

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 90-5048  
(C.A. No. 89-2941)

RODNEY F. STICH,

Appellant,

v.

WILLIAM REHNQUIST, et al.,

Appellees.

MOTION FOR SUMMARY AFFIRMANCE

Appellees respectfully move this Court for summary affirmance of a Memorandum and Order issued sua sponte by the Honorable Stanley Sporkin on January 17, 1990. Exhibit 1. The Order directed that appellants' action should be dismissed without prejudice for reasons set forth in the Memorandum. Summary disposition is appropriate in this case because the merits of appellees' claims "are so clear that expedited action is justified" and "no benefit will be gained from further briefing and argument of the issues presented." Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297-98 (D.C. Cir. 1987); Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir.) (per curiam), cert. denied, 449 U.S. 994 (1980).

I.

On October 20, 1989, appellant filed a rambling, complaint against the United States of America, Chief Justice of the Supreme Court William H. Rehnquist, Justices of the Supreme Court

Harry A. Blackmun, William J. Brennan, Jr., Anthony M. Kennedy, Thurgood Marshall, Sandra Day O'Connor, Antonin Scalia, John Paul Stevens, III, Byron R. White, and Attorney General of the United States Richard Thornburgh.<sup>1</sup> Appellant alleges, inter alia, that there exists a wide-ranging conspiracy to cover-up alleged past violations of air safety regulations. He alleges that when he was an employee of the FAA in the 1960s, he became aware of the violations of air safety regulations and the falsification of official records by personnel of the FAA and United Airlines. According to appellant, the FAA and others thwarted his decades-long crusade to reveal the alleged violations and improprieties. Appellant has, in prior cases, alleged that the Department of Justice,<sup>2</sup> or others, were controlling the fanciful conspiracy, in

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<sup>1</sup> Appellant names only eleven defendants in the caption of his complaint. However, in the body of the complaint, appellant makes passing allegations of unlawful conduct against scores of entities and individuals including the Federal Aviation Administration; the National Transportation Safety Board; United Air Lines; judges; law firms; and the Justice Department.

<sup>2</sup> Appellant, until recently, had the following actions pending in the District Court on nearly identical claims: Stich v. Department of Justice, Civil Action No. 87-2214 SS (D.D.C.); Stich v. William Rehnquist, et al., Civil Action No. 89-0470 SS (D.D.C.); Stich v. United States, Civil Action No. 89-2060 LFO (D.D.C.); Stich v. United States, et al., Civil Action No. 89-2290 LFO (D.D.C.); and Stich v. United States of America, Civil Action No. 89-1908 SS (D.D.C.). In an order dated September 27, 1989, the Honorable Louis F. Oberdorfer sua sponte dismissed appellant's actions in C.A. Nos. 89-2060 and 89-2290 on grounds that the complaints failed to comport with the minimum standard for sufficiency of complaints set forth in Rule 8(a) of the Federal Rules of Civil Procedure. The Honorable Stanley Sporkin dismissed appellant's actions in C.A. Nos. 87-2214 and 89-0470 on grounds of res judicata and collateral estoppel, inter alia. In a further Order dated January 31, 1990, the Honorable Stanley Sporkin also dismissed Stich v. United States of America, Civil

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some unspecified manner, and here alleges that appellees are -- or were -- conspiring to destroy his ability to expose official misconduct. Appellant alleges that this Court has jurisdiction over his action pursuant to the First, Fifth, Sixth, Seventh, Ninth and Fourteenth Amendments to the Constitution; 18 U.S.C. § 1965 (Title IX of the Organized Crime Control Act of 1970, Racketeer Influenced and Corrupt Organization Act (RICO)); 28 U.S.C. § 1391; and 42 U.S.C. §§ 1983, 1985 and 1986. In his prayer for relief appellant seeks single damages in the astronomical sum of 270 million dollars and treble damages under RICO in the breathtaking amount of 810 million dollars.

Appellant's complaint constitutes an ad nauseam recapitulation of threadbare and illusory claims that he has asserted over and over again, without success, in forums across the country.<sup>3</sup> In the District Court for the District of Columbia

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<sup>2</sup>(...continued)  
Action No. 89-1908.

Appellant recently engaged in a frenzy of filings. Thus, in spite of the numerous dismissals, appellant now has five actions -- known to undersigned counsel -- currently pending in this Court which assert identical claims to those that have been previously presented unsuccessfully to this and other courts. See Civil Action Nos. 89-2940, 89-2941, 89-2973, 89-2974 and 89-3350.

<sup>3</sup> Appellant has filed a plethora of lawsuits in state and federal courts. Including the instant case, appellant has unsuccessfully pursued at least 20 known suits all of which are predicated on allegations of conspiracies involving the United States Supreme Court Justices, other members of the federal and state judicial branches, federal agencies, law firms, public officials and many others. In fact, appellant's litigation has been so vexatious and singularly unsuccessful that appellant was finally enjoined by the United States District Court for the Eastern District of California from filing civil suits like the

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alone, appellant has asserted the same hoary claims in Rodney F. Stich v. United States Department of Justice, et al., Civil Action No. 86-2523 JHG (D.D.C.), No. 87-5262 (D.C. Cir.); Stich v. United States Department of Justice, et al., Civil Action No. 87-2214 SS (D.D.C.); Stich v. William Rehnquist, et al., Civil Action No. 89-0470 SS (D.D.C.); Stich v. United States, Civil Action No. 89-2060 LFO (D.D.C.); and Stich v. United States, et al., Civil Action No. 89-2290 LFO (D.D.C.). Indeed, appellant is pursuing virtually identical claims in four other actions currently pending before this Court. Rodney F. Stich v. Richard Thornburgh, C.A. No. 89-3350 (D.D.C.), No. 90-5045 (D.C. Cir.); Rodney F. Stich v. George Bush, C.A. No. 89-2973 (D.D.C.), No. 90-5046 (D.C. Cir.); Rodney F. Stich v. United States of America, C.A. No. 89-2974 (D.D.C.), No. 90-5047 (D.C. Cir.); and Rodney F. Stich v. Eugene F. Lynch, C.A. No. 89-2940 (D.D.C.), No. 90-5049 (D.C. Cir.).

In an Opinion and Order dismissing one of appellant's prior cases, the Honorable Joyce Hens Green aptly summarized his allegations as follows:

Plaintiff Rodney Stich filed this suit against a California Superior Court Judge, a United States District Judge sitting in California, the California Attorney General, the Clerk of Court of the Supreme Court of the United States, and three Federal Agencies --the Federal Aviation Administration (FAA), the Department of Justice, and the National Transportation Safety Board -- alleging a far-flung conspiracy in

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<sup>3</sup>(...continued)

instant action in United States District Court. Appellant was eventually incarcerated for his contemptuous disregard of that Court's injunction.

violation of his constitutional and statutory rights. At bottom, plaintiff's 44-page amended complaint centers primarily on a series of orders entered by Superior Court Judge William Jensen in plaintiff's pending matrimonial suit in California. Plaintiff contends that Judge Jensen entered orders directing him to pay sanctions and imposing other penalties . . . . He contends that these orders, which allegedly violated his rights under the Constitution and the civil rights laws, were orchestrated by, and undertaken at the behest of, the federal defendant agencies, which have allegedly conspired with state and federal Judges in California to punish plaintiff for his efforts, as an FAA employee, to reveal aviation safety violations and agency neglect.

Opinion and Order, March 27, 1987, C.A. No. 86-2523 at 1.<sup>4</sup> This Court summarily affirmed the District Court's dismissal of Civil Action No. 86-2523.

The District Court's dismissal of appellant's action in the instant case was predicated upon appellant's failure to comply with the requirements of Rule 8(a), Fed. R. Civ. P. Noting that appellant's "complaints are uniformly verbose, unclear, and imprecise....[It never] discusses any specifics of the fraud or misconduct uncovered by plaintiff. Rather ... [it] is a rambling diatribe against the numerous government officials, government agencies, and private citizens who at some point since 1963 have come into contact with plaintiff in some way regarding this conspiracy.... Plaintiff's complaints fail to meet this standard

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<sup>4</sup> In a memorandum Order dated February 4, 1988, this Court summarily affirmed Judge Green's dismissal of appellant's case, noting that "[t]his suit was brought in violation of the injunction issued by the federal district court of the Eastern District of California. See Stich v. Judge William Jensen, et al., No. S-86-0210 (E.D. Cal. July 30, 1986)." (Emphasis added).

due to their size lack of precise allegations, and general overall confusion. Accordingly, the Court will dismiss the above-captioned actions for failure to comply with Rule 8(a)."

## II.

Rule 8(a), Fed. R. Civ. P., requires that a complaint be a "short and plain" statement showing that the pleader is entitled to relief. See also Fed. R. Civ. P. 8(e)(1) ("Every averment of a pleading shall be simple, concise, and direct"). The purpose of this requirement is to provide defendants fair notice of the allegations against them so that a responsive answer can be filed, an adequate defense prepared and a determination made concerning the applicability of the doctrine of res judicata. All material facts upon which appellant seeks to establish a right of recovery must be pled with particularity. Elliot v. Perez, 751 F.2d 1472, 1482 (5th Cir. 1985); Accord United States v. Philadelphia, 644 F.2d 187, 204 (3rd Cir. 1978). Rule 8(a) also sharpens the issues to be litigated and confines discovery and the presentation of evidence at trial within reasonable bounds. Chodos v. F.B.I., 559 F. Supp. 69, 71 (S.D.N.Y. 1982), aff'd, 697 F.2d 289 (2d Cir. 1982), cert. denied, 459 U.S. 1111 (1983); Brown v. Califano, 75 F.R.D. 497, 498 (D.D.C. 1977).

Contrary to the requirements of Rule 8, appellant's complaint is a meandering recitation of conjecture and conclusory statements bound together only by unfounded allegations of an all-encompassing government conspiracy. The allegations are

imprecise, unclear and fail to afford appellees an adequate opportunity to discern what actions were alleged to have been taken.

Although complaints drawn by pro se litigants are held to a less stringent standard than those drawn by legal counsel, Haines v. Kerner, 404 U.S. 519 (1972), there remains a limit to judicial indulgence with such plaintiffs. Baldwin County Welcome Center v. Brown, 104 S. Ct. 1723 (1974). See In re "Santa Barbara Like It Is Today" Copyright Infringement Litigation, 94 F.R.D. 105, 108 (D. Nev. 1982); United States ex rel. Dattola v. National Treasury Employees Union, 86 F.R.D. 496, 499 (W.D. Pa. 1980). Appellant's complaint consists totally of conclusory allegations of a conspiracy involving private parties, government agencies, federal employees, members of Congress, and multitudinous members of the state and federal judiciary. The complaint is lacking in relevant dates, concrete facts or specific allegations upon which the alleged conspiracy exists. Cf. Chodos v. F.B.I., 559 F. Supp. at 71-72; In re Santa Barbara, 94 F.R.D. at 108.

Appellant alleges various types of misconduct by United Air Lines' officials, the Federal Aviation Administration, and the National Transportation Safety Board; faults the courts and the Justice Department for covering up inconceivably widespread "misconduct;" and lists a host of duplicative "harms" he allegedly has suffered. In the complaint, appellant conspicuously displays the truly eccentric character of his unbelievable allegations. For example, his matrimonial

litigation is a central theme in this action, as it has been in his many unsuccessful actions in federal court.

The complaint is also redundant and vague and includes extensive discussion of incongruous events, e.g., the divorce action, air safety violations, conspiracies and cover-ups that seem to have no logical place in the complaint. See Burton v. Peartree, 326 F. Supp. 755, 758 (E.D. Pa. 1971). As was noted about a similar complaint:

The pleading filed by the plaintiff in this case is indeed a confused and rambling narrative of charges and conclusions concerning numerous persons, organizations and agencies. The complaint contains an untidy assortment of claims that are neither plainly nor concisely stated, nor meaningfully distinguished from bold conclusions, sharp harangues and personal comments. Nor has plaintiff alleged with even modest particularity the dates and places of the transactions of which he complains. It belabors the obvious to conclude that the complaint filed in this action falls far short of the admittedly liberal standard set in Fed. R. Civ. P. 8(a).

Brown v. Califano, 75 F.R.D. at 499.


The nature of this complaint is such that appellees are precluded from framing the meaningful response envisioned by Fed. R. Civ. P. 8(b). It appears, for instance, that the defense of statute of limitations and laches may be applicable to this action, but the lack of clarity in appellant's complaint makes its applicability uncertain. Even liberal construction of Rule 8 cannot turn appellant's unsupported and vituperative allegations into a comprehensible statement. It would be patently unfair to the appellees to permit appellant to pursue the claims as stated in his complaint. Therefore, it was


appropriate for the District Court to dismiss appellant's action.  
See, e.g., United States ex rel. Dattola, 86 F.R.D. at 499.


CONCLUSION

WHEREFORE, appellees respectfully submit that this Motion for Summary Affirmance should be granted, and that the order of the District Court dismissing appellant's action without prejudice should be summarily affirmed.

  
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