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IN THE
COURT OF APPEALS OF INDIANA

Mario Sims,
Appellant-Plaintiff,

v.

Pete Buttigieg; Mike Schmul;
Tim Corbett; St. Joseph County,
by the Board of Commissioners
of St. Joseph County, Indiana;
City of South Bend, Indiana;
Stephanie Steele, as Corporation
Counsel for the City of South
Bend; Tasha Reed Outlaw; Ann-
Carol Nash; and Cristal Brisco,
Appellees-Defendants.

August 12, 2022

Court of Appeals Case No.
21A-CT-2309

Appeal from the
St. Joseph Circuit Court

The Honorable
John E. Broden, Judge

Trial Court Case No.
71C01-2109-CT-342

Friedlander, Senior Judge.

- [1] Mario Sims appeals the trial court’s order dismissing with prejudice his complaint against Appellees. Concluding the trial court properly dismissed Sims’ complaint, we affirm.
- [2] This is yet another action in Sims’ decades-long effort to show that his 1995 convictions for burglary, rape, and criminal deviate conduct are the result of a purported conspiracy against him within St. Joseph County. By October of 2003, Sims had been involved in at least forty-seven state court appeals, nearly all of which—civil and criminal—had been unsuccessful and were directly or indirectly related to his arrest, prosecution, conviction, or confinement for burglary, rape, and criminal deviate conduct. *Sims v. Scopelitis*, 797 N.E.2d 348, 349 n.2 (Ind. Ct. App. 2003), *trans. denied* (2004). Due to Sims’ continued filing of meritless actions, in *Scopelitis* we imposed conditions upon future lawsuits he may initiate. Assuredly, in these intervening years, Sims has initiated several more appeals, including the present action.
- [3] This time Sims claims the trial court improperly dismissed his complaint that alleges police misconduct in the form of planting evidence concerning his 1995 convictions and concealment of evidence of the misconduct by South Bend city officials. Sims filed his complaint and then moved for a default judgment. On October 15, the court issued an order dismissing the complaint with prejudice based on the doctrines of res judicata and collateral estoppel.

[4] Sims appealed that dismissal to this Court, and on December 10, we directed the trial court to issue an order clarifying whether Sims had complied with the conditions previously imposed on him in *Scopelitis*. After some delay, the trial court issued an order on February 18, 2022, stating that, while Sims had complied with the *Scopelitis* requirements, the court’s review of his complaint revealed it was subject to dismissal with prejudice as his claims were barred by the doctrines of collateral estoppel and law of the case. The court explained:

4. In reviewing the Verified Complaint, the Court **FINDS** that the proposed Verified Complaint at Law is barred by the doctrines of collateral estoppel and law of the case. The basic gravamen of the Verified Complaint is the same – it sues a similar cast of individuals – then Mayor Buttigieg, his Chief of Staff Mike Schmul, Tim Corbett, St. Joseph County, the City of South Bend, and two former corporation counsel for the City of South Bend, Cristal C. Brisco and Stephanie Steele. The Verified Complaint goes on to allege a host of conspiracies across various levels of local government but all centered on the actions of Defendant Corbett and the alleged fraudulent concealment of evidence and retaliation against Plaintiff. In fact, the only real “new” element as set out in the proposed Verified Complaint is the conduit of these actions which is a local news anchor and a reported conversation that she allegedly had with Defendant Corbett.

Appellant’s App. Vol. II, pp. 16-17. It is from this order that Sims now appeals.

[5] “There is no right to engage in abusive litigation.” *Zavodnik v. Harper*, 17 N.E.3d 259, 264 (Ind. 2014). Moreover, “the state has a legitimate interest in the preservation of valuable judicial administrative resources,” and “[e]very

resource that courts devote to an abusive litigant is a resource denied to other legitimate cases with good-faith litigants.” *Id.* In the interest of preserving these resources and apart from statutes or rules of court, “courts have inherent authority to impose reasonable restrictions on any abusive litigant.” *Id.* at 265 (quoting the *Scopelitis* requirements with approval).

[6] In *Scopelitis*, we exercised our inherent authority to restrict abusive litigants and determined:

With respect to any future lawsuits that arise directly or indirectly from any alleged conspiracy by public officials related to Sims’ arrest, prosecution, conviction or confinement for burglary, rape, and criminal deviate conduct, we impose the following conditions upon Sims: (1) Prior to filing any such lawsuit, Sims shall submit to the trial court a copy of the complaint he wishes to file; (2) Sims shall also file a copy of all of the relevant documents pertaining to the ultimate disposition of each and every previous case instituted by Sims against the same defendant or emanating, directly or indirectly, from any alleged conspiracy by public officials. This includes, but is not limited to, the complaint, any motions to dismiss or motions for summary judgment filed by the defendants in those actions, the trial court order announcing disposition of the case, and any opinions issued in the case by any appellate court; (3) Sims shall file a legal brief, complete with competent legal argument and citation to authority, explaining to the court why the new action is not subject to dismissal by application of the doctrines of res judicata, collateral estoppel, or law of the case. If, after reviewing these materials, the trial court determines that the proposed lawsuit is frivolous, malicious, fails to state a claim upon which relief may be granted, or is otherwise utterly without merit, the court shall dismiss with prejudice the proposed complaint; (4) Sims is required to verify his new complaint pursuant to Indiana Trial

Rule 11(B); and (5) Sims is specifically instructed to attach to such complaint a separate copy of this final section of the instant opinion.

797 N.E.2d at 352. We noted that these conditions are necessary to deter Sims' abuse of the judicial system because "Sims seems to have a penchant for litigation, regardless of the merits of his claims or prior adjudications of competent courts." *Id.*

[7] The gist of Sims' contention on appeal is that the trial court incorrectly dismissed his complaint because he "complied with *Scopelitis* and the trial court was required to allow the case to proceed." Appellant's Br. p. 20. We infer from his statement that Sims believes as long as he submits to the trial court all the materials required by *Scopelitis*, his lawsuit will be allowed to proceed. This is undoubtedly not the case. As indicated by the words "prior to filing any such lawsuit," the *Scopelitis* conditions are pre-filing screening requirements that are to be satisfied in order to allow the court to review Sims' claims and bar them from going forward if they are duplicative of his sundry previous actions and thus without merit. Therefore, simply submitting the required *Scopelitis* materials does not make approval for filing automatic; if that were the case, the screening process would be pointless.

[8] Here, the action was filed before the trial court performed its *Scopelitis* review. Presumably aware of his filing restrictions that have been in place since 2003, Sims filed this action without a determination by the court that his suit could go forward and then moved to default the defendants when they did not file an

answer to his complaint. In the meantime, the court performed its review and determined that the lawsuit is barred by the doctrines of collateral estoppel and law of the case, and the suit was dismissed with prejudice. After Sims appealed that dismissal order, the trial court clarified the results of its *Scopelitis* review and again ordered Sims' action dismissed with prejudice.

[9] Pursuant to the screening procedure set out in *Scopelitis*, this lawsuit should never have been filed. Nevertheless, there is no procedural error in the trial court performing its mandated *Scopelitis* review after the premature filing of the complaint. Further, because the trial court determined that Sims' claims in the complaint cannot go forward, the Appellees were not in default for not filing an answer or other responsive pleading as claimed by Sims in his appellate brief.

[10] To quell any further confusion regarding the *Scopelitis* procedure, we provide this clarification. With respect to any future lawsuits that arise directly or indirectly from any alleged conspiracy by public officials related to Sims' arrest, prosecution, conviction or confinement for burglary, rape, and criminal deviate conduct, Sims must first, prior to filing any such lawsuit, submit (i.e., not file) to the trial court his verified proposed complaint as required by *Scopelitis* conditions (1) and (4). With the proposed complaint, Sims must also submit to the trial court all the materials required by *Scopelitis* conditions (2), (3), and (5). The trial court will then review the complaint and accompanying materials and make a determination either that the lawsuit may be filed and go forward, or that the lawsuit is frivolous, malicious, fails to state a claim upon which relief may be granted, or is otherwise without merit and thus may not go forward. As

clearly specified in *Scopelitis*, this screening is intended to be a pre-filing procedure. If, however, a lawsuit is inadvertently filed prior to the screening by the trial court, the review outlined in *Scopelitis* and clarified here should take place as soon as practicable after filing. In such circumstances, if the trial court determines, upon completing its review, that the lawsuit is frivolous, malicious, fails to state a claim upon which relief may be granted, or is otherwise without merit, the court shall dismiss the complaint with prejudice.

[11] Finally, Sims alleges an improper basis for the trial court's October 15, 2021 dismissal order. He also claims the trial court improperly became an advocate for the defendants by moving for a dismissal on their behalf because the court's CCS entry for the October 15, 2021 dismissal order incorrectly states: "Order Granting Motion to Dismiss." Appellant's App. Vol. II, p. 6. Sims has previously appealed the October 2021 dismissal order to this Court. The order at issue in the current appeal is the trial court's February 18, 2022 dismissal order. Moreover, the inaccuracy in the trial court's CCS is simply a clerical error, and there is no indication otherwise.

[12] Based on the foregoing, we conclude the trial court properly dismissed Sims' complaint with prejudice.

[13] Judgment affirmed.

May, J., and Altice, J., concur.