

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

SCOTT FRANKS,

Plaintiff,

v.

GREGORY J. POTTER and
CYNTHIA E. IDA,

Defendants.

ORDER

11-cv-44-bbc

In this proposed civil action for monetary and injunctive relief, plaintiff Scott Franks contends that defendants Gregory Potter and Cynthia E. Ida violated his constitutional rights by refusing to modify a child support order. Plaintiff is proceeding under the in forma pauperis statute, 28 U.S.C. § 1915, and has made an initial partial payment.

Because plaintiff is a prisoner, I am required by the 1996 Prison Litigation Reform Act to screen his complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915A. In addressing any pro se litigant's complaint, the court must read the allegations of the

complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972). After reviewing the complaint, I conclude that plaintiff's claims are barred by the Rooker-Feldman doctrine and must be dismissed for lack of subject matter jurisdiction.

In his complaint, plaintiff alleges the following facts.

ALLEGATIONS OF FACT

Plaintiff Scott Franks is an inmate at the Oakhill Correctional Institution in Oregon, Wisconsin. The Department of Corrections deducts 50% of any money entering plaintiff's account for child support, pursuant to a judgment issued by defendant Gregory J. Potter, a family court judge of the Circuit Court for Wood County in Wisconsin Rapids, Wisconsin. Plaintiff needs the money to buy extra food and medications to treat his diabetes. Plaintiff asked Judge Potter to modify the child support order so that the income withholding order is reduced and applies only to wages rather than to wages, gifts and loans he may receive. Judge Potter refused to modify the order. Plaintiff asked defendant Cynthia Ida, the director of the Wood County Child Support Agency, for help in changing the support order. Ida refused to recommend a modification of the order or assist plaintiff in any way.

DISCUSSION

Plaintiff contends that defendants' failure to modify his current child support order

violates his constitutional rights because it prevents him from buying the food and medicine he needs. He requests that the order be amended to reduce the amount deducted from his account. In addition, he requests damages for pain and suffering and requests that all child support arrears and interest be expunged. Unfortunately for plaintiff, this court cannot provide him the relief he requests because his proposed claims are barred by the Rooker-Feldman doctrine.

The Rooker-Feldman doctrine prohibits federal courts other than the Supreme Court from exercising subject matter jurisdiction when the federal plaintiff alleges that his or her injury was caused by a state court judgment. *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005); see also *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983). In addition, the Rooker-Feldman doctrine “precludes federal jurisdiction over claims ‘inextricably intertwined’ with a state court determination . . . even when those claims were never argued in the state court.” *Remer v. Burlington Area School District*, 205 F.3d 990, 996 (7th Cir. 2000). In applying the Rooker-Feldman doctrine, the inquiry is whether the “federal plaintiff seeks to set aside a state court judgment or whether he [or she] is, in fact, presenting an independent claim.” *Taylor v. Federal National Mortgage Ass'n*, 374 F.3d 529, 532 (7th Cir. 2004). “A plaintiff may not circumvent the effect of the Rooker-Feldman doctrine simply by casting [his or her] complaint in the form of a federal civil rights action.”

Remer, 205 F.3d at 997 (citations omitted). Claims that seek to set aside a state court judgment are de facto appeals and are barred without additional inquiry. Taylor, 374 F.3d at 532.

In this case, plaintiff's claims relate to injuries that he suffered because of Judge Potter's child support order. Plaintiff's claims amount to requests for this court to review and reject the state court order and award him damages for the injuries caused by the order. Thus, plaintiff's claims fall squarely within Rooker-Feldman. They are claims that should have been raised before Judge Potter during the state court proceedings or on direct appeal. Because this court lacks jurisdiction to order relief that would directly overrule Judge Potter's order, plaintiff's complaint must be dismissed.

ORDER

IT IS ORDERED that plaintiff Scott Frank's complaint is DISMISSED for lack of subject matter jurisdiction. The clerk of court is directed to close this case.

Entered this 10th day of February, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge