

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

ARVIN W. KUNTZ,

ORDER

Plaintiff,

05-C-0250-C

v.

MARATHON COUNTY and
RONALD KEBERLE,

Defendants.

In this civil action, pro se plaintiff Arvin W. Kuntz contends that his rights under the Sixth Amendment to the United States Constitution were violated when defendant Ronald Keberle, a Marathon County circuit court judge, allowed plaintiff's case to linger for seven years, denied him a six-person jury of his peers and "broke every law in the real estate business made to protect [plaintiff]." Plaintiff has paid the full fee for filing his complaint. As relief, plaintiff asks to be allowed to "reveal the true facts" of the case in a hearing or new trial with a six-person jury.

Although a district court must construe a pro se litigant's complaint liberally, see Haines v. Kerner, 404 U.S. 519, 521 (1972), the court may dismiss a complaint for lack of

subject matter jurisdiction on its own motion where the claims are "so insubstantial, implausible, foreclosed by prior decisions of [the United States Supreme Court], or otherwise completely devoid of merit as not to involve a federal controversy." Steel Co. v. Citizens for a Better Environment, 118 S. Ct. 1003, 1010 (1998) (citing Oneida Indian Nation of N.Y. v. County of Oneida, 414 U.S. 661, 666 (1974)).

The United States Supreme Court has ruled that judges are absolutely immune from suits challenging their judicial conduct. Mireles v. Waco, 502 U.S. 9 (1991). This immunity is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, which has an interest in a judiciary free to exercise its function without fear of harassment by unsatisfied litigants. Pierson v. Ray, 386 U.S. 547, 554 (1967). The conduct plaintiff challenges, a seven-year lawsuit with a judge who misinterpreted real estate law and who closed the case without affording plaintiff a jury trial, falls squarely within defendant's judicial role. Forrester v. White, 484 U.S. 219, 227 (1988) (judicial immunity applies to "the paradigmatic judicial acts involved in resolving disputes between parties who have invoked the jurisdiction of a court"). If plaintiff believes that Judge Keberle made erroneous rulings in the Marathon County case, his next step is to challenge the judge's decisions in the appropriate state court of appeals. This court does not have jurisdiction to re-hear plaintiff's state law claims in federal court.

Although plaintiff has included Marathon County as a defendant in this action, he

does not allege any facts relating to the county as an entity separate from the defendant judge. Therefore, because plaintiff has alleged no claim against the county and the claims he raises in his complaint against defendant Ronald Keberle is barred by a prior decision of the United States Supreme Court, this case will be dismissed on the court's own motion.

ORDER

IT IS ORDERED that plaintiff's complaint is DISMISSED with prejudice on the court's own motion and this case is CLOSED.

Entered this 27th day of April, 2005.

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