NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted January 16, 2024*
Decided January 24, 2024

Before

DIANE S. SYKES, *Chief Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-2380

WILLIAM C. FROEMMING,
Plaintiff-Appellant,

v.

CITY OF WEST ALLIS, et al.,
Defendants-Appellees.

Appeal from the
United States District Court for the
Eastern District of Wisconsin.

No. 19-CV-996-JPS

J. P. Stadtmueller,
Judge.

O R D E R

William Froemming sued the City of West Allis, Wisconsin, its police chief, and three police officers raising several constitutional claims under 42 U.S.C. § 1983 stemming from his arrest, including claims for excessive use of force, retaliation, and malicious prosecution. Pretrial rulings narrowed the case to the excessive-force claim and the question of municipal liability. At trial the judge directed a verdict for the police

* We have agreed to decide the case without oral argument because the appeal is frivolous. FED. R. APP. P. 34(a)(2)(A).

chief and the City on municipal liability, and the jury found for the officers on the excessive-force claim. Froemming appeals, asserting that the judge was biased against him. This argument is frivolous, so we affirm the judgment and grant the defendants' motion for sanctions against Froemming.

The events underlying this lawsuit took place in the summer of 2016 when a police officer observed Froemming parked in a rental car on the side of the road at around 3 a.m. The car lights were on, and Froemming was sleeping inside. The officer knocked on the window, asked Froemming to roll it down, and tried to question him. Because Froemming was confrontational and uncooperative, the officer called for backup. Froemming refused to comply with the officers' instructions, and eventually the officers physically removed him from the car and placed him under arrest. He was charged with and convicted of several municipal offenses, including refusing a breathalyzer test, resisting an officer, and possessing THC.

Froemming then filed this pro se § 1983 action alleging that the officers used excessive force, retaliated against him, and maliciously prosecuted him based on perjured testimony and falsified evidence, all in violation of his rights under the First, Fourth, and Fourteenth Amendments. He also named the police chief and the City as defendants, claiming that the police department had a pattern or practice of violating people's constitutional rights in this way. After years of contentious litigation, only the excessive-force and municipal-liability claims remained for trial.

Before trial Froemming filed a motion alleging misconduct by opposing counsel and the judge. He argued that one of the defense attorneys should be removed from the case, alleging that she repeatedly lied to him and the court. He also claimed that the judge was biased and sought his recusal from the case. The judge denied the motion across the board because it was unsupported by the record or any legal authority.

The trial lasted two days. Froemming presented his case on the first day, primarily questioning the individual defendants with the apparent aim of demonstrating that they were lying about what occurred on the night of his arrest and afterward. While examining the police chief, Froemming inquired about a letter the chief had written responding to his complaints about the officers. Froemming contended that the chief was perjuring himself by contradicting the letter. He was permitted to question the chief about the letter, but he never offered it as evidence, so it was not published to the jury. After Froemming repeatedly asked about what he insisted were contradictions between the chief's testimony and the letter, the judge directed him to move on. At the end of Froemming's case-in-chief, the judge entered a

directed verdict for the police chief and the City on the municipal-liability claim, leaving only the excessive-force claim for the jury.

On the second day of trial, Froemming appeared in court with a bandage on his head from an overnight injury. He claimed that he had been attacked the night before and insinuated that the defense lawyers had arranged the assault. He was agitated, combative, and smelled of alcohol; he repeatedly violated the court security officer's orders to stay away from the defense table. Additional security officers were summoned to the courtroom to assist. Froemming sought a delay based on the alleged "attack" and his injury, but the judge said the trial would proceed. When the jury was brought into the courtroom to resume the trial, Froemming demanded a mistrial, accused one of the defense attorneys of lying, and repeated his claim of being attacked in retaliation for filing the lawsuit. The judge excused the jury and declined to grant a mistrial. Froemming then refused to participate and left the courthouse. The judge elected to move forward with the trial, sending the jury to deliberate without a closing argument from Froemming. The jury returned a verdict for the defendants.

Froemming filed a posttrial motion again seeking a mistrial based on the alleged "attack," which he continued to claim had been orchestrated by the defense attorneys. He also argued that the judge wrongly excluded the police chief's letter from evidence, hampering his cross-examination. The defendants, in turn, sought sanctions against Froemming for filing frivolous claims and motions and other litigation misconduct.

The judge denied Froemming's mistrial motion. Starting with the argument about an overnight assault during the trial, the judge found that Froemming's claim was conclusively refuted by extensive video evidence the defendants had obtained from security cameras at the hotel across the street from the courthouse, where Froemming had stayed during trial, and other businesses nearby. As the judge explained in painstaking detail, the video evidence plainly showed that Froemming had not been attacked on the night in question but rather had been drunk and fell face down on the sidewalk while wandering the streets in the middle of the night. The video evidence also included bodycam video from Milwaukee police officers who responded to a call by a passing motorist who stopped to assist Froemming with his head injury. The bodycam video showed Froemming in a highly intoxicated, argumentative, and incoherent state, unable to remember how he was injured.

The judge also rejected the claim of evidentiary error regarding the police chief's letter, explaining that he had given Froemming ample opportunity to cross-examine the chief about it and had not precluded its introduction into evidence. (Froemming had

failed to offer the letter into evidence at all.) Finally, the judge determined that sanctions were warranted based on Froemming's egregious and persistent litigation misconduct, including (among other things): "repeatedly disparaging opposing counsel without foundation, misrepresenting events, demonstrating a lack of decorum and civility, and needlessly and baselessly delaying proceedings." The judge therefore granted the sanctions motion and ordered Froemming to pay the costs of empaneling the jury and the defendants' costs and attorney's fees related to the motion for a mistrial.

On appeal Froemming argues that the judge was biased and should have declared a mistrial and recused himself from the case; he requests a new trial before a different judge. His brief does not dispute the jury's verdict, develop a substantive argument for reversal, or otherwise meaningfully engage with the substance of the trial. So the defendants moved for dismissal or summary affirmance, as well as sanctions, FED. R. APP. P. 38, based on Froemming's baseless claim of judicial bias and his failure to develop an argument or provide legal authority in support of reversal. Among other defects in Froemming's brief, the defendants highlighted that nearly all of the legal citations were fabricated. We opted to take the motion with the merits of the appeal.

As we've just noted, apart from his allegations about the judge, Froemming has not developed a coherent substantive challenge to the outcome of the trial and has therefore waived any other arguments, including his undeveloped accusation of discovery misconduct against the defendants' attorneys. *See Shipley v. Chi. Bd. of Election Comm'rs*, 947 F.3d 1056, 1062–63 (7th Cir. 2020).

Froemming's claim of judicial bias is frivolous. He complains that the judge deprived him of the opportunity to introduce the police chief's letter into evidence and refused to stop the trial after he was "attacked" in retaliation for pursuing this case. First, the judge did not exclude the letter. Froemming never offered it as a trial exhibit. Moreover, Froemming was permitted to use the letter for impeachment, and over the defendants' objections, he extensively questioned the police chief about it. *See generally* FED. R. EVID. 613. Second, the judge's decision to move forward with the trial despite Froemming's "attack" claim is not evidence of bias. The claim was patently incredible and indeed was conclusively refuted when the defendants later produced security and bodycam video evidence clearly showing that Froemming had not been attacked but rather was injured when he stumbled and fell while wandering aimlessly in the area around his hotel in a highly intoxicated state.

In short, Froemming's claim of judicial bias is wholly unsupported and, on this record, a flagrant abuse of the judicial process. There is no evidence whatsoever of a

disqualifying conflict of interest or other grounds for recusal under 28 U.S.C. § 455(a) or (b). Adverse rulings are not evidence of bias. *See United States v. Walsh*, 47 F.4th 491, 499 (7th Cir. 2022) (citing *Liteky v. United States*, 410 U.S. 540, 555 (1994)). Froemming points to a few exasperated remarks by the judge, but "judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge." *Liteky*, 510 U.S. at 555.

Far from being evidence of bias, *see id*., any expressions of frustration by the judge were quite measured and completely understandable given Froemming's abusive conduct. To repeat, Froemming was persistently disruptive and abrasive, and he made wild and baseless accusations of misconduct by opposing counsel and the court. The judge showed considerable patience with Froemming's obstreperous behavior during lengthy and contentious pretrial litigation and at trial, but he reasonably put his foot down when Froemming's antics delayed the jury's entrance into the courtroom or occurred in the jurors' presence. *See United States v. Barr*, 960 F.3d 906, 921 (7th Cir. 2020) (explaining that a judge expressing "dissatisfaction, annoyance, or even anger" with an attorney is not grounds for recusal).

That brings us to the defendants' motion for Rule 38 sanctions. Froemming's appellate brief consists of unfounded allegations against the district judge and defense attorneys, and his tone is inflammatory and antagonistic, continuing the pattern of misconduct he exhibited in the district court. Additionally, his brief contains numerous citations to cases and other sources that do not exist and false quotations from ones that do. Froemming asserts that any shortcoming in his research or briefing are honest mistakes caused by his "lack of complete knowledge and experience." Given his long pattern of misconduct in this case, that defense is utterly unconvincing. The district judge warned Froemming several times that he must cease his frivolous filings and requests and belligerent conduct at trial. When the warnings went unheeded, the judge ultimately imposed financial sanctions that Froemming has failed to pay. Repeated warnings and sanctions did not deter Froemming from continuing the same misconduct on appeal.

Accordingly, we fine Froemming $5,000. Within 14 days of this order, Froemming must tender a check payable to the Clerk of this Court for the full amount of the sanction. Further, the clerks of all federal courts in this circuit shall return unfiled any papers submitted either directly or indirectly by or on behalf of Froemming until he pays the full sanction. *See Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995); FED. R. APP. P. 38. This filing bar excludes criminal cases and applications for writs of

habeas corpus, *see Mack*, 45 F.3d at 186–87, and will be lifted immediately once Froemming makes full payment, *see In re City of Chicago*, 500 F.3d 582, 585–86 (7th Cir. 2007). If despite his best efforts Froemming is unable to pay in full all outstanding sanctions, he is authorized to submit to this court a motion to modify or rescind this order no earlier than two years from the date of this order. *See id.*; *Mack*, 45 F.3d at 186.

The judgment is AFFIRMED and the motion for Rule 38 sanctions is GRANTED as described above. The motion to dismiss or summarily affirm is DENIED as unnecessary.