

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

JOHN ALAN SAKON	:	NO. 3:22-cv-00897 (AWT)
<i>Plaintiff</i>	:	
	:	
v.	:	
	:	
STATE OF CONNECTICUT,	:	
TAMMY NGUYEN-O'DOWD	:	
<i>Defendants</i>	:	JANUARY 31, 2023

**REPLY MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO
DISMISS PLAINTIFF'S AMENDED COMPLAINT**

The Americans with Disabilities Act (ADA) is not a mechanism for litigants dissatisfied with state court judgments to seek review of those judgments by federal district courts. That is exactly what Plaintiff John Alan Sakon attempts to do here. Plaintiff claims he was harmed when the Connecticut Superior Court entered an order closing evidence in a custody trial and issued a custody judgment in that trial and seeks that this Court “[p]rovide injunctive relief against decree that violated ADA, fails due process, discriminates against plaintiff and his son.” Am. Compl. (ECF No. 30) p.6. He further seeks money damages for harms arising from the challenged order and judgment. Plaintiff’s claims are clearly barred by the *Rooker-Feldman* doctrine, the Eleventh Amendment, the family relations abstention doctrine, and judicial immunity. Even if they were not, Plaintiff has failed to plead facts sufficient to state a claim under the ADA or 42 U.S.C. § 1983. Nothing in Plaintiff’s Opposition memorandum (ECF No. 36) alters those conclusions.

I. The *Rooker-Feldman* Doctrine Bars Plaintiff's Claims Because They Rest on State Court Judgments.

Contrary to Plaintiff's assertion, Opp. p.2, *Rooker-Feldman* bars Plaintiff's claims. Plaintiff's bare assertion that his Amended Complaint "deals with an act of retaliation and discrimination, not review of state court ruling," *id.*, is entirely unavailing. The retaliatory and discriminatory actions alleged by Plaintiff are an order and a custody judgment of the Superior Court. Plaintiff seeks an injunction against the state custody judgment and any money damages he seeks would require this Court to find void that judgment. Am. Compl. p.6. For the reasons stated in Defendants' Memorandum in Support of their Motion to Dismiss (ECF No. 33-1) (MIS MTD), the elements of *Rooker-Feldman* are clearly satisfied, and Plaintiff's claims are barred.

The lone case cited by Plaintiff in his Opposition does not support a conclusion that the *Rooker-Feldman* doctrine does not apply in the context of an ADA claim arising from a state court case. *Sung Cho v. City of New York*, 910 F.3d 639, 644 (2d Cir. 2018), did not involve the ADA at all. Further, *Sung Cho* does not stand for the proposition that a federal litigant can challenge the actions of a state judge in a state court case under any circumstances. In *Sung Cho* the Second Circuit held that *Rooker-Feldman* did not bar a claim brought against *a city* for actions that led to a settlement between plaintiffs and the city that was simply ratified in state court. *Id.* No claim was brought against the state court or its judges. *Id.* Indeed, the Second Circuit contrasted the case with others where plaintiffs brought cases challenging the actions of state-court judges or arising from state court proceedings. *Id.* at 645 n.5

and n.6. Those cases include a case arising from this District affirming the dismissal of a claim brought pursuant to the ADA against the Connecticut Judicial Branch. *Id.* at 645 n.5; *Richter v. Conn. Judicial Branch*, 600 Fed App'x 804 (2d Cir. 2015) (Summary Order). This is entirely consistent with the cases cited by Defendants in support of their Motion to Dismiss. MIS MTD pp.12-13. Therefore, this Court should conclude that Plaintiff's claims are barred by the *Rooker-Feldman* doctrine.

II. Plaintiff Has Failed to Adequately Address in His Opposition Any Other Grounds for Dismissal.

The remainder of Plaintiff's Opposition lacks any legal citations or reference to specific facts in the Amended Complaint that would support the legal conclusions he states. Opp. pp.2-3. For example, Plaintiff cites no legal authority for the proposition that the family relations abstention doctrine "is irrelevant, as retaliation for exercising accommodation rights under the Act not being a family matter." *Id.* p.3. Regarding Defendant's analysis of Plaintiff's claims pursuant to Rule 12(b)(6), Plaintiff argues that "[f]ailure to state claims is false, the complaint of violation of the Act and deprivation of rights being properly before the court, claim for relief stated." *Id.* Plaintiff makes no attempt to identify the elements of his claims or the allegations in his Amended Complaint that demonstrate those elements. Lacking any such analysis or citation, this Court is left with no foundation to support Plaintiff's legal conclusions. This Court need not provide the foundation on behalf of Plaintiff. *See Drouillard v. Sprint/United Mgmt. Co.*, 375 F. Supp. 3d 245, 272 (E.D.N.Y. 2019) (Court need not address an issue "because Plaintiff's conclusory assertion, which lacks citation to relevant legal authority, is patently inadequate."). Even if this Court

were to consider Plaintiff's legal conclusions, which it should not, they fail for the reasons stated in Defendants' Memorandum. Therefore, this Court should dismiss Plaintiff's Amended Complaint in its entirety.

DEFENDANTS,

STATE OF CONNECTICUT

TAMMY NGUYEN-O'DOWD

WILLIAM TONG
ATTORNEY GENERAL

BY: /s/Alma Rose Nunley
Alma Rose Nunley (ct30610)
Assistant Attorney General
165 Capitol Ave., 5th Floor
Hartford, CT 06106
Tel: (860) 808-5020
Fax: (860) 808-5347
Alma.Nunley@ct.gov

CERTIFICATION

I hereby certify that on January 31, 2023, a copy of the foregoing was electronically filed. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Alma Rose Nunley
Alma Rose Nunley
Assistant Attorney General