

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BRYAN ANTHONY REO	:	Case No. 1:19-CV-2589
	:	
Plaintiff,	:	Judge Boyko
	:	Magistrate Judge Parker
v.	:	
	:	<b>DEFENDANTS HON. PATRICK</b>
MARTIN LINDSTEDT, et al.	:	<b>CONDON AND THE LAKE COUNTY</b>
	:	<b>COURT OF COMMON PLEAS'</b>
Defendants	:	<b>REPLY IN SUPPORT OF THEIR</b>
	:	<b>MOTION TO DISMISS</b>

The facts cited by *Pro se* Third-Party Plaintiff Martin Lindstedt (“Lindstedt”) and Third-Party Plaintiff The Church of Jesus Christ Christian/Aryan Nations of Missouri (“The Church”) (collectively, “Third-Party Plaintiffs”) in their Response brief (captioned as a “Reply Motion”) further demonstrate that Third-Party Plaintiffs only dealt with Judge Condon in his judicial capacity and that they are, in fact, seeking review of Judge Condon’s orders and decisions in the underlying case. As a result, their claims against him must be dismissed. Third-Party Plaintiffs have also failed to establish the Lake County Court of Common Pleas (“Lake County CCP”) is capable of being sued in this litigation.

**A. The *Rooker-Feldman* doctrine is directly applicable and bars this Court’s review of Third-Party Plaintiffs’ claims.**

In their Response, Third-Party Plaintiffs appear to argue that the Rooker-Feldman doctrine does not bar their claims because the question they seek to have this Court review is “whether a local court can hear a case crossing state lines regarding what was said about a public figure over the internet and have a trial without any real jurisdiction....” (Doc. 42, PAGEID 387). This reveals their claims are of the exact nature

prohibited by the *Rooker-Feldmen* doctrine: claims “brought by state-court losers complaining of injuries caused by state-court judgments...and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 283, 125 S. Ct. 1517, 1521 (2005). Indeed, to answer the above question, this Court would have to review multiple issues from the underlying litigation, including, it appears, the operation of Ohio’s long-arm statute and the designation of a party as a public figure to support a defense to a defamation claim.

The above reveals that Third-Party Plaintiffs are asking this Court to review the orders and actions by Judge Condon in the underlying case. This Court’s review of Third-Party Plaintiffs’ claims would necessarily require inquiry into the correctness of Judge Condon’s orders, which the *Rooker-Feldman* doctrine prohibits. *Rooker-Feldman* leaves this Court without subject-matter jurisdiction over Third-Party Plaintiffs’ claims against the Judge, and the claims must be dismissed.

**B. The *Younger* abstention doctrine also applies to bar Third-Party Plaintiffs’ claims.**

As shown above, Third-Party Plaintiffs’ are seeking to have this Court protect them from Judge Condon’s orders leading up to and during the underlying civil trial, which is currently on appeal. The underlying litigation is, therefore, ongoing and Third-Party Plaintiffs have failed to show that they do not have an adequate opportunity in the state court proceedings to seek relief from the jury verdict or any other decision rendered before or during the trial. *Middlesex Cty. Ethics Comm. V. Garden State Bar Ass’n*, 457 U.S. 423 (1982). Furthermore, “[a] state court’s attempt to effectuate its orders” is a state court interest that is expressly identified to support the application of *Younger* and its progeny under the categories outlined in *Sprint Communs., Inc. v. Jacobs*, 571 U.S. 69 (2013). *See Golf Vill. North, LLC v. City of Powell*, No. 2:16-cv-668,

2018 U.S. Dist. LEXIS 152184, \*20 (Sep. 6, 2018) (“Cases in this third category generally involve a state court’s attempt to effectuate its orders . . . . These cases also have involved a federal plaintiff asking a federal court to enjoin a state proceeding, or otherwise attempting to use the federal court as a shield against a state enforcement effort.”). Through this federal lawsuit, Third-Party Plaintiffs are attempting to shield themselves against the effects of Judge Condon’s orders.

*Younger* prohibits this Court from interfering in an ongoing state court proceeding in the manner sought by Third-Party Plaintiffs. As a result, this Court should abstain from reviewing Third-Party Plaintiffs’ claims against the Judge, and the claims against him case must be dismissed.

**C. Third-Party Plaintiffs have not established there is a case or controversy between them and Judge Condon, and their claims for declaratory relief are therefore barred.**

Third-Party Plaintiffs appear to argue that there is a controversy between them and Judge Condon because Plaintiff Brian Reo would not have been able to pursue his claims against them in the underlying state court case if Judge Condon had not let him. But in doing so, they again—by their very own arguments—support the fact there is no case or controversy between Judge Condon and Third-Party Plaintiffs. This is a precise example of a scenario in which no case or controversy exists between because there is no case or controversy between a presiding judge and a litigant in a case. Just as in *Cooper v. Rapp*, 702 Fed. Appx. 328, 333, 2017 U.S. App. LEXIS 13650, \*11, 2017 FED App. 0437N (6th Cir.), Judge Condon was not an adversary of Third-Party Plaintiffs in the state-court proceedings, in which Third-Party Plaintiffs appear to have raised many challenges to Ohio law. Instead, Judge Condon “acted as a disinterested judicial adjudicator, bound to decide the issues before him according to the law.” *Id.* at 333.

Under these circumstances, there is no case or controversy between Third-Party Plaintiffs and Judge Condon and their claims against him for declaratory relief must fail.

**D. Third-Party Plaintiffs have not established they stated a claim against Judge Condon under 42 U.S.C. § 1983.**

As explained in Section A above, it is clear from Third-Party Plaintiffs' Reply Motion that the basis for their claims against Judge Condon is that he allegedly made incorrect decisions leading up to and during the underlying jury trial. In other words, Third-Party Plaintiffs' discontent with Judge Condon's decisions in the underlying case clearly form the basis of their § 1983 claim against him. As stated in *Agg v. Flanagan*, 855 F.2d 336, 339 (6<sup>th</sup> Cir. 1988), this does not constitute a deprivation of a federally protected right as a matter of law, as is required to state a claim under 42 U.S.C. § 1983. As pointed out by the *Agg* court, "[t]he proper course to correct a mistake is by appeal." *Agg*, 855 F.2d 336 at 339. Accordingly, Third-Party Plaintiffs' § 1983 claims should be dismissed.

**E. Judge Condon is immune from Third-Party Plaintiffs' claims for injunctive relief.**

Third-Party Plaintiffs have acknowledge they are not seeking monetary relief from Judge Condon. However, they still demand injunctive relief, which is barred by Judge Condon's absolute immunity. Although Third-Party Plaintiffs allege Judge Condon lacked jurisdiction over them personally, Judge Condon clearly had jurisdiction to preside over the underlying state court proceeding pursuant to Ohio R.C. 2305.01. Therefore, he had jurisdiction to act. In any event, Third-Party Plaintiffs have not established that Judge Condon acted in the complete absence of jurisdiction or that any of his alleged inappropriate acts were not judicial in nature (indeed, as established above, Third-Party Plaintiffs have confirmed they are aggrieved by Judge Condon's

orders in the underlying case), and therefore, Judge Condon is immune from Third-Party Plaintiffs claims for injunctive relief.

**F. The Lake County CCP is not *sui juris*; Third-Party Plaintiffs have not and cannot establish otherwise.**

In their Response, Third-Party Plaintiffs state that they “disagree” that the Lake County Court of CCP is not *sui juris*. Their unsupported objection notwithstanding, the law remains unambiguous: absent statutory authority, a court cannot sue or be sued. *Malone v. Court of Common Pleas of Cuyahoga County*, 45 Ohio St.2d 245, 248, 344 N.E.2d 126 (1976); *Todd v. United States*, 158 U.S. 278, 15 S.Ct. 889, 39 L.Ed. 982 (1895). As a result, Third-Party Plaintiffs’ claims against the Lake County CCP must be dismissed.

**G. Conclusion**

For all the foregoing reasons, and the reasons outlined in their Motion to Dismiss, Judge Condon and the Lake County Court of Common Pleas respectfully requests that the Court dismiss the claims against them in Third-Party Plaintiffs’ Complaint, with prejudice.

Respectfully submitted,

**/s/ Lindsay M. Upton**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 25<sup>th</sup> day of June 2020, the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing has been sent by electronic mail to:

Martin Lindstedt  
[pastorlindstedt@gmail.com](mailto:pastorlindstedt@gmail.com)

**/s/ Lindsay M. Upton**  
LINDSAY M. UPTON (0092309)