UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

GORDON WAYNE WATTS,

Plaintiff,

v. Case No: 8:19-cv-829-T-36CPT

CIRCUIT COURT OF COOK COUNTY, ILLINOIS, et al.,

Defendants.
_____/

ORDER TO SHOW CAUSE

This matter comes before the Court *sua sponte*. Plaintiff alleges that this Court has subject matter jurisdiction over his claim under 28 U.S.C. §§ 1331 and 1343(a)(3) because he sues under 42 U.S.C. §§ 1983 and 1988 for violations of the Fifth and Fourteenth Amendments to the United States Constitution. Doc. 1 at ¶¶ 7-8. Plaintiff contends that Defendants denied his due process rights when they refused to enter an order to limit the record on an appeal. This Court questions whether it has subject matter jurisdiction and whether it is the proper venue for this action.

I. Background

The forty-page verified Complaint alleges as follows. Plaintiff's friend, Richard Daniggelis, engaged in transactions which fraudulently deprived him of title to his home. Doc. 1 at ¶¶ 18-32. When Daniggelis' mortgage holder filed a foreclosure lawsuit, Plaintiff filed a Motion for Intervention in the lawsuit, to protect his interests in money owed to him by Daniggelis. *Id*. at ¶¶ 33-38. The mortgage holder ultimately moved to dismiss the foreclosure lawsuit; the circuit court dismissed the case before it could rule on the Motion for Intervention. *Id*.

Plaintiff reviewed the docket and spoke to a Circuit Court clerk, after which he concluded that he was now a "party" to the case. *Id*. at ¶ 38. As such, he felt entitled to seek relief in the

lawsuit, including an appeal of the denial of his Motion for Intervention. *Id*. The record on appeal of the case is apparently voluminous. Despite many efforts to get the circuit and appellate courts to "limit" the record, which would reduce the copying costs and allow Plaintiff to afford to file the record on appeal, both courts refused to do so. The appellate court also denied his fee waiver request. *Id*. at ¶¶ 41-45.

The Supreme Court of Illinois entered an order denying Plaintiff's petition for a Supervisory Order to compel the circuit and appellate courts to act on his "Motion for Intervention, Fee Waiver, and Preparation of the Record on Appeal." *Id*. at ¶ 46. The appeals court dismissed Plaintiff's appeal of the denial of his fee waiver request for want of prosecution. *Id*. at ¶ 47. It also dismissed another appeal for Writ of Mandamus (citing a lack of jurisdiction) and denied his motion to reconsider. *Id*. at ¶ 48. Plaintiff alleges that the record on appeal was very large, and thus, costly to copy and he could not get a price estimate from the Circuit Court Clerk's office. The appellate rules require him to produce the full record for appeal unless the record was limited by stipulation or court order under "Rule 321."[1] *Id*. at ¶¶ 49-51. Plaintiff filed a Rule 321 motion, but the appellate court only granted additional time to file the record; it noted that all issues regarding filing of the record had to be directed to the circuit court. *Id*. at ¶ 53.

Plaintiff now sues in this Court seeking redress against the circuit and appellate courts, as well as the individual judges, in Illinois for denial of his federal civil rights due to their refusal "to have his redress reviewed on the merits (by either circuit or appeals courts)[;]" arguing that both courts have jurisdiction to limit the record on appeal. *Id*. at ¶ 56.

[1] Plaintiff apparently refers to ILCS S. Ct. Rule 321. "Contents of the Record on Appeal."

II. Subject Matter Jurisdiction

"Federal courts are obligated to inquire into subject matter jurisdiction *sua sponte* whenever it may be lacking." *Cadet v. Bulger*, 377 F.3d 1173, 1179 (11th Cir. 2004); *accord Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999) ("[O]nce a federal court determines that it is without subject matter jurisdiction, the court is powerless to continue."). "The jurisdiction of a court over the subject matter of a claim involves the court's competency to consider a given type of case and cannot be waived or otherwise conferred upon the court by the parties." *Jackson v. Seaboard Coast Line R.R. Co.*, 678 F.2d 992, 1000 (11th Cir. 1982).

Under the *Rooker-Feldman* doctrine, federal courts do not have jurisdiction to "exercise appellate authority 'to reverse or modify' a state court judgment," meaning that "state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced" may not obtain rejection of the state-court judgment through review by the district court. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284-85 (2005) (citing *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413, 416 (1923); *D.C. Ct. App. v. Feldman*, 460 U.S. 462 (1983)).

The *Rooker-Feldman* doctrine applies where a claim is "inextricably intertwined" with a state court judgment such that a decision by the district court would "effectively nullify the state court judgment," or the claim could "succeed[] only to the extent that the state court wrongly decided the issues." *Target Media Partners v. Specialty Mktg. Corp.*, 881 F.3d 1279, 1286 (11th Cir. 2018) (citation omitted). "The doctrine is rooted in an understanding that Congress has given only the United States Supreme Court the ability to hear an appeal from a state court decision," whereas district courts "have been given original, not appellate, jurisdiction." *Id.* at 1284 (citing

28 U.S.C. §§ 1257(a), 1331, 1332). Thus, the state court proceeding must end prior to the filing of the case in federal district court for the doctrine to apply.

Plaintiff's underlying purpose in this case is to ultimately have "a chance to seek appellate review of the decision denying him intervention" in the foreclosure lawsuit where "he had or has great interests, financial [and] emotional...." *Id*. The alleged deprivation of rights claims in this case appear to be inextricably intertwined with the state court foreclosure action, which deprives this Court of subject matter jurisdiction.

III. Venue

Further, regarding venue, federal law provides:

> A civil action may be brought in--
>
> **(1)** a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
>
> **(2)** a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or
>
> **(3)** if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

Even if venue is proper where the action is filed, it is within the district court's discretion to transfer a case "[f]or the convenience of parties and witnesses in the interest of justice…to any other district or division where it might have been brought." 28 U.S.C. § 1404(a). The decision to transfer a case pursuant to § 1404(a) should be based on an individualized, case-by-case consideration of convenience and fairness.

The Eleventh Circuit lists nine factors a court should consider:

> (1) the convenience of the witnesses; (2) the location of relevant documents and the relative ease of access to sources of proof; (3) the convenience of the parties; (4) the locus of operative facts; (5) the availability of process to compel the attendance of unwilling witnesses; (6) the relative means of the parties; (7) a forum's familiarity with the governing law; (8) the weight accorded a plaintiff's choice of forum; and (9) trial efficiency and the interests of justice, based on the totality of the circumstances.

Manuel v. Convergys Corp., 430 F.3d 1132, 1135 n. 1 (11th Cir. 2005) (citation omitted). *See also Bennett Eng'g Grp., Inc. v. Ashe Indus., Inc*., Case No. 6:10–cv–1697–Orl–28GJK, 2011 WL 836988, at *1–2 (M.D. Fla. Mar. 8, 2011) (discussing the nine factors and granting motion to transfer division pursuant to 28 U.S.C. § 1404(a) and L.R. 1.02(c)).

And "there is a long-approved practice of permitting a court to transfer a case *sua sponte* ... but only so long as the parties are first given the opportunity to present their views on the issue." *Tazoe v. Airbus S.A.S*., 631 F.3d 1321, 1336 (11th Cir. 2011) (quotations omitted).

Here, Plaintiff alleges that he is a resident of Plant City, Florida, which is within the Tampa Division, Middle District of Florida. But the Complaint has no other allegation which establishes that the Tampa Division of the Middle District of Florida is the appropriate venue. The defendants are all in Illinois and Plaintiff sues them for acts committed in Illinois. Thus, assuming Plaintiff sufficiently demonstrates that this Court has subject matter jurisdiction, he will also have to demonstrate why venue is proper here as opposed to the Northern District of Illinois, Eastern Division which encompasses Cook County, Illinois.

Accordingly, it is hereby **ORDERED** as follows:

Plaintiff is directed to **SHOW CAUSE** as to why this case should not be dismissed pursuant to the *Rooker-Feldman* doctrine for lack of subject matter jurisdiction or transferred to the Northern District of Illinois, Eastern Division. Plaintiff shall file a written response with the

Court within **FOURTEEN (14) DAYS** from the date of this Order. Failure to respond within the time provided will result in dismissal or transfer of this action without further notice.

DONE AND ORDERED in Tampa, Florida on April 10, 2019.

Charlene Edwards Honeywell

Charlene Edwards Honeywell
United States District Judge

Copies: All Parties of Record