/10/22 I filed a complaint in the US DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS. Judge Ahern is one of the defendant in that complaint.
2. On 11/14/22 I filed a notice of removal in state court, and email copies to the opposing party.
3. On 11/18/22 I appeared in court via zoom to notify Judge Ahern and the opposing parties that the case had been removed to federal court.
4. On 3/17/23 Judge Ahern continued to conduct court room hearings.
5. On 4/26/23 I refiled the notice of removal in state court
6. On 8/23/23 I received an email copy of a court order indicating that a body attachment may be issued if I fail to appear in state court.
7. On 8/23/23 I performed a case search on cook county’s website and I found the following entry for my state case “Activity Date: 08/10/2023 Event Desc: Held In Contempt Of Court - Allowed“
8. On 9/14/23, I filed a motion for a temporary restraining order requesting that the arrest warrant be vacated.
9. On 10/10/23, I presented the motion to Judge Andrea Wood and both the defendant’s and I gave oral arguments over the matter.
10. On 11/30/23, Judge Wood agreed that the case was properly removed, and that she would enter a judgment on 1/25/24.
11. On 1/25/24, the court date was stricken and reset for 2/2/24.
12. On 2/2/24. Judge wood again agreed that the case was properly removed, and said that she would enter her judgment on 2/28/24.
13. On 2/28/24, the court date was stricken and reset for 3/13/24.
14. On 3/13/24, I expressed to Judge wood that I was concerned about the warrant for my arrest. She said that she would enter her judgment on 4/29/24.
15. On 4/2/24, a general order was issued, and my case was transferred to the Honorable Sunil R. Harjani.
16. On 4/15/24, I filed a motion to retain Judge Andrea Wood, arguing that she had heard all of the oral arguments, and there was nothing left to do except enter a judgment.
17. On 4/22/24 My motion to retain Andrea Wood was denied.

**STATEMENT OF THE ISSUES**

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 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?

**QUESTION PRESENTED**

**SUMMARY OF ARGUMENT**

**ARGUMENT**

\*\*\*\*\*\*\*” 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**