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: 24-1915

Given the circumstances you described, it may still be possible to file a motion in the appellate court even if you are unable to present new legal grounds or evidence. You can argue that the lower court's denial of your motion for injunctive relief was improper due to procedural errors and clear legal errors.

Key Points for Your Motion:

Procedural Improprieties:

Highlight that the judge who made the ruling did not participate in the oral status hearings where you articulated your need for injunctive relief.

Emphasize that this procedural irregularity affected the fairness of the judgment.

Clear Legal Error:

Argue that the dismissal was based on a misinterpretation of your complaint.

Point out that your primary claim was for declaratory and injunctive relief under Pulliam v. Allen, 466 U.S. 522 (1984), which establishes the jurisdiction of federal courts to provide such relief against state judges.

State Court's Lack of Jurisdiction:

Stress that the state court entered a contempt order after the case was removed to federal court, thus acting without jurisdiction.

Highlight the plain error in proceeding with the judgment despite acknowledging the removal.

Drafting Your Motion:

Below is a template for your motion to vacate the state court order:

UNITED STATES COURT OF APPEALS

[Your Circuit]

[Your Case Name]

[Case Number]

MOTION TO VACATE STATE COURT ORDER

Plaintiff-Appellant, [Your Name], respectfully moves this Court to vacate the state court order entered on [Date], post-removal, in violation of federal jurisdiction. In support of this motion, Plaintiff states as follows:

Procedural Background:

Plaintiff filed for injunctive relief in the district court, citing Pulliam v. Allen, 466 U.S. 522 (1984), which permits federal courts to grant such relief against state judges.

The district court dismissed Plaintiff's motion, mistakenly interpreting the complaint as a suit for fraud and due process violations rather than for declaratory relief.

The ruling judge did not participate in the oral status hearings where the need for injunctive relief was articulated, resulting in a lack of proper understanding of the case context.

Jurisdictional Error:

The state court entered an order for contempt after the case had been duly removed to federal court, acknowledging the removal but proceeding nonetheless.

This action constitutes a clear jurisdictional error as state courts lose jurisdiction upon the removal of a case to federal court.

Plain Legal Error:

The district court’s dismissal was improper and based on a clear misunderstanding of the Plaintiff's claims, which primarily sought declaratory and injunctive relief.

The erroneous interpretation deprived Plaintiff of the relief sought under established federal jurisdiction.

WHEREFORE, Plaintiff respectfully requests that this Court vacate the state court order entered on [Date] and grant such other relief as it deems just and proper.

Respectfully submitted,

[Your Name]

[Your Contact Information]

Legal References:

Pulliam v. Allen, 466 U.S. 522 (1984): Link to Case

Federal Rules of Appellate Procedure (FRAP) Rule 8: Link to Rule

Filing the Motion:

Ensure that your motion is properly formatted according to the appellate court’s rules.

Include all relevant documents, such as the state court order, the district court’s ruling, and any transcripts from the oral hearings.

Serve the motion to all relevant parties and file it with the appellate court.

By focusing on procedural errors and clear legal mistakes, you can argue that the appellate court should vacate the state court order.

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**UNITED STATES COURT OF APPEALS**

**[Your Circuit]**

**[Your Case Name]**

**[Case Number]**

**MOTION TO VACATE STATE COURT ORDER**

Plaintiff-Appellant, [Your Name], respectfully moves this Court to vacate the state court order entered on [Date], post-removal, in violation of federal jurisdiction. In support of this motion, Plaintiff states as follows:

1. **Procedural Background**:
   * Plaintiff initially filed a motion for injunctive relief in the district court, which was dismissed as moot on [Date].
   * The district court's dismissal was based on the erroneous belief that the motion was moot due to judicial immunity against most claims.
2. **Clarification of Relief Sought**:
   * Plaintiff's original complaint explicitly requested declaratory relief, not injunctive relief. Under *Pulliam v. Allen*, 466 U.S. 522 (1984), federal courts have jurisdiction to grant declaratory relief against state judges, who do not enjoy immunity from such relief.
   * The request for declaratory relief aimed to address the state court judge's refusal to produce an accurate record, essential for Plaintiff's appeal.
3. **Independence of the Motion**:
   * The original motion for injunctive relief, while filed in the same proceeding, is not dependent on the success of Plaintiff's complaint in federal court. It is completely separate from the original complaint.
   * The law provides that all judgments entered after removal are void, regardless of whether the removal was inadequate. See *Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S.Ct. 696, 700 (2020).
4. **Jurisdictional Error**:
   * The state court entered an order for contempt after the case had been removed to federal court, acknowledging the removal but proceeding nonetheless.
   * This action constitutes a clear jurisdictional error as state courts lose jurisdiction upon the removal of a case to federal court. Judgments entered post-removal are void ab initio (*Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S.Ct. 696 (2020)).
5. **Plain Legal Error**:
   * The district court’s dismissal overlooked the fact that the request for declaratory relief is not subject to judicial immunity.
   * Additionally, the request to declare state judgments void is another form of declaratory relief that falls within the federal court's jurisdiction.

**WHEREFORE**, Plaintiff respectfully requests that this Court vacate the state court order entered on [Date] and grant such other relief as it deems just and proper.

**Respectfully submitted,**

[Your Name]  
[Your Contact Information]

**Key Points to Emphasize:**

1. **Procedural History**: Clearly outline the history, emphasizing that the initial dismissal was based on a misunderstanding of the relief sought.
2. **Declaratory Relief**: Stress that the original and current requests focus on declaratory relief, from which judges are not immune.
3. **Jurisdictional Grounds**: Highlight the jurisdictional error by the state court in issuing orders post-removal.
4. **Clarification of Issues**: Explain how the relief sought in the motion to vacate is distinct but related to the previously sought relief, focusing on correcting clear legal and procedural errors.
5. **Independence of the Motion**: Emphasize that the motion is independent of the success of the federal complaint and is based on the automatic voiding of judgments entered post-removal.

By framing your motion this way, you can effectively present your case to the appellate court, providing the necessary context while focusing on the critical legal issues.

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does the last argument makes sense? I want you to triple check. I dont want you to just agree with me unless it has merit... you dont need to rewrite the motion... a simple yes or no will do?

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Yes, the last argument has merit. It is legally sound to assert that state court judgments entered after the removal of a case to federal court are void, regardless of whether the removal was later deemed improper. This is based on the principle established in cases like **Roman Catholic Archdiocese of San Juan v. Feliciano**, 140 S.Ct. 696 (2020), where the Supreme Court reiterated that actions taken by a state court after removal are without jurisdiction and thus void.

Therefore, your argument that the state court's order entered post-removal is void, irrespective of the success of your original federal complaint, is valid. This principle underscores the fundamental jurisdictional rule that removal to federal court strips the state court of authority over the case.

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The additional context you've provided about the defendant's motion to dismiss and the judge's ruling offers important insight into your case. Here are some points to consider:

**Defendant's Motion to Dismiss:**

1. **Defendant's Acknowledgment**:
   * The defendants acknowledged that you were seeking both declarative and injunctive relief: "Plaintiff seeks declarative and injunctive relief against Judge Ahern and Attorney General Raoul."

**Judge's Ruling:**

1. **Judicial and Sovereign Immunity**:
   * The judge ruled that your claims were barred by judicial immunity and sovereign immunity.
   * The judge cited **Kowalski v. Boliker**, 893 F.3d 987 (7th Cir. 2018), which states that judges enjoy absolute immunity for acts taken in their judicial capacity, unless they act in the clear absence of all jurisdiction.
   * The ruling also referenced **Stump v. Sparkman**, 435 U.S. 349 (1978), which supports the notion that judges are immune from liability for their judicial acts unless they clearly lack jurisdiction.

**Key Points for Your Argument:**

1. **Declaratory Relief**:
   * Emphasize that **Pulliam v. Allen**, 466 U.S. 522 (1984), establishes that judges are not immune from declaratory relief.
   * Highlight that your primary request was for declaratory relief, which is distinct from injunctive relief and not barred by judicial immunity.
2. **Jurisdictional Errors**:
   * Argue that the state court's actions post-removal were void due to lack of jurisdiction, reinforcing your request for declaratory relief to void those judgments.
3. **Misinterpretation by the Judge**:
   * Point out the contradiction between the defendants' acknowledgment and the judge's interpretation of your claims.
   * Clarify that your complaint and subsequent filings consistently sought declaratory relief, making the dismissal as moot and based on judicial immunity inappropriate.

**Conclusion:**

By focusing on these points, you can strengthen your argument that the lower court's dismissal was improper and that the state court's orders post-removal are void due to lack of jurisdiction.

If you have any further questions or need assistance with drafting your motion, feel free to ask.

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based on the additional information given, is my argument still sound?

ChatGPT

Yes, based on the additional information provided, your argument still appears sound. Here’s a reinforced analysis to ensure all aspects are thoroughly covered:

**Key Points and Analysis:**

1. **Defendants’ Acknowledgment**:
   * **Fact**: The defendants acknowledged in their motion to dismiss that you sought declaratory and injunctive relief.
   * **Significance**: This supports your position that the primary relief sought included declaratory relief, which is critical because judicial immunity does not extend to declaratory relief as established in *Pulliam v. Allen*.
2. **Judicial and Sovereign Immunity**:
   * **Judicial Immunity**: Judges have absolute immunity for judicial acts unless they act in clear absence of all jurisdiction (*Stump v. Sparkman*). However, this immunity does not apply to claims for declaratory relief (*Pulliam v. Allen*).
   * **Sovereign Immunity**: The Eleventh Amendment provides sovereign immunity to states and state officials in their official capacities. However, claims for prospective declaratory relief are typically not barred by sovereign immunity (*Ex parte Young*, 209 U.S. 123 (1908)).
3. **Jurisdictional Errors**:
   * **Post-Removal State Court Actions**: According to *Roman Catholic Archdiocese of San Juan v. Feliciano*, any state court orders issued after a case is removed to federal court are void. This principle strengthens your argument that the state court lacked jurisdiction to issue the contempt order after the case was removed.
   * **Relief Requested**: The request to vacate the state court's post-removal orders aligns with the principle that such orders are void and, therefore, subject to being declared null by the federal court.
4. **Contradiction in Ruling**:
   * **Complaint Misinterpretation**: Your complaint and the context of your filings clearly sought declaratory relief, which was misunderstood or misrepresented in the judge’s ruling.
   * **Dismissal as Moot**: The dismissal as moot based on judicial immunity was inappropriate because it overlooked the aspect of declaratory relief, which judges are not immune from.

**Conclusion:**

Your argument remains robust and sound given the legal principles and facts:

* **Declaratory Relief**: Emphasize that your primary relief was declaratory, not barred by judicial immunity.
* **Post-Removal Jurisdiction**: Highlight that the state court’s actions post-removal are void under established precedent.
* **Misinterpretation**: Clarify the misinterpretation by the lower court, stressing the defendants’ own acknowledgment of the relief sought.

**Legal References:**

1. **Pulliam v. Allen**, 466 U.S. 522 (1984): Link
2. **Roman Catholic Archdiocese of San Juan v. Feliciano**, 140 S.Ct. 696 (2020): Link
3. **Stump v. Sparkman**, 435 U.S. 349 (1978): Link
4. **Ex parte Young**, 209 U.S. 123 (1908): Link

Given these points, your motion to vacate the state court order based on the stated grounds is legally sound.