NONPRECEDENTIAL DISPOSITION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 October 4, 2023*
Decided October 10, 2023

Before

DIANE S. SYKES, *Chief Judge*

DIANE P. WOOD, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-1385

NATHAN JOHN HUIRAS,
Plaintiff-Appellant,

v.

KRISTIN CAFFERTY, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 22-cv-1109-pp

Pamela Pepper,
Chief Judge.

O R D E R

During divorce and child-custody proceedings in the Circuit Court of Racine County, Wisconsin, a judge held Nathan Huiras in civil contempt for not complying with orders to refrain from harassing Nicole Huiras, his spouse. Nathan brought this

* 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).

action under 42 U.S.C. § 1983, alleging that his wife, her lawyer, the judge, and Racine County violated his constitutional rights. He sought relief including injunctions dismissing the divorce proceedings outright and barring the state circuit judge from finding him in contempt again. The district court dismissed Nathan's suit. We affirm the dismissal of the damages claims about the contempt order and conclude that we lack subject matter jurisdiction over the rest of the suit.

We accept as true the well-pleaded facts in Nathan's complaint and draw all reasonable inferences in his favor. *G & S Holdings LLC v. Cont'l Cas. Co.*, 697 F.3d 534, 539 (7th Cir. 2012). Nicole Huiras petitioned for divorce from Nathan and sole custody of their children, and Nathan's appeal of the judgment in that case is pending in the Wisconsin Court of Appeals. *Huiras v. Huiras*, No. 2023AP000789 (Wis. Ct. App. appeal docketed May 5, 2023). While the case proceeded in the state trial court, the state circuit judge ordered Nathan, at least twice, not to harass Nicole. The judge warned Nathan that if his misconduct continued, he would be jailed. A few months later, after finding that Nathan had sent a threatening message to Nicole, the judge held Nathan in civil contempt and had him jailed until he paid a fine of $1,500. Nathan was detained in Racine County Jail for eight hours, despite his consistent willingness to pay the court-ordered fine. With various fees, Nathan ultimately paid $1,611.75, which he believes is evidence that the county engages in a for-profit scheme facilitated by unlawful court orders. Nathan's separate state appeal of that contempt order is now resolved. *Huiras v. Huiras*, No. 2022AP001731, 2023 WL 3614781 (Wis. Sept. 26, 2023) (petition for review denied).

While continuing to litigate both the divorce proceedings and his contempt appeal, Nathan came to federal district court and sued Nicole, her attorney, the state judge, and Racine County, alleging that they each violated his constitutional rights. He asserted that they (1) punished him for his free speech, in violation of the First Amendment; (2) detained him under intolerable conditions and imposed an excessive fine, in violation of the Eighth Amendment;[1] and (3) held him, or caused him to be held in, "criminal" contempt without a jury trial, in violation of the Fifth, Sixth, and Fourteenth Amendments. He asked for damages, declaratory relief, and an injunction against future findings of contempt. He also asked for a preliminary injunction to halt the divorce proceedings—a request that had failed in a prior federal suit. *See Huiras v.*

[1] We recount Nathan's claims as he characterized them, but we note that a civil detainee's claims about conditions of confinement arise under the Fourteenth Amendment. *Kemp v. Fulton County*, 27 F.4th 491, 495 (7th Cir. 2022).

Cafferty, No. 22-3081, 2023 WL 4842323 (7th Cir. July 28, 2023). The district court, relying on abstention doctrines, dismissed the complaint, *see Younger v. Harris*, 401 U.S. 37 (1971); it then denied as moot the motion for a preliminary injunction. Nathan appeals, and our review is de novo. *Village of DePue v. Exxon Mobil Corp*., 537 F.3d 775, 782 (7th Cir. 2008).

Nathan first contends that the district court wrongly denied his request for an injunction dismissing the divorce proceedings because the defendants were violating his constitutional rights. To address this argument, we must first ascertain whether federal jurisdiction exists, even if no party has raised the issue, because we cannot proceed without it. *Hay v. Indiana State Bd. of Tax Comm'rs*, 312 F.3d 876, 879 (7th Cir. 2002) (citing *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 577, 583 (1999)). We conclude we are without jurisdiction because of the domestic-relations exception to federal jurisdiction.

Federal courts must avoid deciding cases involving "divorce, alimony, and child custody decrees," *Marshall v. Marshall*, 547 U.S. 293, 308 (2006), for reasons including state courts' superior expertise in these matters. *Ankenbrandt v. Richards*, 504 U.S. 689, 703–04 (1992); *Struck v. Cook Cnty. Pub. Guardian*, 508 F.3d 858, 859–60 (7th Cir. 2007). The exception applies "to both federal-question and diversity suits." *Kowalski v. Boliker*, 893 F.3d 987, 995 (7th Cir. 2018). Although Nathan insists that he is not asking for a divorce or child custody decree, his claim still encroaches on the state court's application of family law, thus implicating the exception. *See Struck*, 508 F.3d at 860. Based on this jurisdictional defect, we will affirm the dismissal of the constitutional challenge to the divorce proceedings.

Nathan's other arguments all challenge the constitutionality of the contempt order and his ensuing detention. He contends that the district court incorrectly abstained from exercising jurisdiction over these claims, but we need not address this argument. Although the district court correctly decided to abstain under *Younger* while the contempt proceeding was ongoing, abstention is not an option now that it is final. But the court also determined that the allegations about the contempt order did not state a claim for damages against these defendants. We agree with that conclusion.

First, Nathan's wife and her lawyer are private persons, not "state actors," and are therefore not subject to suit under § 1983. Despite Nathan's conclusory assertions, the complaint does not plausibly suggest that a state actor engaged in any joint activity or conspiracy with these defendants. *See Dennis v. Sparks*, 449 U.S. 24, 27–28 (1980). Nathan's allegation that Nicole's harassment accusation was "meritless" or

"fraudulent" is a legal conclusion that we need not accept as true. *McCauley v. City of Chicago*, 671 F.3d 611, 616 (7th Cir. 2011) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 681 (2009)). And the state judge holding hearings and acting on Nicole's sworn statements does not imply coordination with Nicole or her lawyer. Even more attenuated from this is the state court's collection of fees associated with the contempt order: Nathan does not attempt to identify a county official who acted in concert with the private defendants.

Second, absolute judicial immunity applies to Nathan's constitutional claims against the state judge, despite Nathan's insistence that an elected judge is not a "judicial officer." Wisconsin's circuit courts are constitutionally vested with the state's judicial power. WIS. CONST. art. 7, §§ 2, 8. And contempt proceedings are judicial in function as well—the exercise of a power that is "inherent in all courts" and "essential to the administration of justice." *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 795 (1987) (quoting *Michaelson v. U.S. ex rel. Chicago, St. Paul, Minneapolis & Omaha Ry. Co.*, 266 U.S. 42, 65 (1924)). The state judge performed a classic judicial function by holding a party in contempt for violating orders in a case she was presiding over, so she has absolute immunity in a suit under § 1983. *See Forrester v. White*, 484 U.S. 219, 227 (1988).

Third, Nathan did not state a claim against Racine County arising out of his brief detention. Although he correctly notes that a county may be subject to suit under *Monell v. Department of Social Services*, 436 U.S. 658, 690 (1978), he ignores the requirements of this type of claim. The county cannot be liable solely because it employs staff at the county jail where Nathan alleges he was mistreated. *See id.* at 694. Even if we accepted that county officials unlawfully detained or fined Nathan or that they subjected him to unconstitutional conditions of confinement, he made no allegations that go to the "critical question" of what policy, practice, or custom caused his injuries. *Glisson v. Ind. Dep't of Corr.*, 849 F.3d 372, 379 (7th Cir. 2017). Therefore, Nathan did not state a claim against the county. *See Thomas v. Neenah Joint Sch. Dist.*, 74 F.4th 521, 524 (7th Cir. 2023).

Finally, Nathan challenges the district court's decision to abstain from resolving not only his damages claims about the contempt proceeding but also his requests for declaratory and injunctive relief. As we have said, *Younger* abstention is no longer proper because that proceeding is over. But whether the district court should have exercised jurisdiction is immaterial because Nathan has not shown that subject matter jurisdiction existed at all. *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009).

Specifically, Nathan lacks Article III standing to seek an injunction against being held in contempt in the future. A plaintiff must demonstrate standing separately for each form of relief he seeks. *TransUnion LLC v. Ramirez*, 141 S.Ct. 2190, 2210 (2021).

Therefore, Nathan must show that the threat of harm is "real and immediate, not conjectural or hypothetical." *See Lopez-Aguilar v. Marion Cnty. Sheriff's Dep't*, 924 F.3d 375, 394–95 (7th Cir. 2019) (citing *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983)). Nathan does not plead facts plausibly suggesting that the state judge unlawfully held him in contempt in the past—his disagreement with the underlying factual findings is fodder for his state appeal, not a constitutional claim—let alone that the judge would do so in the future. (Indeed, the state circuit judge's role is now over unless the appeal succeeds.) Another contempt citation would issue only if Nathan again violated court orders. But we assume that Nathan does not have concrete plans to do so and will conduct himself within the law. *See Simic v. City of Chicago*, 851 F.3d 734, 738 (7th Cir. 2017). For similar reasons, Nathan lacks standing to seek a declaratory judgment—relief he says that the defendants and the district court overlooked. A plaintiff lacks standing to seek a declaratory judgment if a declaration of the parties' legal rights will provide no relief, such as when the plaintiff, like Nathan, cannot establish that there is a reason to anticipate future unlawful conduct. *See Bontkowski v. Smith*, 305 F.3d 757, 761 (7th Cir. 2002). He also has not said what purpose a declaratory judgment could serve. *See id.*

We have reviewed Nathan's remaining arguments; none merits discussion. We end by making a slight modification to the district court's judgment, which dismissed the case with prejudice. Dismissals on jurisdictional grounds are without prejudice to allow a plaintiff to raise the claims in the proper tribunal. *Flynn v. FCA US LLC*, 39 F.4th 946, 954 (7th Cir. 2022). Based on the domestic-relations exception and a lack of Article III standing, there is no federal jurisdiction over Nathan's claim seeking to halt the divorce case or his requests for declaratory and injunctive relief on his claims about the contempt order. We therefore MODIFY the judgment to reflect a dismissal without prejudice as to those claims. As so modified, the judgment is AFFIRMED.