

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

HAROLD RAY STANLEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 06-CV-00752-GAF
)	
HONORABLE JACK GRATE, et al.,)	
)	
Defendants.)	

DEFENDANT GRATE’S MOTION TO DISMISS

COMES NOW Defendant, the Honorable Jack Grate, Circuit Judge for the 16th Judicial Circuit of the State of Missouri, by and through his attorneys, and pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure moves this Court to dismiss Plaintiff’s Complaint.

APPLICABLE STANDARD

In ruling on a motion to dismiss for failure to state a claim, the court must view the facts alleged in the complaint in the light most favorable to the plaintiff and assume that the allegations contained in the complaint are true. Davis v. Hall, 992 F.2d 151, 152 (8th Cir. 1993).

FACTUAL BACKGROUND

Defendant Grate requests that the Court take judicial notice of its file in Case No. 05-0281-CV-W-GAF, a lawsuit under Section 1983 which Plaintiff instituted against Judge Grate and Plaintiff’s ex-wife (also a defendant in the instant case) last year. Plaintiff apparently filed the 2005 action in an attempt to forestall certain contempt proceedings then pending in Jackson County Circuit Court due to Plaintiff’s failure to pay court-ordered maintenance. (See Pl.’s Compl., Exs. A and B).

Plaintiff was divorced from Defendant Marcia Stanley in December 2000 in Jackson County Circuit Court, Case No. 16DR96-08993.

Plaintiff, an electrical engineer, asserts that he paid the spousal maintenance ordered by the court for almost four years, then moved to modify his support obligation based on market conditions in his industry. He alleges that an “incomplete” contempt order was issued against him after he filed his motion to modify but before he could present evidence of his “inability to pay.” Although the court reduced his maintenance obligation significantly, Plaintiff was not satisfied with the results of the modification proceedings.

Thereafter, Plaintiff filed the 2005 lawsuit in this Court. Plaintiff believed that his lawsuit effectively “removed” contempt proceedings related to his dissolution and family support obligations to federal court. (See Pl.’s Compl. ¶ 11). Plaintiff, pro se, alleges he appeared before Defendant Grate to advise him that the contempt proceedings had been moved to federal court and, accordingly, that he was not going to appear for the show cause hearing scheduled that day. Federal Case No. 05-0281-CV-W-GAF, was dismissed in October 2005.

A show cause hearing was held on December 9, 2005, in Jackson County Circuit Court, but Plaintiff failed to appear and was in arrears. Judge Grate found Plaintiff in contempt and issued a capias warrant. In 2006, a show cause order was issued to Plaintiff in a new Jackson County Circuit case based on his failure to pay \$23,000.00 in maintenance.

Plaintiff filed this action, claiming that the Jackson County Circuit Court did not have jurisdiction to find him in contempt or to take further action with regard to his failure to pay maintenance, and that Judge Grate’s exercise of judicial power violated Plaintiff’s rights to due process and equal protection under the Fourteenth Amendment. Plaintiff seeks damages for

intentional infliction of emotional distress based on his “fear of imprisonment,” loss of reputation and professional opportunities, and impaired relationships with children and “his wife’s grandchild.” Plaintiff also seeks a writ of mandamus; he appears to be asking this Court to invalidate the warrant for his arrest as well as the December 2005 order of the Jackson County Circuit Court finding him in contempt. (Pl.’s Ex. C).

ARGUMENT

The Rooker-Feldman doctrine and judicial immunity bar Plaintiff’s claims against Judge Grate. Mandamus is not an appropriate remedy because Plaintiff has other adequate remedies in state court including, but not limited to, modification proceedings and appealing the outcome of domestic relations proceedings in state court. Plaintiff’s aversion to paying spousal maintenance and dissatisfaction with the outcome of state court proceedings do not amount to constitutional violations.

Defendant Grate is entitled to judicial immunity

It is essential to the administration of justice that a state court judge exercising his authority “shall be free to act upon his own convictions, without apprehension of personal consequences to himself.” Mireles v. Waco, 502 U.S. 9, 10 (1991). Missouri Circuit Courts are courts of general jurisdiction. Federal courts customarily decline to intervene in domestic relations matters, which are the province of the state courts. Elk Grove Unified Sch. Dist. v. Newdow, 542 U.S. 1, 12 (2004). Federal courts do not have the power to issue judgments imposing alimony awards or awarding child custody in divorces. Id. Plaintiff’s allegations that Judge Grate’s judicial acts were without jurisdiction based on this court’s dismissal of Case No. 05-0281-CV-W-GAF or because Plaintiff

instigated federal litigation are entirely frivolous. See Edlund v. Montgomery, 355 F. Supp.2d 987, 990 (D. Minn. 2005).

Judge Grate is entitled to absolute immunity for actions taken in his judicial capacity, including issuing a judgment in family support modification proceedings, holding Plaintiff in contempt due to significant maintenance arrearages, and issuing a *capias* warrant in connection with these matters. See Mireles, 502 U.S. at 12; Denoyer v. Dobberpuhl, No. 99-3941, 2000 WL 199764 at *1 (8th Cir. 2000) (Section 1983 claim against judge for issuing arrest warrant barred by judicial immunity). Judicial immunity applies even in the face of Plaintiff's allegations that Judge Grate's decisions were malicious or in bad faith. 502 U.S. at 11.

Plaintiff's complaint should be dismissed under the Rooker-Feldman doctrine

The allegations in Plaintiff's complaint make it clear that Plaintiff is attempting to challenge the validity of the Jackson County Circuit Court's judgments and orders, including the contempt judgment and issuance of a *capias* warrant. Federal district courts lack subject matter jurisdiction over challenges to state court judgments, regardless of whether the relief sought is monetary or injunctive in nature. Lemons v. St. Louis County, 222 F.3d 488, 492 (8th Cir. 2000). Even where a plaintiff asserts the state court's action was unconstitutional, district courts may not review state court decisions because the United States Supreme Court has exclusive jurisdiction to review most state court decisions. Ballinger v. Culotta, 322 F.3d 546, 548 (8th Cir. 2003). "A party who was unsuccessful in state court... 'is barred from seeking what in substance would be appellate review of the state judgment in a United States district court based on the losing party's claim that the state judgment itself violates the loser's federal rights.'" Id., citing Johnson v. De Grandy, 512 U.S. 997, 1005-6 (1994).

Federal district courts are also barred from exercising jurisdiction over general constitutional claims that are “inextricably intertwined” with a state court judgment where federal relief “can only be predicated upon a conviction that the state court” acted inappropriately or that the state court’s decision was wrong. Id. In such cases, even where the state and federal claims are not identical, the federal proceeding may hardly be conceived of as “anything other than a prohibited appeal of the state court judgment.” Id. The key inquiry is “whether the federal plaintiff’s interest in having a state rule set aside is inseparable from his interest in upsetting a particular state court judgment based on that rule.” Lemons at 495. A federal plaintiff cannot obtain a hearing of a disguised state court appeal in federal district court by “artful pleading.” Id. at 494.

Rather than appeal the Circuit Court’s judgment to a Missouri appellate court, Mr. Stanley attempted to postpone complying with his family support obligations through the guise of a Section 1983 action. The Eighth Circuit rejected such attacks on state court decisions in Harris v. Missouri Court of Appeals, 787 F.2d 427 (8th Cir. 1986).

In Harris, the Eighth Circuit held that even if appellants had named a party not immune from suit, their equal protection challenge to a state court decision would nevertheless have been barred by the Rooker-Feldman doctrine:

Appellants, by the remedies they request, ask the federal courts to oversee the Missouri state courts. This is neither the function nor the purpose of the federal judicial system. A state’s judicial system is not subject to direct or indirect review in either the federal district courts or the federal courts of appeal. Harris at 429.

In Count III, Plaintiff attempts to challenge state court decisions under the equal protection clause; even though Plaintiff has named other defendants who may or may not be immune from suit, the Rooker-Feldman doctrine precludes this Court from reviewing the decisions of the

Jackson County Circuit Court. Accordingly, Plaintiff's claims against Judge Grate and attempts to challenge state court action should be dismissed for lack of federal subject matter jurisdiction.

Plaintiff is not entitled to mandamus relief

Mandamus relief is largely discretionary. Castillo v. Ridge, 445 F.3d 1057, 1061 (8th Cir. 2006). Since this Court lacks subject matter jurisdiction over Plaintiff's underlying claims, the Court should decline to issue a writ of mandamus here.

A district court "may grant a writ of mandamus only in extraordinary situations" where (1) petitioner can establish "a clear and indisputable right to the relief sought, (2) the defendant has a nondiscretionary duty to honor that right, and (3) the petitioner has no other adequate remedy." Castillo at 1060-61. Mandamus relief should be awarded to a plaintiff "only if he has exhausted all other avenues of relief and only if the defendant owes him a clear nondiscretionary duty." Taylor v. Barnhart, 399 F.3d 891, 894 (8th Cir. 2005). Plaintiff will be unable to establish that Judge Grate owed him a nondiscretionary duty in the state court proceedings because the modification of a maintenance award is a discretionary decision. See Swartz v. Johnson, 192 S.W.3d 752, 754-55 (Mo. App. W.D. 2006). Plaintiff chose not to avail himself of the opportunity to appeal this matter in state court. The remedy of modification remains available to him; Plaintiff concedes that he obtained a reduction of his maintenance obligation, although he was not satisfied with the amount of the reduction.

This is not an extraordinary situation where mandamus relief would be appropriate. In any event, Plaintiff will be unable to demonstrate an entitlement to mandamus relief.

Conclusion

For the reasons stated above, Plaintiff's claims should be dismissed with prejudice.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General

/s/ Emily A. Dodge
EMILY A. DODGE
Assistant Attorney General
Missouri Bar No. 53914

P.O. Box 899
Jefferson City, MO 65102
Phone 573-751-0330
Fax 573-751-9456

ATTORNEYS FOR DEFENDANT GRATE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 30th day of October, 2006, to:

Harold R. Stanely
10707 E. 240th
Peculiar, MO 64078

Daniel Edward Hammn
Deacy & Deacy, LLP
Suite 1900
920 Main Street
Kansas City, MO 64106

Spencer Joseph Brown
Deacy & Deacy, LLP
Suite 1900
920 Main Street
Kansas City, MO 64106

Michael Scott Dodig
Dodig Arbuckle, DeVouton & Bond, LLC
338 SW Main
Lee's Summit, MO 64063

/s/ Emily A. Dodge

Assistant Attorney General