

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GARY SADLER

v.

PRISONER
Case No. 3:04-cv-1189 (SRU)

STATE OF CONNECTICUT SUPREME COURT, et al.¹

RULING AND ORDER

On July 19, 2004, the plaintiff, Gary Sadler (“Sadler”), an inmate confined at the MacDougall-Walker Correctional Institution in Suffield, Connecticut, filed this civil rights action pro se and in forma pauperis pursuant to 28 U.S.C. § 1915. He named as defendants the Connecticut Supreme and Appellate Courts and all of the judges sitting thereon as well as all superior court judges assigned to the Connecticut Superior Court in Rockville, Connecticut. Sadler alleged that the actions of these judges caused him to be deprived of equal protection of the law and access to the courts. He sought declaratory and injunctive relief only.

On October 5, 2004, the court dismissed the complaint without prejudice. The court determined that it lacked jurisdiction under the Rooker-Feldman doctrine to review actions of the state court in an appellate capacity and that Sadler failed to state a claim against any judge on the

¹Sadler named as defendants: State of Connecticut Supreme Court, William J. Sullivan, David M. Borden, Joette Katz, Flemming L. Norcott, Jr., Richard N. Palmer, Christine S. Vertefeuille, Peter T. Zarella, State of Connecticut Appellate Court, William J. Lavery, Anne C. Dranginis, Joseph P. Flynn, Paul M. Foti, Sidney S. Landau, Socrates H. Mihalikos, Joseph H. Pellegrino, Barry R. Schaller, E. Eugene Spear, State of Connecticut Superior Court Judge Gary White, State of Connecticut Administrative Judge Joseph Pellegrino, State of Connecticut Rockville Superior Court Judges.

Connecticut Appellate or Supreme Court for violation of his right of access to the courts.

On October 21, 2004, Sadler filed a notice of appeal and a motion for extension of time to file a motion for reconsideration. The court granted Sadler's request for time. On November 29, 2004, Sadler filed a motion for reconsideration or, in the alternative, a motion to reopen judgment and a proposed amended complaint. For the reasons that follow, the court declines to reopen this case.

I. Standard of Review

Reconsideration “will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” See Schrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995). The function of a motion for reconsideration thus is to present the court with an opportunity to correct “manifest errors of law or fact or to consider newly discovered evidence” LoSacco v. City of Middletown, 822 F. Supp. 870, 876-77 (D. Conn. 1993) (quoting Rothwell Cotton Co. v. Rosenthal & Co., 827 F.2d 246, 251 (7th Cir. 1987)), aff'd, 33 F.3d 50 (2d Cir. 1994).

Rule 60(b), Fed. R. Civ. P., identifies several reasons for which a party may be relieved from judgment:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
- (6) any other reason justifying relief from the operation of the judgment.

II. Discussion

Sadler argues that he should have been afforded an opportunity to amend his complaint to clarify his claims and attaches a proposed amended complaint to his motion. In reviewing the motion for reconsideration and to reopen, the court will consider the allegations in the proposed amended complaint to determine whether the new allegations alter the court's ruling.

The proposed amended complaint includes claims against defendant White only. Sadler states, in a footnote, that he has abandoned his claims against all other defendants included in the original complaint. Thus, the court considers only whether the case should be reopened to permit Sadler to pursue his claims against defendant White.

Sadler alleges generally that defendant White "acted as an individual in the absence of all jurisdiction in the courtroom when and by denying the plaintiff the right to counsel and access to the court pursuant to the first and fourteenth amendments to the United States Constitution and Connecticut General Statutes § 51-296." In the original complaint, Sadler sought declaratory and injunctive relief. In the amended complaint, Sadler states, in the introductory paragraph, that he seeks damages and declaratory relief. In his prayer for relief, however, he seeks only a declaration that his right of access to the courts in state habeas proceedings consists of a right to effective assistance of counsel and that defendant White violated his right of access to the courts and to counsel in habeas proceedings thereby causing an actual injury.

In the proposed amended complaint, Sadler alleges the following facts. In July 2001, he filed a pro se petition for writ of habeas corpus in state court challenging his conviction on the ground that he was afforded ineffective assistance of counsel at his criminal trial. The court appointed a special public defender to represent Sadler in the state habeas action. The special

public defender did not interview witnesses identified by Sadler as essential to his claim. Prior to a hearing on the state habeas petition, Sadler asked that another special public defender be appointed to represent him. Defendant White denied that request after finding credible the special public defender's statements that he had investigated Sadler's claims and was prepared to proceed. Sadler alleges that defendant White failed to properly inquire into Sadler's contentions that the special public defender description of his preparations was false. On January 13, 2004, defendant White held a hearing and dismissed Sadler's state habeas petition. Sadler concludes that the special public defender was ineffective in that he abandoned some of Sadler's claims and failed to preserve others for appeal. Thus, Sadler was procedurally barred from raising various unidentified claims on appeal or in a federal habeas action.

Sadler argues that he is asserting claims independent of defendant White's actions in denying new counsel and denying his state habeas. He states that he has alleged violation of his right to counsel and access to the courts.

Sadler's claim for violation of his right to counsel is based on state law. There is no federal constitutional right to counsel in collateral attacks upon a conviction. See Pennsylvania v. Finley, 481 U.S. 551, 555 (1987). Because there is no constitutional right to counsel in a state habeas proceeding, Sadler has no federal right to effective assistance of counsel in that proceeding. See, e.g., Quesinberry v. Taylor, 162 F.3d 273, 276 (4th Cir. 1998) (holding that deficiencies in representation at state habeas proceeding were insufficient to excuse default because there is no constitutional right to counsel in state habeas proceedings). An action pursuant to 42 U.S.C. § 1983 is available to redress violations of rights guaranteed by the federal constitution, laws or treaties. Section 1983 may not be used to seek redress for violations of state

law by state officials. See Doe v. Connecticut Dep't of Child and Youth Servs., 911 F.2d 868, 869 (2d Cir. 1990) (violation of state law does not give rise to a section 1983 claim). Because Sadler has no federal right to representation in a state habeas action, his proposed amended complaint fails to state a claim independently cognizable under section 1983 for violation of his right to counsel.² In addition, Sadler cannot transform his state law claim for alleged violation of a state statute into a federal claim by seeking a declaration of his rights under state law. The Declaratory Judgment Act, 28 U.S.C. § 2201, does not expand the jurisdiction of the federal courts; it cannot be used to confer federal jurisdiction over a suit seeking the declaration of rights under state law. See, e.g., Skelly Oil Co. v. Phillips Petroleum Co., 339 U.S. 667, 671-72 (1950); People of State of Ill. ex rel Barra v. Archer Daniels Midland Co., 704 F.2d 935, 941 (7th Cir. 1983).

Sadler also contends that he has stated a claim for violation of his right of access to the courts. In Lewis v. Casey, 518 U.S. 343 (1996), the Supreme Court clarified what is encompassed in an inmate's right of access to the courts and what constitutes standing to bring a claim for the violation of that right. The Court held that, to show that the defendant violated his right of access to the courts, an inmate must allege facts demonstrating an actual injury stemming from the defendant's unconstitutional conduct. See id. at 349. As an illustration, the Court noted that, if an inmate were able to show that the defendant's action prevented him from filing an initial complaint or petition, or that the complaint he filed was so technically deficient that it was

² The court could exercise its discretion to entertain Sadler's claim as a supplemental state law claim. Generally, that discretion is exercised only if a federal claim survives. See, e.g., Giordano v. City of New York, 274 F.3d 740, 754 (2d Cir. 2001) (noting that, as a general matter, where all federal claims have been dismissed before trial, pendent state claims should be dismissed without prejudice and left for resolution to the state courts; collecting cases).

dismissed without a consideration of the merits of the claim, he could state a claim for denial of access to the courts. See id. at 351. The Court, however, specifically disclaimed any requirement that prison officials ensure that inmates have sufficient resources to discover grievances or litigate effectively once their claims are brought before the court. See id. at 355.

Sadler's access to courts claim is based upon his conclusion that appointed counsel was ineffective because counsel did not follow all of Sadler's instructions regarding the prosecution of the state habeas petition. Sadler does not argue that he was unable to file his state habeas petition or that he was not afforded a hearing on the merits of his claims. Thus, the court concludes that Sadler's claim is based on the ability to effectively litigate, which the Court has excluded as a basis for a claim of denial of access to the courts. Accordingly, this court concludes that Sadler has not alleged facts to support an independent claim of denial of access to the courts.

Sadler also challenges the court's determination that his claims are barred by the Rooker-Feldman doctrine. As the court stated in its previous ruling, in Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923), and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983), the Supreme Court held that the federal district court lacks subject matter jurisdiction to review state court judgments. Thus, under the Rooker-Feldman doctrine, the federal district cannot entertain a collateral attack on a state court judgment "cloak[ed] . . . as a [section] 1983 action." Davidson v. Garry, 956 F. Supp. 265, 269 (E.D.N.Y. 1996), aff'd, 112 F.3d 503 (1997). The doctrine is based, in part, on the fact that "a decision by a state court, however erroneous, is not itself a violation of the Constitution actionable in federal court." Homola v. McNamara, 59 F.3d 647, 650 (7th Cir.1995).

Section 1983 may not be used as a substitute for the right of appeal in the state courts. See Tonti v. Petropoulos, 656 F.2d 212, 216 (6th Cir. 1981); McArthur v. Bell, 788 F. Supp. 706, 709 (E.D.N.Y. 1992); Noyce v. City of Iola, Kansas, No. 89-4092-R, 1990 WL 41399 (D. Kan. Mar. 29, 1990) (citing cases). Sadler cannot avoid dismissal under the Rooker-Feldman doctrine “simply by casting [his] complaint in the form of a civil rights action.” Brooks-Jones v. Jones, 916 F. Supp. 280, 281 (S.D.N.Y. 1996) (internal quotation marks and citations omitted). Whenever a federal claim is “inextricably intertwined” with a state court judgment, the federal court lacks jurisdiction over that claim. See Feldman, 460 U.S. at 482 n.16 (“If the constitutional claims presented to a United States district court are inextricably intertwined with the state court’s denial [of particular relief] in a judicial proceeding . . . , then the District Court is in essence being called upon to review the state court decision. Thus, the District Court may not do.”). The determination whether a federal claim is inextricably intertwined with a state court judgment is case-specific. See Azumendi v. Roth, No. 99 CIV. 3663(WK)(DF), 2002 WL 441283, at *8 (S.D.N.Y. Mar. 20, 2002) (citing Brooks-Jones, 916 F. Supp. at 281-82). The essence of the inquiry is whether the injury resulted from or is distinct from the state court judgment. See id. (citations omitted). Thus, “a federal claim is ‘inextricably interwoven’ with a state court judgment if the federal claim succeeds ‘only to the extent that the state court wrongly decided the issues before it.’” Id. (quoting Penzoil Co. v. Texaco, Inc., 481 U.S. 1, 25 (1987) (Marshall, J., concurring)).

The court previously determined that Sadler’s original complaint was, essentially, a challenge to defendant White’s denial of Sadler’s state habeas petition and denial of certification to appeal. Instead of appealing the denial of certification on the ground that the denial was an

abuse of discretion in light of the alleged ineffective assistance of counsel, Sadler filed this action. The court noted that Sadler's recourse was in the state courts with a final appeal to the United States Supreme Court and dismissed all claims against defendant White and the other judges assigned to the state court in Rockville. Sadler argues that his claims that he was denied his statutory right to counsel and denied access to the courts when defendant White refused to appoint replacement counsel are independent of the decision on his state habeas petition. The court has construed these claims independently and concluded above that they are not cognizable as claims for denial of constitutionally or federally protected rights.

Sadler also argues that he alleged a conspiracy among all state court judges to deny him counsel and prevent him from effectively presenting his claims. First, Sadler has withdrawn his claims against all defendants except defendant White. Second, as the court indicated above, Sadler has no federal right to counsel in a state habeas proceeding and his constitutional right of access to the court does not include effective litigation. If Sadler wishes to challenge the effectiveness of his state law right to counsel in state habeas proceedings, he must do so in state court. To state a federal claim for conspiracy, Sadler must identify some federal right that was violated by the purported conspirators. See Polur v. Raffe, 912 F.2d 52, 56 (2d Cir.1990) (noting pleading requirements for section 1983 claim of conspiracy to deprive plaintiff of constitutional rights). He has not done so.

Any other claims necessarily relate to the propriety of defendant White's actions in denying Sadler's request for new counsel and denying him certification to appeal the denial of his state habeas petition. As the court noted in its previous decision, Sadler had the ability to appeal the denial of certification and, if successful, the denial of his state habeas petition, but did not do

so. Thus, the court properly concluded that it lacks subject matter jurisdiction to review any claims regarding the actions of the state court and dismissed these claims sua sponte. See Moccio v. New York State Office of Court Admin., 95 F.3d 195, 198 (2d Cir. 1996) (holding that challenge under Rooker-Feldman doctrine goes to subject matter jurisdiction and may be raised sua sponte by the court).

IV. Conclusion

After carefully considering Salder's arguments in support of his motion and reviewing his proposed amended complaint, Sadler's motion seeking reconsideration and an order reopening this case [**doc. #14**] is **DENIED**.

SO ORDERED this 5th day of January 2005, at Bridgeport, Connecticut.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge