



2009 Decisions

Opinions of the United
States Court of Appeals
for the Third Circuit

10-9-2009

Steven Fleming v. Lackawanna Cty Courthouse

Follow this and additional works at: https://digitalcommons.law.villanova.edu/thirdcircuit_2009

Recommended Citation

"Steven Fleming v. Lackawanna Cty Courthouse" (2009). *2009 Decisions*. 462.
https://digitalcommons.law.villanova.edu/thirdcircuit_2009/462

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2009 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-2957

STEVEN PAUL FLEMING,

Appellant

v.

LACKAWANNA COUNTY COURTHOUSE; LACKAWANNA COUNTY
GOVERNMENT; SENIOR JUDGE

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil No. 09-cv-00682)
District Judge: Honorable Thomas I. Vanaskie

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
September 24, 2009

Before: MCKEE, FISHER AND CHAGARES, Circuit Judges

(Opinion filed October 9, 2009)

OPINION

PER CURIAM

Steven Paul Fleming, proceeding pro se, appeals from the District Court's
dismissal of his amended complaint. For the reasons that follow, we will dismiss the

appeal pursuant to 28 U.S.C. § 1915(e)(2)(B).

Fleming filed a complaint in the United States District Court for the Middle District of Pennsylvania on April 14, 2009. The District Court construed it as seeking relief under 42 U.S.C. § 1983 and issued an order explaining the defects in Fleming's complaint, setting out the information required to state a claim under § 1983, and ordering Fleming to amend his complaint to comply with those requirements. Fleming filed an amended complaint, the substance of which is described in great detail in the Magistrate Judge's Report & Recommendation. The amended complaint named Lackawanna County Courthouse and Lackawanna County as the defendants. As the Magistrate Judge explained, Fleming failed to specify any conduct, wrongful or otherwise, of any properly named defendant. A fair reading of Fleming's complaint does not indicate what specific wrongs he seeks to remedy or who committed them. Additionally, the Magistrate Judge recommended that Fleming not be permitted to amend his complaint for a second time, as it appeared that any such amendment would be futile. By order entered June 9, 2009, the District Court adopted the Magistrate Judge's Report & Recommendation and dismissed the action pursuant to 28 U.S.C. § 1915(e).

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. Because Appellant has been granted in forma pauperis status pursuant to 28 U.S.C. § 1915, we review this appeal for possible dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). An appeal must be dismissed under § 1915(e)(2)(B) if it has no arguable basis in fact or law.

See Neitzke v. Williams, 490 U.S. 319, 325 (1989). For all of the reasons given by the Magistrate Judge, we agree that Fleming failed to state a claim upon which relief could be granted and, accordingly, conclude that this appeal must be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B).