

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

SAM N. JOHNS,

Plaintiff,

vs.

No. 4:09cv0337 SWW

RICHARD A. REID, REID BURGE  
PREVALLET & COLEMAN, CAROLE  
HOKE JOHNS, JENNIFER E. WEAVER,  
WOODRUFF LAW FIRM, JOHN  
DOES 1-5 (fictitious), in their personal and  
official capacities,

Defendants.

ORDER

On May 21, 2009, Magistrate Judge H. David Young entered a report and recommendations [doc.#5] that plaintiff Sam N. Johns (“Johns”) not be allowed to proceed against the defendants at this time. Judge Young noted that traditional concerns of equity, comity, and federalism counsel against exercising jurisdiction over this proceeding at this time. Objections to the report and recommendations were due by June 4, 2009. By Order signed June 9, 2009 and entered the following day [doc.#8], this Court, noting that no objections were filed, adopted the report and recommendations in their entirety and ordered as follows:

This proceeding is stayed pending the resolution of the state court proceeding flowing from the bench warrant issued on December 19, 2008. The Clerk of the Court is directed to administratively terminate this proceeding. It should only be re-opened upon Johns’ submission of a motion to re-open accompanied by a copy of the final disposition of the bench warrant issued on December 19, 2008,

including any appellate order that might be filed.<sup>1</sup>

Order adopting Report and Recommendations dated June 9, 2009 (footnote in original) [doc.#8].

The Court has now received from Judge Young's chambers the attached letter from Johns dated June 6, 2009, stating that "EVERYTHING IS FINAL in Arkansas state court; there is nothing else to be decided" and that the *Younger* abstention doctrine does not apply. Johns asks that the complaint be reinstated but he has not submitted any documentation, as directed by this Court, concerning the final disposition of the bench warrant issued on December 19, 2008. Accordingly, to the extent the letter may be construed as his belated objection to the Magistrate Judge's report and recommendations and/or as a motion to reopen, the objection/motion to reopen is denied. The Court reiterates that this proceeding "should only be re-opened upon Johns' submission of a motion to re-open accompanied by a copy of the final disposition of the bench warrant issued on December 19, 2008, including any appellate order that might be filed."

IT IS SO ORDERED this 15<sup>th</sup> day of June 2009.

  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Magistrate Judge has also recommended that Johns' application to proceed in forma pauperis be held in abeyance. Since the Magistrate Judge issued his Recommended Disposition, however, Johns has submitted the filing fee of \$350.00 and, by letter dated May 28, 2009, requested that his application to proceed in forma pauperis be withdrawn. Construing Johns' letter as a motion (and the Clerk has been directed to file the letter as such), Johns' request that his application to proceed in forma pauperis be withdrawn is hereby granted.

Sam N. Johns  
287 Stonehaven Cove  
Jackson, TN 38305  
731-664-5209  
Plaintiff *Pro Se*

Certified

mail: 7008 1830 0002 2505 5909

June 6, 2009

Judge H. David Young, U.S.M.J.  
United States District Court, Eastern District of Arkansas  
600 West Capitol Avenue, A419  
Little Rock, AR 72201-3325

**Re: Filing Fee for complaint paid, reinstate complaint**

**Johns v. Reid, Et. Als.**

**No. 4:09-cv-0337 (SWW-HDY)**

Dear Judge Young,

I am the plaintiff in the above referenced matter. I received your recommendation dated May 21, 2009 advising that my application to proceed in forma pauperis be held in abeyance and that I am not allowed to proceed against the defendants at this time. I secured the funds through desperate loans from friends and have already submitted the required filing fee to the clerk. Attached herewith is the receipt for having paid the filing for the complaint along with a letter to the clerk dated 5/29/09 for my request to the clerk to withdraw my forma pauperis application. Therefore to satisfy due process the complaint should be reinstated.

First, I note that at I am fully aware of the Pro Se discrimination, a subject that will be emphasized in future filing. As to the Younger abstention doctrine, it does not apply here. EVERYTHING IS FINAL in Arkansas State court; there is nothing else to be decided. After the filing of this complaint my name was entered into the NCIC and ACIC and I was arrested on 5/28/09 in TN then released immediately after communication of the AR prosecuting attorney

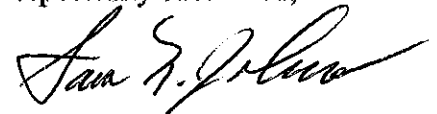
with the TN prosecuting attorney. The AR prosecuting thereafter removed my name from the NCIC and ACIC stating that it was entered "in error" by the Sheriff's office in AR. There was no crime committed and I could not be charged with one. THERE IS NOTHING ELSE TO BE DECIDED in State Court, there are no active proceedings and no future papers will be filed.

Lastly, I note that I have not served the complaint to any of the defendants and thus none are copied here. It is not for this court to engage in legal argument at this stage, before answers by the defendants, of what is true, what is final and what is covered or not covered under the Younger Abstention doctrine. [The Court cannot decide disputed fact issues. Rather, the Court must assume that all material facts contained in the Complaint are true]. In *Neitzke v. Williams*, 490 U.S. 319, 327, 109 S.Ct. 1827, 1832 (1989), the United States Supreme Court held that a judge is not permitted to dismiss a complaint based on the judge's disbelief of the complaint's factual allegations.

There are claims in the complaint including Conspiracy, Racketeering (18 U.S.C. §§ 1951-1960) and Civil Rico (18 U.S.C. §1961 Et. Seq.), 42 U.S.C. § 1983, §1985 and §1986. None of these fall under the Younger abstention doctrine. There is nothing pending or to be filed in State court. It is damages for constitutional violations and fraud that are at stake here which are not precluded from the Younger doctrine. And I am a resident of TN while the defendants reside in AR. This is also a diversity case. What we have here is a criminal conspiracy between the main defendant Reid with my own lawyer and the Arkansas Court personnel where court logs were falsified, child support documents were falsified and the State judge handling my matrimonial action eventually became aware of. And thereafter transcripts were destroyed so my first amendment right for access to the courts so violated. This also constitutes a criminal offense. The AR state judge was not named in the suit because we are all aware the case would have been lost before it even started i.e., it would have been tantamount to a "sheep going to a wolf seeking protection from a coyote". Even if there were active proceedings, which is not the case here, the Younger abstention doctrine provides for exemptions when due process cannot be satisfied. To repeat, there is nothing else to be decided in AR State court; the decisions have already been made and are final.

Please reinstate the complaint. If a formal motion beyond this letter is required please advise your clerk and I will submit one.

Respectfully submitted,



Sam N. Johns

Court Name: EASTERN DISTRICT OF ARKANSAS  
Divisions: 4  
Receipt Number: LIT017029  
Cashier ID: herobi  
Transaction Date: 05/01/2009  
Payer Name: SAM N JOHNS

CIVIL FILING FEE  
For: SAM N JOHNS  
Case/Party: D-ARE-4-09-CV-000337-001  
Amount: \$350.00

MONEY ORDER  
Check/Money Order Num: 15466850100  
Amt Tendered: \$350.00

Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

"Only when bank clears the check,  
money order, or verifies credit of  
funds is the fee or debt officially  
paid or discharged. A \$45 fee will  
be charged for a returned check."

Sam N. Johns  
287 Stonehaven Cove  
Jackson, TN 38305  
731-664-5209  
Plaintiff *Pro Se* **Certified mail**  
\*put number here\*

May 25, 2009

United States District Court, Eastern District of Arkansas  
ATTN: Clerk  
500 West Capitol Avenue  
Little Rock, AR 72201

**Re: Johns v. Reid, Et. Als.**

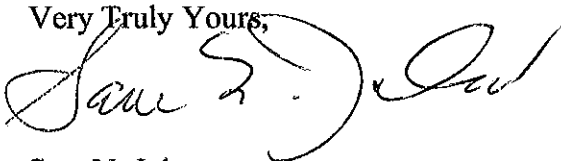
**Docket No. 4:09-cv-0337 (SWW-HDY)**

Dear Sir/Madam,

I am the plaintiff. I originally filed an application on May 1, 2009 to proceed without fees i.e., proceed in forma pauperis. Having secured loans through friends, I hereby **withdraw that application** and submit herewith the required fee for filing the complaint in the amount of \$350.00.

Please withdraw my in-forma-pauperis application and provide a receipt of payment and return in the self-addressed enclosed envelope. Thank you for your kind attention and cooperation.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "Sam N. Johns". The signature is written in dark ink and is positioned above the printed name.

Sam N. Johns