United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 4, 2024*
Decided April 5, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-2675

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

BARRY R. SCHOTZ,
Defendant-Appellant.

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

No. 05 CR 440

Harry D. Leinenweber,
Judge.

O R D E R

For his frivolous challenges to his wire-fraud conviction and sentence, we sanctioned Barry Schotz in 2009 with a $5,000 fine and a filing bar that blocks both "civil suits" and "collateral attacks" until he pays, which he has not done. *Schotz v. United States*, No. 09-2055 (7th Cir. Apr. 24, 2009). One part of Schotz's underlying sentence, meanwhile, was a restitution judgment of over $3 million, due immediately but still

* 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).

mostly unpaid. To recover some of that restitution, administrators began withholding and offsetting 15% of Schotz's monthly Social Security benefits under the Treasury Offset Program. *See* 31 U.S.C. § 3716(a), (c)(3)(A)(i); *Astrue v. Ratliff*, 560 U.S. 586, 589 (2010) (describing program). Last year, Schotz asked the sentencing court to make these administrators stop. The court, seeing no authority to grant this relief, denied Schotz's motion. Then, in a renewed motion, Schotz insisted that administrators had deprived him of due process by not giving him written notice of his rights to contest the offset within the executive branch. (The United States disputes this.) In an oral ruling, the district court denied this motion because, among other things, it was "the same" as the first one. We affirm.

We start with Schotz's notice of appeal. The district court's oral ruling denying Schotz's latest post-sentencing motion is final and appealable under 28 U.S.C. § 1291 because it disposed of all issues in the motion and the district court is finished with the case. *See United States v. Simon*, 952 F.3d 848, 851–52 (7th Cir. 2020) (citing *Autotech Techs. LP v. Integral Rsch. & Dev. Corp.*, 499 F.3d 737, 745 (7th Cir. 2007)). That leaves the filing bar. Schotz's notice of appeal did not make clear whether his request for relief was in substance a civil complaint against federal administrators (barred by our sanction order), a collateral attack on the original restitution judgment (also barred), or an attempt to modify the restitution judgment's payment schedule based on changes in Schotz's financial circumstances (likely outside the bar). *See* 18 U.S.C. § 3664(k); *cf. In Re Thomas*, 91 F.4th 1240, 1241–1242 (7th Cir. 2024) (ruling that a motion for compassionate release falls outside bar on collateral attacks). So, we docketed the appeal.

But now that we have Schotz's appellate brief, we see no way for him to proceed. Schotz would locate the district court's authority to oversee the government's debt collection in the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*, which, among other things, permits civil suits to enjoin certain actions of federal agencies. *See, e.g.*, *Harrington v. Berryhill*, 906 F.3d 561, 568 (7th Cir. 2018) (opining, in dispute over legal fees and eligibility for Social Security benefits, that a separate APA suit "is the proper vehicle" for challenging administrative offset against benefits). Yet a civil suit for an injunction would run into Schotz's filing bar. The district court could not have entertained his request as a civil complaint, and we would not entertain an appeal from that court's refusal to do so.

Still, the D.C. Circuit has held that a sentencing court sometimes has ancillary jurisdiction to review an administrative offset as a kind of adjunct to the criminal case—but only if the offset is inconsistent with the court's own restitution judgment.

United States v. Hughes, 813 F.3d 1007, 1008–10 (D.C. Cir. 2016). In *Hughes,* the sentencing judgment set a payment schedule of $50 per month. The government's $10,000 offset of Hughes's lump-sum tax refund violated that schedule and thus "thwart[ed] the proper execution of the collection of restitution." *Id.* at 1010. The sentencing court, said *Hughes*, could intervene to protect its own judgment. *Id.* But even if we accepted *Hughes*'s view of a sentencing court's jurisdiction, we see no room to exercise it here: Schotz's restitution judgment required immediate payment; the bulk remains unpaid; and Schotz does not argue that the offset is otherwise inconsistent with the restitution judgment.

We agree with the district court that it lacked authority to make administrators cancel the offsets to Schotz's Social Security payments. We thus do not reach the merits of Schotz's argument about the written notice. And we warn Schotz that if he persists in submitting motions like this one, the district court (or we) may supplement his other filing bar with a sanction more directly targeted at the new abuse. *See In re Thomas*, 91 F.4th at 1243. The decision of the district court is AFFIRMED.