

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Khaled Shabani v. City of Madison

No. 20-1452, United States Court of Appeals for the Seventh Circuit (November 4, 2020)

SUMMARY

The Seventh Circuit dismissed Shabani's appeal as frivolous and sanctioned him for abusing the privilege to proceed in forma pauperis. The court held it lacked jurisdiction to review the district court's denial of his motion to reopen because Shabani failed to file a separate notice of appeal from that order. Key topics include claim preclusion for false arrest, inadequate appellate briefing under Fed. R. App. P. 28(a)(8)(A), and revocation of in forma pauperis status for persistent frivolous litigation.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	FRANK H. EASTERBROOK, Circuit Judge; MICHAEL S. KANNE, Circuit Judge; DIANE P. WOOD, Circuit Judge
JURISDICTION	Federal
DECIDED	November 4, 2020
DOCKET	20-1452
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from summary judgment granted to defendants.
PRECEDENTIAL VALUE	Unpublished
PARTIES	Khaled Shabani v. City of Madison, et al.

TOPICS

- civil rights
- section 1983
- summary judgment
- appellate jurisdiction
- fourth amendment
- sanctions

QUESTIONS PRESENTED

- Whether the district court erred in denying Shabani's motion to reopen the case to submit evidence
- Whether Shabani's appeal presents any basis for disturbing the summary judgment decision

HOLDINGS

1. The court lacks jurisdiction to review the denial of the motion to reopen because Shabani filed the motion after his notice of appeal and did not file a separate notice of appeal from that order.
2. Shabani's appeal is frivolous because his brief fails to develop any argument with citations to authority, as required by Fed. R. App. P. 28(a)(8)(A).
3. Shabani's persistent filing of frivolous lawsuits constitutes abuse of the in forma pauperis privilege, and his IFP status is revoked for all future civil suits in the circuit.

KEY QUOTATIONS

“But we lack jurisdiction to review this denial because Shabani filed his motion to reopen after filing his notice of appeal. His failure to file a separate notice of appeal from that decision means that we cannot review it.” (Page 2)

“a brief must contain an argument consisting of more than a generalized assertion of error, with citations to supporting authority.” (Page 2)

FACTUAL BACKGROUND

Shabani brought several lawsuits against the City of Madison and its police officers, alleging false arrest, failure to intervene, excessive force, and retaliation. The district court granted summary judgment to defendants, concluding that the false-arrest claim was barred by claim preclusion and unsupported by evidence, and other claims lacked evidentiary support.

PROCEDURAL HISTORY

The district court entered summary judgment for defendants on Shabani's claims of false arrest, failure to intervene, excessive force, and retaliation. Shabani appealed, then moved to reopen the case to submit evidence. The district court denied the motion. Shabani's notice of appeal was already filed, so the Seventh Circuit found it lacked jurisdiction to review the denial of the motion to reopen. The brief failed to develop any specific errors in the summary judgment decision, so the appeal was dismissed as frivolous.

DISPOSITION

dismissed

CASES CITED

- Anderson v. Hardman, 241 F.3d 544 (7th Cir. 2001)
- Sosebee v. Astrue, 494 F.3d 583 (7th Cir. 2007)

OPINION

PER CURIAM.

United States Court of Appeals For the Seventh Circuit Chicago, Illinois 60604 Submitted November 2, 2020* Decided November 4, 2020 Before FRANK H. EASTERBROOK, Circuit

Judge MICHAEL S. KANNE, Circuit Judge DIANE P. WOOD, Circuit Judge No. 20-1452 KHALED SHABANI, Appeal from the United States District Plaintiff-Appellant, Court for the Western District of Wisconsin. v. No. 19-cv-65-bbc CITY OF MADISON, et al., Barbara B. Crabb, Defendants-Appellees.

Judge. ORDER This is one of several lawsuits that Khaled Shabani brought against the City of Madison and its police officers. He asserts that, on various occasions, officers falsely arrested him, failed to intervene to prevent an officer's use of excessive force against him, and retaliated against him for his prior suits.

The district court entered summary judgment for the defendants, concluding that his false-arrest claim was barred by the doctrine of claim preclusion and unsupported by any evidence, and that his remaining claims also lacked evidentiary support. He filed a notice of appeal, but later moved to * We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments and oral argument would not significantly aid the court.

FED. R. APP. P. 34(a)(2)(C). No. 20-1452 Page 2 reopen the case so that he could submit evidence. The district court noted that Shabani neither substantiated his motion nor specified the relief he sought, so it denied the motion. Construing Shabani's appellate brief liberally, see *Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001), we discern only one argument: that the district court's allegedly erroneous denial of his motion to reopen prevented him from introducing evidence to defeat summary judgment.

But we lack jurisdiction to review this denial because Shabani filed his motion to reopen after filing his notice of appeal. His failure to file a separate notice of appeal from that decision means that we cannot review it. See *Sosebee v. Astrue*, 494 F.3d 583, 590 (7th Cir. 2007). Otherwise, Shabani's brief fails to develop any basis for disturbing the district court's judgment.

He does not specify any errors in the court's decision, nor does he engage the court's rationale for ruling against him. As we have explained, "a brief must contain an argument consisting of more than a generalized assertion of error, with citations to supporting authority." *Anderson*, 241 F.3d at 545, see also Fed. R. App. P. 28(a)(8)(A). This appeal is frivolous.

And it is just one among many frivolous suits that Shabani has filed in the past few years. He lost a suit in 2016 against the Madison Police Department and did not appeal. He filed two suits this year that were promptly dismissed by the district judge as frivolous, and in each the judge certified that an appeal also would be frivolous. Shabani appealed anyway, but this court agreed with the judge in each of those cases and denied his motions to proceed in forma pauperis.

Meanwhile Shabani has filed and lost at least eight similar suits in state court. It is thus evident that he is abusing the privilege of litigating in forma pauperis. We now order that in all of his

future civil suits—in district courts of this circuit, as well as in the court of appeals—he prepay the filing fees in full.

In other words, his entitlement to litigate in forma pauperis is revoked because of his persistent misuse of that option. DISMISSED