NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted August 3, 2023*
Decided August 3, 2023

Before

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 21-2579

TINA TURNER,
Plaintiff-Appellant,

v.

UNIVERSITY OF CHICAGO MEDICAL CENTER, et al.,
Defendants-Appellees.

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

No. 16 C 10108

John Z. Lee,
Judge.

O R D E R

Five years after the district court dismissed a suit filed by Tina Turner and James Garner, Turner moved to reopen the suit, and the court denied the motion as untimely, precipitating this appeal. In 2016, the plaintiffs sued the University of Chicago Medical Center, the Illinois Department of Children and Family Services (DCFS), and employees of each institution, alleging a conspiracy to take custody of their infant daughter. The district court dismissed the suit, and we dismissed an appeal in 2017 because of the

* The defendants were not served with process and are not participating in this appeal. We have agreed to decide this case without oral argument because the appeal is frivolous. *See* FED. R. APP. P. 34(a)(2)(A).

appellant's failure to file a brief. We dismiss the current appeal for a similar reason and warn Turner against future frivolous filings.

Turner and Garner brought their infant daughter to the University of Chicago Medical Center in October 2016. They were told that she required emergency brain surgery, but they refused to sign a consent form for surgery because they disagreed with some of the form's provisions. A Medical Center employee explained to Garner that if the parents did not sign the form, the Medical Center—following Illinois law—would take their daughter into temporary protective custody to allow the life-saving surgery to proceed. Neither parent signed the form, and their daughter was placed in protective custody where she received the brain surgery. Shortly afterward, DCFS told Turner and Garner that it would investigate suspected neglect of the infant. Later a state judge gave temporary custody of the infant to DCFS.

Citing 42 U.S.C. § 1983, Garner and Turner sued DCFS, the Medical Center, and their employees. The plaintiffs alleged that the defendants conspired to take custody of their daughter and violate their parental rights. They added two state-law claims: one for malicious prosecution, and the other, against the Medical Center, for medical malpractice. The court reviewed the complaint under 28 U.S.C. § 1915(e)(2)(B). It dismissed the § 1983 claims against the Medical Center because, it reasoned, private hospitals and physicians do not become state actors simply by following state law, as they did here by taking the infant into temporary protective custody. DCFS and its employees sued in their official capacity, the court continued, were entitled to Eleventh Amendment immunity. Finally, under the abstention doctrine of *Younger v. Harris,* 401 U.S. 37 (1971), claims against defendants in their individual capacity were unavailable because the relief the plaintiffs sought—the return of the child—challenged ongoing state-court proceedings. Having dismissed the federal claims, the court relinquished supplemental jurisdiction over the state-law claims.

The plaintiffs attempted to continue litigating. Garner appealed the dismissal in 2016, but we dismissed his appeal because he did not file a brief. *Garner v. Univ. of Chi. Med. Center*, No. 16-3959 (7th Cir. May 22, 2017). Five years later, Turner tried to revive the closed case. She filed an "Emergency Motion to Reconsider and Vacate or Dissolve" the original dismissal order. Because she filed the motion more than a year after the 2016 dismissal, the only options that might provide relief are Rule 60(b)(4) through (6) of the Federal Rules of Civil Procedure. *See* FED. R. CIV. P. 60(c)(1) (setting forth the time limits for Rule 60(b)). But she did not cite these rules, let alone argue that they applied. The district court denied the motion as untimely, repeating the reasons for the original

dismissal and, because nothing had changed, explaining that the case "remain[ed] closed" after Garner's unsuccessful appeal in 2017.

Turner now appeals. (Garner does not appear to be involved.) Her appeal is timely only with respect to the denial of her post-judgment motion, but she does not mention that motion, engage with the district court's rationale for denying her motion (its untimeliness), or argue that any provision of Rule 60(b) applies. Thus, she has not, as is required, developed an argument that the district court erred in denying her motion. *See Shipley v. Chi. Bd. of Election Comm'rs*, 947 F.3d 1056, 1062–63 (7th Cir. 2020); FED. R. APP. P. 28(a)(8)(A) (brief must contain the appellant's "contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies"). The lack of a developed argument in her brief requires us to dismiss the appeal. *See Anderson v. Hardman*, 241 F.3d 544, 545–46 (7th Cir. 2001).

The only assertion that Turner does raise is not only undeveloped, it is frivolous. She contends that the district judge should have recused himself because he once referred to the Medical Center as "a very reputable hospital system." But she furnishes no reason why, based on this observation alone, his "impartiality might reasonably be questioned." 28 U.S.C. § 455(a); *Thomas v. Dart*, 39 F.4th 835, 844–45 (7th Cir. 2022). Disqualification is not required unless a judge "display[s] a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). The judge's comment here does not evince such a predisposition. And the mere fact that the judge denied Turner's motion does not itself demonstrate bias. *Thomas*, 39 F.4th at 844 (citing *Liteky*, 510 U.S. at 555).

We conclude with the issue of sanctions. Turner's filings in this appeal are nearly identical to Garner's filings in an appeal that we dismissed earlier this year as frivolous, leading to a sanction against Garner. *See Turner v. City of Chicago*, Nos. 22-1612, 22-2461, 2023 WL 2810055 (7th Cir. April 6, 2023). When we dismissed his appeal, we described Garner's extensive history of repetitive and frivolous litigation—litigation to which Turner was involved as a co-plaintiff. We now warn Turner that further frivolous motions, suits, or appeals may result in sanctions against her, including a loss of the privilege of litigating in forma pauperis, *see* 28 U.S.C. § 1915(a)(3), or a fine that, if unpaid, may result in a bar on filing papers anywhere in this circuit. *See Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185 (7th Cir. 1995). We also direct the clerk to send a copy of this Order to the Executive Committee of the Northern District of Illinois.

DISMISSED