NONPRECEDENTIAL DISPOSITION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 February 3, 2023*
Decided February 23, 2023

By the Court:

No. 22-1720

NEHEMIAH ROLLE, JR.,
Plaintiff-Appellant,

v.

RICHARD P. CREEDON,
Defendant-Appellee.

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

No. 1:22-cv-00147

Edmond E. Chang,
Judge.

O R D E R

This appeal, in a case alleging racial discrimination in the administration of a car insurance policy, pertains to the denial of the plaintiff's motion for injunctive relief. Nehemiah Rolle, Jr., the plaintiff, characterizes his requested relief as a preliminary injunction, making the denial appealable under 28 U.S.C. § 1292(a), whereas the defendant contends that we lack jurisdiction because Rolle was seeking a temporary restraining order. On the jurisdictional issue, we side with Rolle, but we affirm the denial of relief, and, although we emphasize that we do not see merit in the argument, we do not address whether the district judge should have recused himself because that is beyond the scope of the interlocutory appeal.

* After examining the record, we have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not aid the court. *See* FED. R. APP. P. 34(a)(2)(C).

After a car accident, Rolle filed a claim with his insurer, Founders Insurance Company, a member company of the Utica National Insurance Group. Founders responded with a request for more information, and when none came, the company denied the claim. A few months later, Founders sent Rolle a notice that his policy was due to expire and would not be renewed. Rolle then sued Richard Creedon, the chairman and chief executive officer of Utica National, alleging that Founders breached its insurance contract by not paying his claim and discriminated against Rolle because he is Black by "aiding and abetting" white employees to "criminally defraud" Rolle by accepting his insurance premium while denying coverage. Rolle sought compensatory damages of 1 billion dollars and punitive damages of 500 million dollars. Creedon moved to dismiss the case for lack of personal jurisdiction, *see* FED. R. CIV. P. 12(b)(2), and that motion is pending. In the meantime, Rolle filed a motion requesting an "Emergency Order" for "A Stay or Restraining Order" requiring that his insurance coverage continue beyond its expiration date and until the insurance company was required (through this lawsuit) to pay for the repairs to Rolle's car.

The district judge construed Rolle's motion for an "Emergency Order" as a request for a temporary restraining order under Rule 65(b) and denied it. The judge explained that the denial of an insurance claim and the non-renewal of the policy would not cause irreparable harm, that there was an adequate remedy at law, and that Rolle failed to establish a likelihood of success on his theory of race discrimination. Rolle then moved for the district judge's recusal because of alleged racial bias, which, he argued, is what caused the judge to deny the "Emergency Order" and say there was no emergency. Explaining that adverse rulings alone are almost never grounds for recusal, the judge denied the motion. *See Liteky v. United States*, 510 U.S. 540, 555 (1994).

Rolle filed an interlocutory appeal after the denial of his two motions, and the parties first debate whether we have appellate jurisdiction. Creedon argues that the motion for an "Emergency Order" sought a temporary restraining order, the denial of which is not immediately appealable. *Cnty., Mun. Emps.' Supervisors' & Foremen's Union Loc. 1001 (Chicago Illinois) v. Laborers' Int'l Union of N. Am.*, 365 F.3d 576, 578 (7th Cir. 2004). Rolle contends that he sought, and was denied, a preliminary injunction, and so we have jurisdiction under 28 U.S.C. § 1292(a)(1).

Although the question is close, Rolle has the better of the argument. The title given to a motion by the court or parties is not determinative: we look to the substance of the relief sought and the handling of the motion to determine whether a motion asks for a preliminary injunction or a TRO. *See Sampson v. Murray*, 415 U.S. 61, 86–88 (1974); *Wheeler v. Talbot*, 770 F.3d 550, 552 (7th Cir. 2014). The essence of a TRO is its "brevity,

its ex parte character, and (related to the second element) its informality." *Geneva Assurance Syndicate, Inc. v. Med. Emergency Servs. Assocs. (MESA) S.C.*, 964 F.2d 599, 600 (7th Cir. 1992). A preliminary injunction requires notice to the opposing party, and typically involves a hearing held before the injunction is issued. FED. R. CIV. P. 65(a); *see also Sampson*, 415 U.S. at 86–88.

Here, the district court labelled the motion as a request for a TRO and, consistent with such proceedings denied it without a hearing in a brief order. But the substance of Rolle's request and the way the parties addressed it are more indicative of a motion for a preliminary injunction. Rolle requested that his insurance policy be extended past its expiration date until the insurance company agreed to repair his car—*i.e.*, until he won this lawsuit. That is not the sort of emergency, short-term relief covered by a TRO, which is limited to 14 days unless extended for cause. *See* FED. R. CIV. P. 65(b)(2); *see also Chi. United Indus., Ltd. v. City of Chicago*, 445 F.3d 940, 943 (7th Cir. 2006). The relief requested here, however, would preserve the status quo by keeping Rolle insured until the merits of the case could be resolved: substantively, this is the realm of a preliminary injunction. *See Ind. C.L. Union v. O'Bannon*, 259 F.3d 766, 770 (7th Cir. 2001). Further, Creedon received notice and fully responded to the motion, and the district court entered a reasoned order applying the standard for a preliminary injunction. *See Wheeler*, 770 F.3d at 552 (court must provide reasons for denying preliminary injunction). When an order has the "practical effect" of denying an injunction, "it should be treated as such for purposes of appellate jurisdiction." *Abbott v. Perez*, 138 S. Ct. 2305, 2319 (2018). So we may exercise appellate jurisdiction here.

On the merits, Rolle argues the judge erred by finding it unlikely he would suffer irreparable harm without injunctive relief. Rolle contends that if his coverage is not maintained, he cannot be insured by another company because of the damage to his car that his insurer refused to pay. We review the denial of a preliminary injunction for abuse of discretion, reviewing the district court's legal conclusions de novo and its factual findings for clear error. *See Speech First, Inc. v. Killeen*, 968 F.3d 628, 638 (7th Cir. 2020). Absent such errors, we afford a district court's decision "great deference." *Id.* "To obtain a preliminary injunction, a plaintiff must show that it is likely to succeed on the merits, and that traditional legal remedies would be inadequate, such that it would suffer irreparable harm without the injunction." *Life Spine, Inc. v. Aegis Spine, Inc.*, 8 F.4th 531, 539 (7th Cir. 2021).

The district judge did not err in determining that Rolle failed to demonstrate that the denial of his insurance claim (even if wrongful) or the non-renewal of his auto insurance policy would cause irreparable harm in these circumstances. The harm Rolle

claims is measurable in monetary terms (the cost to repair his car or a higher insurance premium), and can be adequately addressed with damages. *See id*. at 546 (losses that are "identifiable" and "quantifiable" not irreparable harms).

Rolle also argues the motion seeking the district judge's recusal was denied erroneously, but we lack appellate jurisdiction to review that decision. A decision not to recuse under 28 U.S.C. § 455(a) is not immediately appealable under § 1292(a). *Alexander v. Chi. Park Dist.*, 709 F.2d 463, 470 (7th Cir. 1983). And the district judge did not certify the decision for immediate appeal under § 1292(b). Finally, we do not have pendent jurisdiction because the decision not to recuse is not "inextricably intertwined" with the denial of injunctive relief. *Abelesz v. OTP Bank*, 692 F.3d 638, 647 (7th Cir. 2012). In any event, however, at this stage Rolle points to nothing in the record to suggest bias on the part of the judge rather than disagreement with the rulings.

We end with a warning. Rolle's litigation history demonstrates a concerning pattern of misconduct against this defendant and others. Rolle filed a second suit against Creedon in the Northern District of Illinois four months after filing this one. The second complaint alleges that Creedon "defam[ed] and libel[ed]" Rolle by notifying the court of Rolle's litigation history, but it is otherwise identical to the complaint here. Creedon mentions in a footnote of his brief that Rolle is a prolific litigant, but that is an understatement: Rolle has filed at least 55 federal lawsuits in the Eastern, Northern, and Southern Districts of New York, the Southern District of Ohio, and the District of New Jersey. Most allege that businesses, elected officials, judges, and government employees engaged in racist actions that violated his constitutional rights, but none has gone far. His suits include actions against judges who presided over his other lawsuits based on rulings with which Rolle took issue. *See, e.g.*, *Rolle v. Litkovitz*, No. 1:21-cv-552, 2021 WL 4169022, at *1, *5 (S.D. Ohio Sept. 14, 2021) (summarizing Rolle's litigation history and recommending sanctions). The majority of these cases have been frivolous and dismissed for lack of subject-matter jurisdiction. Two courts (E.D.N.Y. and S.D. Ohio) imposed restrictions on Rolle because of his vexatious filings. Therefore, we warn Rolle that further frivolous filings within this circuit may lead to monetary sanctions that, if unpaid, can result in a filing bar. *See Support Systems Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995). And we assume that the district judge and the district court's Executive Committee will keep a close watch on Rolle's litigation conduct.

We AFFIRM the denial of injunctive relief and DISMISS the rest of the appeal.