-JAG Kleiss v. John Doe Doc. 15

Thursday, 23 June, 2011 08:26:37 AM
Clerk, U.S. District Court, ILCD

## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF ILLINOIS PEORIA DIVISION

| JERRY KLEISS,                          | )                  |
|--|--------------------|
| Plaintiff,                             | )                  |
| v.                                     | )<br>)             |
| JIM DROZDZ, Illinois State Prosecutor, | ) Case No. 11-121a |
| Hancock, Illinois                      | )                  |
| Defendant.                             | )                  |
|  | )                  |
|  | )                  |

## ORDER & OPINION

On June 6, 2011, Plaintiff, proceeding *pro se*, filed a Complaint with this Court seeking an order staying the ongoing state court criminal proceedings against him. (Doc. 1). On June 8, 2011, this Court dismissed Plaintiff's Complaint without prejudice because Plaintiff had failed to properly name a Defendant. (Doc. 4). On June 13, 2011, Plaintiff filed an Amended Complaint in which he named Jim Drozdz, the Illinois State Prosecutor for Hancock County, Illinois, as Defendant. (Doc. 6). On June 16, 2011, this Court found that it did not have jurisdiction to consider Plaintiff's Complaint pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), and therefore dismissed it for lack of jurisdiction. (Doc. 7).

On June 21, 2011, Plaintiff filed a Notice of Appeal (Doc. 11). In addition, Plaintiff filed a Motion to Stay Proceedings Pending Appeal (Doc. 10). Plaintiff

<sup>&</sup>lt;sup>1</sup> The state court proceedings are allegedly set to begin on again on June 23, 2011. (Doc. 9).

again asks the Court to stay his state court criminal proceedings, this time pending

the appeal of this Court's decision that it does not have jurisdiction over his

Amended Complaint. (Doc. 10). However, as the Court found in its Order and

Opinion of June 16, 2011, it does not have the jurisdiction to stay such proceedings.

Accordingly, because the Court finds that it has no jurisdiction pursuant to the

Younger doctrine, it again cannot properly reach out and stay Plaintiff's state court

proceedings.

Moreover, Plaintiff has neither paid the applicable filing fee in this matter,

nor been granted in forma pauperis status. Although Plaintiff initially filed a

Motion to Proceed in forma pauperis (Doc. 2), this motion was both incomplete on

its face and inaccurate according to a subsequent Letter Plaintiff sent to the Court.

(Doc. 5). Therefore, in addition to the Court lacking jurisdiction pursuant to

Younger, it also lacks jurisdiction because Plaintiff is not properly before it.

For these reasons, Plaintiff's Motion for Stay of Proceedings Pending Appeal

is DENIED. IT IS SO ORDERED.

CASE TERMINATED.

Entered this 22nd day of June, 2011.

s/ Joe B. McDade

JOE BILLY McDADE

United States Senior District Judge

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