

Adkins v. Kentucky

Decided Dec 12, 2018

Miscellaneous Action No. 3:18-mc-26-DJH

12-12-2018

ASHLEY ELIZABETH ADKINS, Petitioner, v.
STATE OF KENTUCKY, Respondent.

cc: Petitioner, pro se

David J. Hale, Judge United States District Court

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MEMORANDUM OPINION

Petitioner Ashley Elizabeth Adkins initiated this *pro se* action by filing a document captioned as a "'Writ of Execution' Judicial Order Enforcing Judgment" (Docket No. 2). Upon review, this action must be dismissed for the reasons stated herein.

I.

In the heading of the initiating document, Petitioner references the Jefferson District Court and lists three state-court case numbers. The filing states the following:

Ashley-Elizabeth; Adkins, Sui Juris, the Living Woman, Claimant Protected American State National, comes now by special appearance.

[] Claimant's "Living Testimony in form of an Affidavit; a Challenge of Her Rights, Status, Standing & Jurisdiction; a Notice of Discovery of Fraud and Impropriety; a Writ of Habeas Corpus; and Demand for Remedy; and Claim for Compensation;" document was entered into the court and public record: September 27th, 2018 and October 24th, 2018. Claimant's "Living Testimony in form of an Affidavit . . ." document was served upon Judge Webb, Attorney Meihaus, Public Defender Forbush-Moss, Guardian Ad Litem Meschler and CHFS Worker B. Wheeler, signed by certified return receipt mail, September 27th, 2018 and October 12th, 2018.

(Ellipses used by Petitioner; emphasis by Petitioner omitted). The filing discusses an affidavit which Petitioner apparently signed. It states, "Truth as a valid statement of reality is sovereign in commerce; An un rebutted affidavit or declaration stands as truth in commerce; An un rebutted affidavit is acted upon as the judgment in commerce; Guaranteed - All men/women shall have a *2 remedy by the due course of law" The only claim for relief the Court can discern in the filing is Petitioner's statement as follows:

As One of "We the People" I do hereby politely and with honor, **command** you, our **public** servants; to follow this **Mandate** directive and 1) **Dismiss** and Cancel the Illegitimate Trial scheduled for the 13th day of December, 2018; 2) **Dismiss** all **Charges** with extreme **Prejudice**; 3) Eliminate the Record; and Void Ab Initio.

(Emphasis by Petitioner omitted). To this **filing**, Petitioner attaches several **documents**, including purported **affidavits** and **documents** promoting "**sovereign citizen**" beliefs.

II.

A **district** court "may, at any time, *sua sponte* **dismiss** a **complaint** for lack of subject **matter** jurisdiction pursuant to **Rule** 12(b)(1) of the **Federal Rules** of **Civil** Procedure when the allegations of a **complaint** are totally **implausible**, attenuated, unsubstantial, **frivolous**, devoid of **merit**, or no longer open to discussion." *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999). The "**Writ** of Execution" and its attachments evince that Petitioner's **claims** are premised on "**sovereign citizen**" **theories**, which have "been uniformly rejected by the **federal** courts" for decades. *Smith v. Hens*, No. 13-14013, 2014 U.S. Dist. LEXIS 100838, at *2-3 n.1 (E.D. Mich. July 24, 2014). "**Sovereign citizen**" arguments are "**recognized** as **frivolous** and a waste of court resources." *Muhammad v. Smith*, No. 3:13-CV-760 (MAD/DEP), 2014 U.S. Dist. LEXIS 99990, at *6 (N.D.N.Y. July 23, 2014); *see also* *United States v. Amir*, 644 F. App'x 398, 399 (6th Cir. 2016) (rejecting a **criminal** defendant's attempts "to argue that he is not a **citizen** of the **United States**, but a **citizen** of the 'Republic of Ohio,' to whom our **federal** courts' jurisdiction does not apply."). **Claims** based on "**sovereign citizen**" **theories** may be **dismissed** without "extended argument" as **patently frivolous**. *United States v. Ward*, No. 98-30191, 1999 U.S. App. LEXIS 9255, at *5-6 (9th Cir. May 13, 1999); *see also* *United States v. McQuarters*, No. 11- 51386, 2013 U.S. Dist. LEXIS 165189, at *5 (E.D. Mich. Oct. 11, 2013)

3 (finding that "**sovereign** *3 **citizen**" arguments "are totally **implausible**, attenuated, unsubstantial, **frivolous**, devoid of **merit**, [and] no longer open to discussion" (quoting *Apple v. Glenn*, 183 F.3d at 479), *report and recommendation adopted*, 2013 U.S. Dist. LEXIS 164785 (E.D. Mich. Nov. 20, 2013).

Accordingly, upon review of Petitioner's "**Writ** of Execution" and its attachments, the Court finds that this action meets the **standard** set forth in *Apple v. Glenn*. Therefore, this action **must** be **dismissed** for lack of subject-**matter** jurisdiction under Fed. R. Civ. P. 12(b)(1).

III.

The Court will enter a separate Order **dismissing** the instant action for the reasons **stated** herein.
Date: December 12, 2018

/s/

David J. Hale, Judge

United States District Court cc: Petitioner, *pro se*
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