

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

-----  
KEITH MARTIN MACK,

Plaintiff,

v.

THE AMERICAN NATIONAL BANK OF BEAVER DAM,  
SAGER & COLWIN LAW OFFICES,  
EDWARD C. JACOBS, SAM KAUFMAN,  
MARK A. HEUER, MELISSA L. HAESSLY,  
HONORABLE WILLIAM D. JOHNSTON,  
KIM GRAF, KARIN LASKA and DOES 1-25,

Defendants.  
-----

ORDER

10-cv-557-bbc

In this civil action, plaintiff Keith Martin Mack contends that defendants violated several federal and state laws by proceeding with a foreclosure action against his property. On October 27, 2010, I dismissed the case for lack of jurisdiction, concluding that plaintiff's claims were barred completely by the Rooker-Feldman doctrine. In particular, plaintiff was seeking to overturn decisions made by the state court judge in the foreclosure action. On March 7, 2011, I denied plaintiff's motions for reconsideration and to reopen the case and rejected his attempt to remove the state foreclosure action to this court, concluding that

because the foreclosure action has been closed since January 5, 2011, the time for removal had long since passed.

Now before the court is plaintiff's motion for reconsideration of the March 7 order, dkt. #20, and a motion for recusal, dkt. #18. I will deny both motions.

## DISCUSSION

### A. Motion for Recusal

28 U.S.C. §§ 144 and 455 apply to motions for recusal and disqualification of judges. Section 144 requires a federal judge to recuse herself for "personal bias or prejudice." Section 455(a) requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned," and section 455(b)(1) provides that a judge shall disqualify herself if she "has a personal bias or prejudice concerning a party." Because the phrase "personal bias or prejudice" found in § 144 mirrors the language of § 455(b), they may be considered together. Brokaw v. Mercer County, 235 F.3d 1000, 1025 (7th Cir. 2000). In deciding whether a judge must disqualify herself under 28 U.S.C. § 455(b)(1), the question is whether a reasonable person would be convinced the judge was biased. Hook v. McDade, 89 F.3d 350, 355 (7th Cir. 1996) (internal quotation omitted). Recusal under § 455(b)(1) "is required only if actual bias or prejudice is proved by compelling evidence." Id. (citation and quotation omitted).

Plaintiff contends that recusal is warranted because I dismissed his lawsuit and denied his attempts to remove the foreclosure case to this court. He contends that these decisions exhibit both a personal bias against plaintiff him and a misunderstanding of federal law. However, I dismissed plaintiff's complaint and remanded the foreclosure action to state court because I concluded that plaintiff's claims were barred by the Rooker-Feldman doctrine and should be litigated in the context of the state court action, and because it was too late to remove the state court action, not because of any bias against plaintiff. The fact that I have issued orders with which plaintiff does not agree is not sufficient to establish bias. Because my decisions in this matter do not show impartiality, bias or prejudice, I will deny plaintiff's motion for recusal.

B. Motion for Reconsideration

Plaintiff makes several arguments in support of his motion for reconsideration, most of which I have already considered and rejected in the context of previous motions and will not address again. The only new arguments are plaintiff's arguments related to removal. In particular, plaintiff contends that his attempt to remove the state foreclosure action was within the 30-day limitation set forth in 28 U.S.C. § 1446 because he never received the final order issued in the state foreclosure action and because he "was not the party of interest" in the state action. However, whether plaintiff received a copy of the final

judgment is irrelevant to the removal analysis. The question is whether plaintiff filed his notice of removal within 30 days of his receipt of the initial pleadings in the foreclosure action. According to the public records available electronically through the Wisconsin Circuit Court Access website, <http://wcca.wicourts.gov>, plaintiff appeared in the foreclosure case and responded to the complaint in June 2010. His notice of removal was not filed within 30 days of that date; in fact, it was not filed until the case was closed. Finally, plaintiff's argument that the state court entered an order against a "fictional" person with plaintiff's name has no merit and does not help his argument. If plaintiff was not a party to the state court action, his notice of removal would be invalid no matter when he had filed it.

For these reasons and for reasons already explained in previous orders, I am denying plaintiff's motion for reconsideration.

#### ORDER

IT IS ORDERED that Plaintiff Keith Martin Mack's motion for recusal, dkt. #18,

and motion for reconsideration, dkt. #20, are DENIED.

Entered this 26th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge