



BIDA v. JOHNSON

2016 | Cited 0 times | D. New Jersey | December 19, 2016

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY NOT FOR PUBLICATION

ILIRJAN BIDA, Plaintiff, v.

SHARON JOHNSON Defendant.

Civil Action No. 2:15-CV-7952-SCM OPINION December 19, 2016

Steven C. Mannion, United States Magistrate Judge.

Before this Court is Defendant) Motion for Summary Judgment. 1

This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1367 . Venue is proper pursuant to 28 U.S.C. § 1391(b). For the reasons stated herein, the Court grants motion for summary judgment.

I. BACKGROUND AND PROCEDURAL HISTORY

The present action arises from a case that originated in the Superior Court of New Jersey Law Division, Special Civil Part, and a subsequent settlement agreement. 2

In 2012, Ms. Johnson sued 3

and he filed a countersuit. 4

On August 17, 2012, the parties, both New Jersey residents, signed a settlement agreement that released Mr. Bida three

1 2 (D.E. 18, Am. Compl.). 3 See HUD-DC-5334-12 4 See HUD-SC-2883-11

equal monthly installments. 5

The agreement further stipulated that should one party default as to the terms of the agreement, the aggrieved party was to file a certification with the Clerk of the New Jersey Superior Court requesting



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that judgment be entered in the amount of the original complaint. 6 It is undisputed that Mr. Bida failed to make the initial payment, or any payment required thereafter. 7

On November 9, 2012, Ms. Johnson moved to enforce the settlement agreement using the preprinted certification form. 8

At the bottom of the preprinted form the following instruction appeared CERTIFICATION MUST BE FILED WITH THE CLERK OF THE SPECIAL CIVIL PART

9

Mr. Bida was served with the certification on November 14, 2012, and per the pre-printed State Court certification, had until November 24, 2012 to respond. However, on November 15, 2012, a default judgment of \$13,156.23 against [Mr. -day response period had expired were later received on November 20, 2012. 10

Mr. Bida subsequently filed a motion to vacate the November 15, 2012 default judgment, arguing that the entry of judgment prior to the deadline for his opposition violated his constitutional

5 (D.E. 11-1, Ex. A). 6 Id. 7 (D.E. 18, Am. Compl., at 2-3). 8 (D.E. 11-1, Ex. C). 9 Id. 10 Transcript of Motion at 48-49, Johnson v. Bida, Docket Nos. DC-5334-12, DJ-268880-12 (N.J. Super. Ct. Law Div. April 5, 2013) (D.E. 26-2, Ex. J).

right to due process. 11

On April 5, 2013, the Honorable Francis Schultz of the Superior Court of New Jersey Civil Division, Special Civil Part held a hearing to review Mr. Bida s, and due to the premature entry of judgment de novo. 12 Judge Schultz upheld the default judgment on the grounds that Mr. Bida had breached the terms of the settlement agreement without a valid excuse. 13

The Superior Court of New Jersey, Appellate Division on appeal. 14

The settlement agreement required that in the event of a breach, plaintiff [Ms. Johnson] had to inform her adversary that judgment equal to the amount of the initial complaint was sought. As evidenced by timely opposition papers, this notification took place. Judge Schultz using the same standard of consideration as if it were heard before the premature entry of judgment. [Mr. Bida] was afforded all of the process due him. 15

16 Mr. Bida filed the above captioned complaint on November 6, 2015. 17

On December 23, 2015, this Court dismissed the action without prejudice for failing to clearly plead



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what relief was

11 Aff. of Gregory G. Diebold In Supp. o. J. at ¶ 5, Bida v. Johnson, 2:15cv7952 (D.N.J. Aug. 30, 2016) (D.E. 23-2 at 2). 12 Tr. of Mot., supra note 15 (D.E. 26-2, Ex. J). 13 Id. 14 Johnson v. Bida, 2013 W.L. 1846671 (N.J. Super. Ct. App. Div. 2013). 15 Id. at 10. 16 Johnson v. Bida, 223 N.J. 164 (2015). 17 (D.E. 1).

being requested. 18

Mr. Bida filed an Amended Complaint on March 1, 2016. 19

The parties consented to magistrate judge jurisdiction 20

and a Second Amended Complaint was filed in which Mr. Bida argued violated his Fifth and Fourteenth Amendment rights. 21

Ms. Johnson subsequently answered; 22

her Motion for Summary Judgment was later filed on August 30, 2016. 23

Mr. Bida filed his opposition 24 II. AUTHORITY

Magistrate judges are authorized full authority over dispositive motions, the conduct of trial, and entry of final judgment, without district court review, upon consent by the parties and a referral from the district court. 25

26 The

18 (D.E. 6). 19 (D.E. 11). 20 (D.E. 17). 21 (D.E. 18). 22 (D.E. 19). 23 (D.E. 23). 24 (D.E. 26). 25 28 U.S.C. § 636(c)(1). See Festival Fun Parks, LLC v. Mountain Creek Resort, Inc., 2015 WL 758467, at *5 (D.N.J. Feb. 23, 2015) (citing Roell v. Withrow, 538 U.S. 580, 585 (2003)). 26 28 U.S.C. § 636(c)(3).

parties consented to magistrate judge jurisdiction and the District Court referred this case to the undersigned to conduct all proceedings. 27

III. LEGAL STANDARD

Summary judgment answers to interrogatories, and admissions on file] and disclosure materials on file, and any

affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to 28



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The moving party must show that if the record were reduced to admissible evidence in court, it would be insufficient to permit the non-moving party to carry its burden of proof. 30

Once the moving party meets its initial burden, the burden then shifts to the non-moving party to set forth specific facts showing a genuine issue for trial and may not rest upon the mere allegations, speculations, unsupported assertions, or denials of its pleadings. 31

The non- how the existence

32

If the non- 27

(D.E. 17). 28 Fed. R. Civ. P. 56; see also *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986); *Turner v. Schering-Plough Corp.*, 901 F.2d 335, 340 (3d Cir. 1990). 29 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). 30 *Celotex Corp.*, 477 U.S. at 322-23. 31 *Shields v. Zuccarini*, 254 F.3d 476, 481 (3d Cir. 2001). 32 *Podobnik v. U.S. Postal Serv.*, 409 F.3d 584, 594 (3d Cir. 2005) (quoting *Celotex Corp.*, 477 U.S. at 325).

then the moving party is entitled to judgment as a matter of law. 33

determinations or engage in any weighing of the evidence; instead, the non- 34

In deciding

evidence and decide the truth of the matter, but to determine whether there is a genuine issue for trial. 35

IV. DISCUSSION

Ms. Johnson moves for summary judgment on the grounds barred by the Rooker-Feldman doctrine. 36

Mr. Bida claims violations of his rights to due process guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution. 37 Additionally, he seeks judgment against Ms. Johnson to reverse the State Trial Court's decision vacate the \$13,156.23 judgment, and reinstate the original settlement agreement of \$3,000. 38

33 *Celotex Corp.*, 477 U.S. at 322-23. 34 *Marino v. Indus. Crating Co.*, 358 F.3d 241, 247 (3d Cir. 2004)



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(quoting Anderson, 477 U.S. at 255). 35 Anderson, 477 U.S. at 249. 36 (D.E. 23-1 at 3-5). 37 (D.E. 18, Am. Compl at 1-2). 38 (Id. at 6).

A. The Rooker-Feldman Doctrine Deprives This Court of Jurisdiction Ms. Johnson contends that this Court lacks subject matter jurisdiction under the Rooker- Feldman doctrine. 39

Rooker-Feldman precludes subject matter jurisdiction over actions already litigated in state court. 40

Under the Rooker-Feldman doctrine, federal district courts are barred - 41

The jurisdictional bar extends to any claim the state court adjudication. 42

Four requirements must be met to apply the Rooker-Feldman doctrine: plaintiff lost in state court; (2) the plaintiff complains of injuries caused by the state-court judgments; (3) those judgments were rendered before the federal suit was filed; and (4) the plaintiff 43 requirements are the key to determining whether a federal suit presents an independent, non-barred

44 As a preliminary matter, the Court notes that Mr. Bida should be well versed in the Rooker-Feldman doctrine. Mr. Bida previously brought claims against Ms. Johnson in this Court in 2012. 45

That complaint arose out of a Superior Court of New Jersey Law Division order that Mr.

39 (D.E. 23-1, Def. Mov. Br. at 3-5) 40 See Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280 (2005). 41 Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d 159, 165 (3d Cir. 2010). 42 -Barre, 321 F.3d 411, 418 (3d Cir. 2003). 43 Great W. Mining & Mineral Co., 615 F.3d at 166 (citing Exxon Mobil, 544 U.S. at 284). 44 Id. 45 Bida v. Johnson, No. 2:12cv6876 (D.N.J. April 30, 2013) (D.E. 1, Compl.).

Bida pay Ms. Johnson a six-month relocation fee. 46

On appeal, the Superior Court, Appellate Division affirmed the ruling. 47

Mr. Bida subsequently sought an order in this Court the action based upon the Rooker- Feldman doctrine. 48

With regard to the requisite elements, Rooker-Feldman again prohibits this Court from exercising jurisdiction over Mr. present claims. The record shows that Mr. Bida lost in state court by way of a judgment rendered before this federal action commenced. 49

The injuries that he asserts were caused by the state court judgment, and the constitutional injuries themselves were litigated 50



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and affirmed on appeal by the New Jersey state courts. 51

Finally, Mr. Bida now invites federal judicial intervention to effectively review and reject the state court judgment. 52

As stated, such review is barred by the Rooker-Feldman doctrine. Mr. Bida has failed to set forth specific facts that show his claims are not barred. His opposition to the motion for summary judgment 53

sets forth the same exact facts presented in his Second Amended

46 Id. 47 Id. 48 Id. (D.E. 4, Mem. Order and Op.). 49 (See D.E. 26, Pl. -7). 50 See Tr. of Mot, supra note 17. 51 See Johnson, 2013 W.L. 1846671, at *10. 52 (See D.E. 18, Pl at 6). 53 (D.E. 26 at 4-6).

Complaint, 54

which are the same as those relied upon by Ms. Johnson in her present motion. 55

Mr. Bida has made no attempt to show that there are disputed material facts and in doing so he has failed to meet his burden to avoid summary judgment. Accordingly, Ms. Johnson is entitled to judgment as a matter of law.

B. Claims Lack Subject Matter Jurisdiction M claims against Ms. Johnson are jurisdictionally deficient because they lack federal question or diversity jurisdiction. Federal courts have a duty to determine whether subject matter jurisdiction is properly pled in the claims presented before they may reach the merits of the case. 56

Such determination may be made either on motion by the parties or sua sponte, where the parties have not raised such issues themselves. 57

Federal courts have limited jurisdiction and may adjudicate cases and controversies only as permitted under Article III of the Constitution. 58

Unless affirmatively demonstrated, a federal court is presumed to lack subject matter jurisdiction. 59

The burden of demonstrating the existence of federal jurisdiction is on the party seeking to invoke it. 60

54 (D.E. 18 at 2-3). 55 (D.E. 23-1 at 2-3). 56 See TM Marketing, Inc. v. Art & Antiques Assoc., L.P., 803 F.Supp. 994, 997 (D.N.J. 1992). 57 See id. 58 See U.S.CONST. art. III, § 2; , 150 F.3d 319, 323 (3d Cir. 1998). 59 See Ridge, 150 F.3d at 323 (citing Renne v. Geary, 501 U.S. 312, 316 (1991)). 60 See Common



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Cause of Pa. v. Pennsylvania, 558 F.3d 249, 257 (3d Cir. 2009) (citing DaimlerChrysler Corp. v. Cuno, 547 U.S. 332, 342 (2006)).

arising under the Constitution, laws, or treaties of the United States; 61

and (b) diversity jurisdiction over disputes between citizens of different states. 62

A diversity claim requires a showing of 63

Where there is no diversity of citizenship between the parties, as in this case, the propriety of subject matter jurisdiction turns on whether the case arises pursuant to a federal - that the eral law within the meaning of Section 1331. 64

Mr. Bida alleges his due process rights under the Fifth and Fourteenth Amendments were violated when the New Jersey state court enforced the settlement agreement prior to hearing his opposition. However, this Court finds that such claims are improperly alleged against Ms. Johnson. The due process protections afforded by the Fourteenth Amendment apply only to state actors, not private citizens such as Ms. Johnson. 65

[A]mendment restrict only federal governmental action and not the actions of private entities. 66

61 28 U.S.C. § 1331 62 See 28 U.S.C. § 1332 63 , 48 F.3d 693 (3d Cir. 1995). 64 See Railway Labor Executives Ass'n v. Pittsburgh & Lake Erie R.R. Co., 858 F.2d 936, 942 (3d Cir.1988). 65 See Shelley v. Kraemer, 334 U.S. 1, 13 (1948); see also Simmons v. Alston, No. CIV.A. 08- 1770 (MLC), 2008 WL 1995151, at *3 (D.N.J. May 2, 2008). 66 Nguyen v. United States Catholic Conference, 719 F.2d 52, 54 (3d Cir. 1983).

In the alternative, any attempts to raise a claim against the Law Division or Appellate Division as entities are barred as these courts are not amenable to suit. 67

claims could be construed as asserting challenges against the state court judges, those claims are

facially without merit and are barred by judicial immunity. 68

Furthermore, the claims against the State court judges, if any, are long since time barred by the applicable two-year statute of limitations. 69

Because Mr. Bida has failed to demonstrate either complete diversity of the parties or a claim involving a federal question against Ms. Johnson, he has failed to meet his burden of demonstrating subject matter jurisdiction.



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67 See *Quern v. Jordan*, 440 U.S. 332 (1978). 68 The doctrine of judicial immunity provides that judges are immune from suit for monetary damages arising from their judicial acts. See *Gallas v. Supreme Court of Pa.*, 211 F.3d 760, 768 (3d Cir. 2000); see also *Mireles v. Waco*, 502 U.S. 9 (1991) (per curiam). To determine whether

Stump v. Sparkman, 435 U.S. 349, 356 n.6 (1978). *Peeples v. Citta*, 2012

U.S. Dist. LEXIS 52895, at *15 (D.N.J. Apr. 16, 2012) (internal quotation marks and citation omitted). and if the *Stump Gallas*, 211 F.3d at 769; accord *Stump* . does not justify

69 See *Wilson v. Garcia*, 471 U.S. 261, 276 (1985) (holding that all civil rights actions arising under 42 U.S.C. Section 1983 are to be governed by the state personal injury statute of limitations period). Therefore, it is the two-year statute of limitation for injuries to the person prescribed by N.J.S.A. 2A:14-2 which governs all Section 1983 claims, including those of the present suit. See *Brown v. Foley*, 810 F.2d 55, 56 (3d Cir.1987).

V. CONCLUSION

For the foregoing reasons, this Court finds that there are no genuine issues of material fact motion for summary judgment is granted and Mr. Bida's claims shall be dismissed in their entirety.

12/19/2016 5:52:05 PM

Original: Clerk of the Court cc: All parties File Lirjan Bida 128 Myrtle Ave Jersey City, NJ 07395

