NONPRECEDENTIAL DISPOSITION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 January 31, 2024*
Decided February 2, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

No. 22-3094

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

$1,240,675 IN UNITED STATES CURRENCY, *et al.*
Defendants,

APPEAL OF MARIO H. LLOYD,
Claimant-Appellant.

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

No. 89-cv-3890

Steven C. Seeger,
Judge.

O R D E R

Mario Lloyd was convicted in 1990 of crimes related to cocaine trafficking and is serving multiple concurrent life sentences. *See United States v. Walker*, 25 F.3d 540

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

(7th Cir. 1994). He now seeks relief from judgments entered in the related civil forfeiture proceedings, asserting that the government colluded with his former attorneys to commit a fraud on the court. The district court denied Lloyd's motion for relief from the judgment. Because there is no evidence of the supposed fraud, we affirm.

During his criminal proceedings, Lloyd was represented by attorney Stephen Milott, among others. Lloyd delivered $40,000 in cash to Milott and another attorney as compensation for representing him. The government suspected that cash to be profits from Lloyd's criminal activity and filed a civil forfeiture action against any amount of the $40,000 beyond what the lawyers had earned for their work. Milott and the government reached a settlement on the amount that the lawyers were owed, and he turned over the remainder. *See United States v. Milott*, No. 90-cv-7011 (N.D. Ill.). The government also successfully obtained, in this separate forfeiture action, another $1,240,675 in cash that had belonged to Lloyd and his co-conspirators.

At some point before November 26, 2018, Lloyd filed a complaint against Milott with the Illinois Attorney Registration and Disciplinary Commission. (The precise date, and Lloyd's reason for raising his grievance decades later, are unclear.) In letters to the Commission, Milott disclosed his recollection of the brief attorney-client relationship he had with Lloyd as well as his knowledge of the forfeiture proceedings.

Based on those letters, Lloyd then filed a motion under Rule 60(d)(3) of the Federal Rules of Civil Procedure, seeking relief from the prior forfeiture judgments. He filed the motion in the case related to the million dollars he forfeited, but in his brief, he appears to be seeking primarily the return of the money that the lawyers forfeited. Lloyd believed that the letters to the Commission revealed that Milott had fraudulently conspired with the government to deprive Lloyd of his money without informing him so he would not contest the amount of fees that Milott had earned.

The district court denied Lloyd's motion, which it had generously construed to be seeking relief from both judgments. The court concluded that Lloyd did not have standing to contest the forfeiture of the lawyers' funds and could not prove that any alleged fraud amounted to corruption of the judicial process with respect to the million dollars.

Lloyd appeals, continuing to argue that he is entitled to relief from both forfeiture judgments. We review the denial of Lloyd's motion for abuse of discretion, *Kennedy v. Schneider Elec.*, 893 F.3d 414, 419 (7th Cir. 2018), and legal questions

pertaining to standing de novo, *United States v. All Funds on Deposit with R.J. O'Brien & Assocs.*, 783 F.3d 607, 615–16 (7th Cir. 2015).

Lloyd first argues that Milott's settlement with the government amounted to a conspiracy to deprive him of property without notice or due process. The district court determined that Lloyd lacked standing because he had no property interest in the money that he paid to counsel. But Lloyd insists that Millott received far more money than his work justified, and we thus understand him to be arguing that the full $40,000 was, in substance, a security retainer, any unearned portion of which would have been Lloyd's property. *See Dowling v. Chicago Options Assocs., Inc.*, 875 N.E.2d 1012, 1018 (Ill. 2007). Even if that is not the best possible characterization of the limited facts available, this colorable possibility is enough to confer constitutional standing. *R.J. O'Brien*, 783 F.3d at 616.

Regardless, Lloyd's asserted lack of notice falls far short of the sort of fraud on the court contemplated by Rule 60(d)(3). "Fraud on the court occurs only in the most extraordinary and egregious circumstances and relates to conduct that might be thought to corrupt the judicial process itself …." *Citizens for Appropriate Rural Rds. v. Foxx*, 815 F.3d 1068, 1080 (7th Cir. 2016). Ordinary misrepresentations and legal or factual errors must be raised within a year under Rule 60(b), so Rule 60(d)(3) is limited to "the kind of fraud that ordinarily could not be discovered, despite diligent inquiry, within one year or even many years." *Kennedy*, 893 F.3d at 420. At best, Lloyd may have identified an error with respect to the notice the government provided that it was seizing money in which he may have had an interest. That is a conceivable basis for relief under Rule 60(b). *See United States v. Bowser*, 834 F.3d 780, 783 (7th Cir. 2016). Far more likely the documents clarifying the matter have just been lost to time. Still, diligent inquiry would have revealed any problem decades ago. Even if he had no idea what Milott had done with the $40,000, Lloyd admits he already knew in 1990 that none of the money had been returned to him. Perhaps back then Lloyd would have had a claim against Milott for a refund—though any money he recovered would have almost certainly been forfeited to the government—but now, three decades later, he has no entitlement to relief.

As for the million-dollar forfeiture, Lloyd does not explain how he believes fraud was involved. Instead, he contends only that this forfeiture violated the Double Jeopardy Clause because the money was used as evidence in his criminal trial. Lloyd waived that argument by failing to present it in the district court. *See Bradley v. Village of University Park*, 59 F.4th 887, 897 (7th Cir. 2023). Regardless, it is frivolous. Any overlap

could not be fraud, because Lloyd knew of it at the time of judgment. *See Oxxford Clothes XX, Inc. v. Expeditors Int'l of Wash., Inc.*, 127 F.3d 574, 578 (7th Cir. 1997). And civil forfeitures are not "punishment" within the meaning of the Double Jeopardy Clause anyway. *United States v. Ursery*, 518 U.S. 267, 270–71 (1996).

AFFIRMED