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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LONNIE LEE POSLOF (BE0659),
Plaintiff,
v.
CARLOS ARCE, et al.,
Defendants.

Case No. 24-cv-05444-PCP
ORDER OF DISMISSAL

Lonnie Lee Poslof, a California prisoner proceeding *pro se*, filed several lawsuits. In the instant action, Mr. Poslof filed a “Motion for Injunction and/or Restraining Order.” In response to his “motion,” the Clerk of the Court informed Mr. Poslof that he needed to file his civil rights complaint on the form provided to him, as well as complete an *In Forma Pauperis* affidavit or pay the filing fee by September 27, 2024. *See* Dkt. Nos. 2 & 3. The deadline has long passed, and Mr. Poslof has failed to file his complaint on form, file an IFP affidavit, or pay his filing fee.

In addition to the instant action, Mr. Poslof filed two petitions for writ of mandamus raising claims nearly identical to those raised here. *See Poslof v. Arce*, Case No. 24-cv-05446-PCP (N.D. Cal. filed Aug. 12, 2024); *Poslof v. Warden et al.*, Case No. 24-05447-PCP (N.D. Cal. filed Aug. 14, 2024). This Court issued an order to show cause why all three lawsuits, including the instant action, should not be dismissed pursuant to *Younger v. Harris*, 491 U.S. 37, 43-54 (1971), *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 416 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 486-87 (1983). The Court also notified Mr. Poslof that the failure to voluntarily dismiss any cases may result in him having to pay the costs of filing each action. *See* Dkt. No. 5.

In a subsequent filing, Mr. Poslof agreed to voluntarily dismiss the mandate petitions, but

1 not the instant action. Dkt. No. 6. However, in addition to failing to follow the Clerk’s instructions
2 to file the complaint on form and either file an IFP affidavit or pay the filing fee for the instant
3 action, Mr. Poslof has failed to adequately respond to the issues raised in this Court’s Order to
4 Show Cause: Mr. Poslof does not point to any evidence, beyond his own conclusory assertions,
5 showing that he exhausted all available remedies and does not explain why the *Younger* and
6 *Rooker-Feldman* doctrines do not apply to his claim. As noted in this Court’s order to show cause,
7 district courts are without discretion to ignore a failure to exhaust. *See Woodford v. Ngo*, 548 U.S.
8 81, 84 (2006).

9 Accordingly, the Court makes the following orders:

- 10 1. The action is **DISMISSED** without prejudice to filing a new lawsuit so that Mr. Poslof
11 can vindicate his rights at a future date once he has exhausted all remedies.
- 12 2. The Court notes that Mr. Poslof has also filed several motions and requests since he filed
13 his response to this Court’s Order to Show Cause. *See* Dkt. Nos. 7, 8, 9, & 10.
 - 14 a. To the extent that Mr. Poslof is requesting to file a new complaint raising new
15 claims, he is free to do so. However, this Court notes that Mr. Poslof will again
16 be subject to the Clerk’s instructions and the legal doctrines outlined in this
17 Court’s order to show cause if he wishes to pursue the same claims raised in the
18 instant action. *See* Dkt. No. 5.
 - 19 b. To the extent that Mr. Poslof requests that this Court consolidate all of his
20 lawsuits, including the instant action, his motion is **DENIED** as moot. The Court
21 notes that Mr. Poslof filed two additional lawsuits before responding to this
22 Court’s Order to Show Cause and has filed motions seeking the same injunctive
23 relief sought in the instant “motion.” *See Poslof v. Arce et al.*, Case No. 24-cv-
24 06004-PCP (N.D. Cal. filed Aug. 26, 2024), Dkt. No. 2; *Poslof v. Adams et al.*,
25 Case No. 24-cv-06146-PCP (N.D. Cal. filed Aug. 30, 2024), Dkt. No. 2.

26 The Clerk is directed to terminate all pending motions and return Mr. Poslof’s documents
27 related to the instant action per his request. The Clerk is further requested to send Mr. Poslof a blank
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civil rights complaint form. The Court will issue separate orders in Mr. Poslof's remaining lawsuits as appropriate.

IT IS SO ORDERED.

Dated: January 3, 2025



P. Casey Pitts
United States District Judge