

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CORY O'DELL DERRICK,

Plaintiff,

v.

Case No. 19-13206

ISABELLA COUNTY TRIAL COURT
and MARK H. DUTHIE,

Defendants.

OPINION AND ORDER OF SUMMARY DISMISSAL WITHOUT PREJUDICE

Cory O'Dell Derrick (Plaintiff) is incarcerated at the Isabella County Correctional Facility in Mt. Pleasant, Michigan. He has filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff names two defendants: the Isabella County Trial Court and Isabella County Judge Mark H. Duthie. The complaint concerns criminal charges pending against Plaintiff in Isabella County Circuit Court. Plaintiff alleges that Judge Duthie denied him the right to self-representation and improperly denied a request to withdraw his waiver of the 180-day rule as set forth in Mich. Comp. Laws § 780.131(1). The complaint is duplicative of a previously filed complaint and will be dismissed without prejudice.

Approximately one week before filing the pending complaint, Plaintiff filed another civil rights complaint in this court. *Derrick v. Isabella County Trial Court, et al.*, No. 2:19-CV-13123 (E.D. Mich.). The earlier-filed complaint names the same defendants named in the pending complaint and raises the same self-representation and speedy trial claims. "Generally, a suit is duplicative if the claims, parties, and

available relief do not significantly differ between the two actions.” *Serlin v. Aruthus Anderson & Co.*, 3 F.3d 221, 223 (7th Cir. 1993); *Flowers v. Trombley*, No. 2:06-CV-10726, 2006 WL 724594, at *1 (E.D. Mich. Mar. 17, 2006). A federal court may exercise its discretion to dismiss a duplicative suit. See *Smith v. SEC*, 129 F.3d 356, 361 (6th Cir. 1997). Dismissal of a second, duplicative suit is a “common disposition because plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time.” *Twaddle v. Diem*, 200 F. App’x 435, 438 (6th Cir. 2006) (quoting *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138-39 (2d Cir. 2000)). The court will dismiss this complaint as duplicative of the earlier-filed complaint. To the extent that Plaintiff seeks to raise additional, related claims not already before the court in the earlier-filed complaint, he may do so by following the the requirements of Federal Rule of Civil Procedure 15. Accordingly,

IT IS ORDERED that Plaintiff’s Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 4, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 4, 2019, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522

S:\Cleland\Cleland\JUDGE’S DESK\C2 ORDERS\19-13206.DERRICK.OrderDismissingDuplicativeSuit.MBC.RMK.docx