MINA v. ENET ADVERTISING et al Doc. 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY STOCKER MINA,

Plaintiff,

v.

ENET ADVERTISING, OPTIMA WEB DESIGN, RON SHUR, NICKOLAI POTAPOV, and JUDGE JOHN L. BRAXTON,

Defendants.

CIVIL ACTION NO. 14-MC-254

MEMORANDUM OPINION

Smith, J. February 10, 2015

This matter has come before the court on an application to proceed *in forma pauperis* ("IFP") and a motion for relief under Rule 60(b) of the Federal Rules of Civil Procedure filed by the *pro se* plaintiff. In the motion, the plaintiff is essentially seeking relief from an order entered in a state-court civil action. Although it appears that the plaintiff is entitled to proceed IFP, his attempt to use Rule 60(b) to overturn a state-court civil order is wholly improper and, as such, the court grants the application to proceed IFP but denies the motion for relief.

I. PROCEDURAL HISTORY

This action represents one of multiple actions filed by the *pro se* plaintiff, Anthony Stocker Mina, in September 2014.[1] On September 11, 2014, the plaintiff filed an application in this case to proceed *in forma pauperis* and a motion for relief from judgment. *See* Doc. No. 1. In the motion for relief, the plaintiff seeks relief from an October 9, 2013 order dismissing the plaintiff's complaint with prejudice entered by the Honorable John L. Braxton of the Chester County Court of Common Pleas in the matter of *Mina v. Enet Advertising, et al.*, No. 2013-cv-

[1] His other actions are docketed at Civil Action Nos. 14-mc-221, 14-mc-222, and 14-mc-259.

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As indicated above, the plaintiff seeks relief under Rule 60(b) of the Federal Rules of Civil Procedure. Rule 60(b) provides as follows:

> **(b) Grounds for Relief from a Final Judgment, Order, or Proceeding.** On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
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> **(1)** mistake, inadvertence, surprise, or excusable neglect;
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> **(2)** newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
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> **(3)** fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
>
> **(4)** the judgment is void;
>
> **(5)** the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
>
> **(6)** any other reason that justifies relief[,]

Fed. R. Civ. P. 60(b).

Although Rule 60(b) provides the aforementioned grounds for relief from a final judgment or order, this rule is inapplicable to state-court proceedings. *See, e.g.*, *Graham v. South Carolina, C.A.*, No. 6:11-595, 2012 WL 527606, at *2 (D.S.C. Feb. 16, 2012) ("Petitioner misunderstands the import of Rule 60(b), which provides that a federal district court may provide relief from its own civil judgments. Rule 60(b) does not authorize a federal district court to review a state criminal conviction and judgment, as is the case here."). In particular, any such attempt would violate the *Rooker—Feldman* doctrine. *See Reardon v. Leason*, 408 F. App'x 551, 553 (3d Cir. 2010) ("[B]ecause [the plaintiff] is effectively asking the District Court void a

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Tourscher v. McCullough, 184 F.3d 236, 240 (3d Cir. 1999) (applying Rule 12(b)(6) standard to dismissal for failure to state a claim under § 1915(e)(2)(B)). Thus, to survive dismissal, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

state court conviction, he is barred from doing so under the *Rooker-Feldman* doctrine." (citing *Great W. Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159, 166 (3d Cir. 2010)); *Burnett v. Amrein*, 243 F. App'x 393, 395 (10th Cir. 2007) (concluding district court correctly denied plaintiffs' motion to vacate state-court civil judgment insofar as "Fed.R.Civ.P. 60(b) does not authorize a federal court to relieve the [plaintiffs] of a judgment entered in state court . . . because any such action would violate the *Rooker—Feldman* doctrine." (internal quotations and citations omitted)).[5] Accordingly, because Rule 60(b) does not provide a vehicle for the type of relief that the plaintiff seeks, *i.e.* the vacation of a state-court order, this action is frivolous and, as such, the court denies the motion for relief and dismisses this action with prejudice.

III. CONCLUSION

The plaintiff has established that, for purposes of this action, he is entitled to proceed IFP. Nonetheless, the plaintiff may not use Rule 60(b) to attempt to vacate the order entered in the Court of Common Pleas of Chester County. Accordingly, the court denies the motion seeking relief under Rule 60(b) and dismisses this action with prejudice.

An appropriate order follows.

BY THE COURT:

EDWARD G. SMITH, J.

[5] The *Rooker—Feldman* doctrine "established the principle that federal district courts lack jurisdiction over suits that are essentially appeals from state-court judgments." *Great W. Mining & Mineral Co.*, 615 F.3d at 165.