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In Re: Frederick Banks

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1933

In re: FREDERICK H. BANKS,
Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Misc. Action No. 2-23-mc-00465)
District Judge: Honorable Arthur J. Schwab

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
August 10, 2023

Before: SHWARTZ, MATEY, and FREEMAN, Circuit Judges

(Opinion filed: August 24, 2023)

OPINION*

PER CURIAM

Frederick Banks appeals the District Court's order denying his motion for leave to file a complaint as well as its order denying his motion for reconsideration and motion for

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

recusal. For the reasons that follow, we will summarily affirm the District Court's orders.

Due to his history of vexatious litigation, Banks is subject to an order by the District Court enjoining him from filing new complaints without first receiving leave to file them. Banks sought leave to file a complaint against the District Judge who oversaw his most recent criminal proceedings, including his resentencing. He sought monetary and injunctive relief. The District Court denied the motion for leave to file after determining that the complaint was legally frivolous and vexatious. Banks filed a notice of appeal as well as a motion for reconsideration and a motion to recuse the District Judge.

We have jurisdiction under 28 U.S.C. § 1291. Summary action is appropriate if there is no substantial question presented in the appeal. See 3d Cir. L.A.R. 27.4. We agree with the District Court that Banks's proposed complaint is frivolous and vexatious and that he was not entitled to have the District Judge recuse himself.

Accordingly, for essentially the reasons given by the District Court, we will summarily affirm its orders. See Stump v. Sparkman, 435 U.S. 349, 355–56 (1978) (judges not civilly liable for judicial acts); Azubuko v. Royal, 443 F.3d 302, 303-04 (3d Cir. 2006); Securacomm Consulting, Inc. v. Securacom Inc., 224 F.3d 273, 278 (3d Cir.

2000) (explaining that a litigant's displeasure with the District Court's legal rulings is not an adequate basis for recusal).