

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Atom J. Smith v. Dodge County Human Services, Kelly M. Enright,
Evan D. Berbe, Sabrina Nehr, Katie Gordon, Nick Hafenstein,
Katherine Hafenstein, Sgt. Stocks, Horicon Police Department, Lisa
L. Grycowski, Rylee Umland, DCHS Health Dept. Directors, Ashley
Hartman, Judge Martin J. Devries, Michael Robert Devitt, David
Kianovsky, Tia Williams, Wendy McGurk, Sabrina, and Foster
Parents

Smith v. Dodge County Human Services · No. Case No. 25-CV-1428-JPS · Decided May 18, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin denied Atom J. Smith’s motions to reconsider dismissal of his amended complaint for lack of subject matter jurisdiction. The court held that the domestic-relations exception continued to bar claims arising from custody, child support, paternity, and termination-of-parental-rights proceedings, and denied his renewed motion for appointed counsel as moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	A. P. Stadtmueller
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	May 18, 2026
DOCKET	Case No. 25-CV-1428-JPS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the dismissal of his amended complaint for lack of subject matter jurisdiction and renewed his motion for appointment of counsel. The district court denied both reconsideration motions and denied the renewed counsel motion as moot.
STANDARD OF REVIEW	A motion for reconsideration is granted only in rare circumstances, including a patent misunderstanding of a party, a decision outside the

adversarial issues, an error of apprehension, a controlling or significant change in law or facts, or a manifest error of law or fact.

PRECEDENTIAL VALUE

unpublished

TOPICS

motion for reconsideration

subject matter jurisdiction

family law

section 1983

civil procedure

PRACTICE AREAS

civil procedure

civil rights

family law

QUESTIONS PRESENTED

1. Whether Plaintiff's motions for reconsideration established a permissible ground for reconsidering the prior dismissal.
2. Whether the domestic-relations exception continued to deprive the federal court of subject matter jurisdiction over claims concerning custody, paternity, child support, and related state proceedings.
3. Whether Plaintiff's renewed motion for appointment of counsel was moot after the court declined to alter the dismissal.

HOLDINGS

1. The motions for reconsideration were properly denied because Plaintiff did not identify a rare circumstance, controlling change in law or facts, or manifest error warranting reconsideration, and his arguments largely rehashed matters previously addressed or that could have been raised earlier.
2. The domestic-relations exception barred the action because Plaintiff continued to seek relief related to state custody, paternity, child-support, and parental-rights proceedings; the federal court therefore lacked subject matter jurisdiction.
3. The renewed motion to appoint counsel was moot because the court found no basis to disturb the prior dismissal for lack of subject matter jurisdiction.

KEY QUOTATIONS

"Motions for reconsideration are, as a general matter, granted only in rare circumstances."

"Reconsideration is not an appropriate forum for rehashing previously rejected arguments or arguing matters that could have been heard during the pendency of the previous motion."

"Lastly, and most importantly, the Court held that regardless of the other reasons, the action was barred in any instance because the "Court lack[ed] subject matter jurisdiction altogether . . . as a result of the domestic-relations exception to federal jurisdiction.""

FACTUAL BACKGROUND

Plaintiff sought federal relief arising from state-court proceedings involving paternity, child support, custody, and termination of parental rights. His reconsideration motions asserted that defendants were state actors, challenged the handling of the state proceedings, and sought damages for the removal of his son from his custody and resulting emotional distress. The court determined that the requested relief remained related to custody and child-support proceedings.

PROCEDURAL HISTORY

The court had previously dismissed Plaintiff's amended complaint without prejudice for lack of subject matter jurisdiction, relying principally on the domestic-relations exception and also citing the state-actor requirement, judicial immunity, and the Rooker-Feldman doctrine. Plaintiff filed two motions to reconsider and renewed his request for appointed counsel. The court concluded that the motions did not establish any basis for reconsideration and that the action remained barred by the domestic-relations exception.

DISPOSITION

other

CASES CITED

- Bank of Waunakee v. Rochester Cheese Sales, Inc., 906 F.2d 1185, 1191 (7th Cir. 1990)
- Above the Belt, Inc. v. Mel Bohannon Roofing, Inc., 99 F.R.D. 99, 101 (E.D. Va. 1983)
- Rothwell Cotton Co. v. Rosenthal & Co., 827 F.2d 246, 251 (7th Cir. 1987)
- Keene Corp. v. International Fidelity Insurance Co., 561 F. Supp. 656, 665–66 (N.D. Ill. 1982)
- Rosenthal & Co. v. Rothwell Cotton Co., 835 F.2d 710 (7th Cir. 1987)
- Caisse Nationale de Credit Agricole v. CBI Industries, Inc., 90 F.3d 1264, 1270 (7th Cir. 1996)
- In re Oil Spill, 794 F. Supp. 261, 267 (N.D. Ill. 1992)
- Bally Export Corp. v. Balicar Ltd., 804 F.2d 398, 404 (7th Cir. 1986)
- Rehberg v. Paul, 566 U.S. 356, 363 (2012)
- O'Grady v. Marathon County Child Support Agency, No. 03-C-700-C, 2004 WL 257104, at *1 (W.D. Wis. Feb. 3, 2004)
- Wright v. Tackett, 39 F.3d 155, 158 (7th Cir. 1994) (per curiam), cert. denied, 513 U.S. 1150 (1995)

OPINION

Atom J. Smith v. Dodge County Human Services, Kelly M. Enright, Evan D. Berbe, Sabrina Nehr, Katie Gordon, Nick Hafenstein, Katherine Hafenstein, Sgt. Stocks, Horicon Police Department, Lisa L. Grycowski, Rylee Umland, DCHS Health Dept. Directors, Ashley Hartman, Judge Martin J. Devries, Michael Robert Devitt, David Kianovsky, Tia Williams, Wendy McGurk, Sabrina, and Foster Parents

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

ATOM J. SMITH,

Plaintiff, Case No. 25-CV-1428-JPS -JPS v.

ORDER

DODGE COUNTY HUMAN

SERVICES, KELLY M. ENRIGHT,

EVAN D. BERBE, SABRINA NEHR,

KATIE GORDON, NICK

HAFENSTEIN, KATHERINE

HAFENSTEIN, SGT. STOCKS,

HORICON POLICE DEPARTMENT,

LISA L. GRYCOWSKI, RYLEE

UMLAND, DCHS HEALTH DEPT.

DIRECTORS, ASHLEY HARTMAN,

JUDGE MARTIN J. DEVRIES,

MICHAEL ROBERT DEVITT, DAVID

KIANOVSKY, TIA WILLIAMS,

WENDY MCGURK, SABRINA, and

FOSTER PARENTS,

Defendants. Before the Court is pro se Plaintiff Atom J. Smith's ("Plaintiff") first and second motions to reconsider the Court's dismissal of his complaint for lack of subject matter jurisdiction, ECF Nos. 20 and 21, and his renewed motion to appoint counsel, ECF No. 22, which the Court previously denied as moot, ECF No. 18 at 10. For the reasons discussed herein, the Court will deny each of these motions. Motions for reconsideration are, as a general matter, granted only in rare circumstances. *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990) (citing *Above the Belt, Inc. v. Mel Bohannon Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983)). They are appropriate in very few contexts, such as where the Court has "patently misunderstood a party," "has made a decision outside the adversarial issues presented to the Court," "has made an error not of reasoning but of apprehension," or where there has been a "controlling or significant change in the law or facts since the submission of the issue to the Court." *Id.* (quoting same). Such motions may also serve to correct "manifest errors of law or fact." *Rothwell Cotton Co. v. Rosenthal & Co.*, 827 F.2d 246, 251 (7th Cir. 1987) (quoting *Keene Corp. v. Int'l Fidelity Ins. Co.*, 561 F. Supp. 656, 665–66 (N.D. Ill. 1982), *aff'd*, 736 F.2d 388 (7th Cir. 1984)), opinion amended on denial of reh'g sub nom. *Rosenthal & Co. v. Rothwell Cotton Co.*, 835 F.2d 710 (7th Cir. 1987). "Reconsideration is not an appropriate forum for rehashing previously rejected arguments or arguing matters that could have been heard during the pendency of the previous motion." *Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996) (citing *In Re Oil Spill*, 794 F. Supp. 261, 267 (N.D. Ill. 1992), *aff'd*, 4 F.3d

997 (7th Cir. 1993), and *Bally Export Corp. v. Balicar Ltd.*, 804 F.2d 398, 404 (7th Cir. 1986)). The Court dismissed Plaintiff's Amended Complaint on several bases. First, it reasoned that several of the individual defendants were not state actors, such that they could not be sued under § 1983. ECF No. 18 at 5–6. Next, it explained that any claim against defendant Judge Martin J. Devries in his official capacity for damages pursuant to § 1983 could not proceed because he is absolutely immune to such claims. *Id.* at 6 (citing *Rehberg v. Paul*, 566 U.S. 356, 363 (2012)). Third, the Court held that the Rooker-Feldman doctrine precluded the Court from hearing what appeared to be a request to review the outcome of various state court proceedings. *Id.* at 6–7 (citing *O'Grady v. Marathon Cnty. Child Support Agency*, No. 03-C-700- C, 2004 WL 257104, at *1 (W.D. Wis. Feb. 3, 2004) and *Wright v. Tackett*, 39 F.3d 155, 158 (7th Cir. 1994) (per curiam), cert. denied, 513 U.S. 1150 (1995)). Lastly, and most importantly, the Court held that regardless of the other reasons, the action was barred in any instance because the “Court lack[ed] subject matter jurisdiction altogether . . . as a result of the domestic-relations exception to federal jurisdiction.” *Id.* at 7. The Court explained that it has no jurisdiction to hear any case that would interfere with the state matters of divorce, custody, or child support.¹ *Id.* at 7–9. Plaintiff's motions for reconsideration appear to address several of the Court's bases for dismissal,² but fatally, the motions still make clear that Plaintiff is seeking relief related to custody and child support proceedings. ECF No. 20 at 1 (referencing a “closed Paternity/child support case”); *id.* (providing a case number for a termination of parental rights case); *id.* (discussing “his rights [being] taken away,” presumably related to his son); *id.* (mentioning that “[t]here is no appeal for [p]aternity and [c]hild support [rulings]”); ECF No. 21 at 1 (asserting that Plaintiff is owed damages as a 1The Court also questioned whether Plaintiff's claims were improperly joined. ECF No. 18 at 9. Plaintiff's first motion for reconsideration asks for “permission . . . to file separate suits [against] the defendants.” ECF No. 20 at 1. Because the case is still subject to dismissal, as the Court noted in its original order, such relief would be moot. 2For example, Plaintiff seems to address the Court's concern about him attempting to sue private actors under § 1983 by listing several of the individual defendants, noting some of their employments, and stating that they “are all in fact ‘state actors’ in [D]odge [C]ounty.” ECF No. 20 at 1. He asserts that there is no appeal available to him related to his paternity and child support proceedings, *id.* at 1, presumably in response to the Court's direction that “if [he] wishes to contest the State's handling of his child's custody, his remedy is to appeal within the state court system.” ECF No. 18 at 8 (internal quotation marks, bracketing, and citation omitted). He also states in conclusory fashion that he is not “seeking a reversal [of] a state court judgment.” ECF No. 20 at 1–2. “consequence[.]” for proceedings that removed his son from his custody and “for years of anxiety and anguish that [he] suffered as a result of not being immediately told where [his son] was being sequestered”); *id.* (referencing a “father's federal constitution[al] claims”). Accordingly, the Court remains convinced that the domestic-relation exception applies to this action, and the Court therefore lacks subject matter jurisdiction. The Court is sympathetic to Plaintiff's perceived frustration with his various

proceedings in state court, but that does not change its lack of jurisdiction; Plaintiff must seek relief in the proper venues. In addition to moving to reconsider, Plaintiff again moves the Court to appoint counsel on his behalf. Because the Court has found no basis to alter its earlier order dismissing this case without prejudice for lack of subject matter jurisdiction, Plaintiff's renewed motion to appoint counsel is moot and will therefore be denied. Accordingly, IT IS ORDERED that Plaintiff Atom J. Smith's motions for reconsideration, ECF Nos. 20 and 21, be and the same are hereby DENIED; and IT IS FURTHER ORDERED that Plaintiff Atom J. Smith's renewed motion to appoint counsel, ECF No. 22, be and the same is hereby DENIED as moot. Dated at Milwaukee, Wisconsin, this 18th day of May, 2026. BY THE COURT:

AAV V2

AR P. Stadtmueller 'S. District Judge Page 4 of 4