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States Court of Appeals
for the Third Circuit

12-13-2010

Shawn Martin Finch v. Shawn Martin Finch

Precedential or Non-Precedential: Non-Precedential

Docket No. 10-2786

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 10-2786

SHAWN MARTIN FINCH,
Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil No. 10-cv-00142)
District Judge: Honorable Kim R. Gibson

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
November 24, 2010

Before: AMBRO, CHAGARES AND NYGAARD, Circuit Judges

(Opinion filed: December 13, 2010)

OPINION

PER CURIAM

Appellant Shawn Martin Finch, proceeding pro se, appeals from the District Court's dismissal of his civil action. For the reasons that follow, we will summarily affirm the judgment of the District Court.

Finch initiated the underlying action in the United States District Court for the Western District of Pennsylvania on June 3, 2010, by filing a motion for leave to proceed

in forma pauperis (“IFP”). Attached to the motion was a one-page proposed complaint naming himself as the defendant and alleging that “unknown identity thieves” had violated his Sixth and Fourteenth Amendment rights by stealing money awarded to him in other legal actions.

The Court concluded that Finch had alleged insufficient facts to support his constitutional claims. Finch cited three appeals to this Court in support of his claim that he had been awarded damages in prior actions. However, all three of those appeals were dismissed without any damages being awarded. See C.A. Nos. 10-2262, 10-2263 & 10-2264. The Court explained that, as there was no indication from the complaint whether the alleged “identity thieves” were state actors, and no indication that any damages had ever been awarded to Finch, he failed to state a claim upon which relief could be granted. Accordingly, the Court dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).¹

For the reasons given by the District Court, we agree that Finch’s complaint failed to allege any actionable violation of his constitutional rights and that any amendment would be futile. See Alston v. Parker, 363 F.3d 229, 235 (3d Cir. 2004). Based on the foregoing, we conclude that this appeal presents no substantial question and, accordingly, will summarily affirm. See 3d Cir. LAR 27.4; I.O.P. 10.6.

¹ The District Court also denied his motion for leave to proceed IFP as moot. As we have explained previously, leave to proceed IFP is based on a showing of indigence. See Deutsch v. United States, 67 F.3d 1080, 1085 n.5 (3d Cir. 1995). Only after such leave has been granted should a complaint be dismissed as frivolous. See id. Rather than dismissing the motion for leave to proceed IFP as moot, the District Court should have granted it and then dismissed the complaint as frivolous.