

Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SUPREME COURT DOCKET NO. 2019-147

OCTOBER TERM, 2019

Andrew Straw* v. Village of Streamwood et al.	}	APPEALED FROM:
	}	
	}	Superior Court, Windsor Unit,
	}	Civil Division
	}	
	}	DOCKET NOS. 139/140/141-4-19
		Wrcv

Trial Judge: Michael R. Kainen

In the above-entitled cause, the Clerk will enter:

Plaintiff appeals pro se from the trial court’s dismissal of his complaints for lack of jurisdiction. We affirm.

Plaintiff filed three pro se complaints in April 2019. He sued: (1) the Illinois State Board of Elections asserting that he was discriminated against in his attempts to run for Congress from an Illinois district; (2) the State of Indiana, arguing that he was discriminated against based on his disability; and (3) the Village of Streamwood, Illinois, arguing that it violated the Americans with Disabilities Act (ADA) by piling snow in handicapped parking spaces. While there are slight variations in the court’s decisions, each complaint was dismissed for lack of personal jurisdiction over the parties.

In his complaints, plaintiff represented that he lived in Illinois between 2015 and June 2018. Since that time, he has lived in the Philippines, although his mail and return address came from an address in Westfield, Indiana. Plaintiff asserted a connection to Vermont in his complaints against the Illinois State Board of Elections and the Village of Streamwood because he had applied for public housing in Vermont and hoped to move to Vermont. In his complaint against the Illinois State Board of Election, he also indicated that he was seeking a U.S. House position that might “make law changes that would affect Vermont and all its disabled citizens.” In the suit against Indiana, he asserted that one of his ancestors was a founding father of Vermont and that his cousins were moving to Vermont. He reiterated his assertion that if he had won a congressional seat in Illinois, he might have worked on legislation favorable to Vermonters.

The court explained that its jurisdiction over nonresident defendants was governed by the Due Process Clause of the 14th Amendment to the U.S. Constitution. The court determined that it lacked personal jurisdiction over defendants here. Plaintiff did not allege that the Village of Streamwood had any continuous and systematic ties to Vermont. While plaintiff believed that Vermont would be a friendlier forum, the U.S. Supreme Court had never recognized such a purpose as conferring jurisdiction on a sister state. The court also rejected the notion that jurisdiction could be based on plaintiff’s intention to move to Vermont. The court engaged in a similar analysis with

respect to each complaint. As to plaintiff's claim against the Illinois State Board of Election, the court found plaintiff's assertion about actions he might have taken if elected to Congress was far too attenuated to confer jurisdiction on Vermont. Plaintiff's assertion that he could not get a fair trial in Midwest courts was similarly insufficient to establish personal jurisdiction over the State of Indiana. These consolidated appeals followed.

Plaintiff argues that the court does have the necessary jurisdiction to adjudicate his complaints. He maintains that he has no access to a fair forum in Illinois or Indiana. He suggests that he therefore has the right to pursue his complaints in Vermont and that his right to use the courts is guaranteed by constitution. As he did below, he cites Nevada v. Hall, 440 U.S. 410 (1979), in support of his position. He acknowledges that Hall was recently overruled but suggests that the overruling was arbitrary and capricious.

We find no error. Plaintiff does not have a statutory or constitutional right to sue nonresident defendants in our courts unless Vermont courts have personal jurisdiction over the nonresident defendant.¹ See State v. Atlantic Richfield Co., 2016 VT 22, ¶ 10, 201 Vt. 342 (“It is well settled that Vermont courts must have both statutory and constitutional power to exercise personal jurisdiction over a nonresident defendant.” (quotation omitted)). “Vermont’s long-arm statute, 12 V.S.A. § 913(b), confers jurisdiction over nonresident defendants to the full extent permitted by the Due Process Clause.” Dall v. Kaylor, 163 Vt. 274, 275 (1993). “The Due Process Clause . . . limits the power of a state court to render a valid personal judgment against a nonresident defendant.” Atlantic Richfield, 2016 VT 22, ¶ 12 (quotation omitted); see also Kulko v. Superior Court, 436 U.S. 84, 91 (1978) (“The Due Process Clause of the Fourteenth Amendment operates as a limitation on the jurisdiction of state courts to enter judgments affecting rights or interests of nonresident defendants.”); Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 918 (2011) (“A state court’s assertion of jurisdiction exposes defendants to the State’s coercive power, and is therefore subject to review for compatibility with the Fourteenth Amendment’s Due Process Clause.”).

A “court may exercise either general or specific jurisdiction over a nonresident defendant.” Fox v. Fox, 2014 VT 100, ¶ 27, 197 Vt. 466; see also 4 C. Wright & A. Miller, Fed. Prac. & Proc. § 1067.2 (4th ed.) (discussing personal jurisdiction). “General jurisdiction,” at issue here, “applies to suits not arising out of or related to the defendant’s contacts with the forum state.” Fox, 2014 VT 100, ¶ 27. “[T]o be subject to general jurisdiction in the forum state, the defendant’s ‘affiliations with the State’ must be ‘so continuous and systematic as to render them essentially at home’ there.” 4 C. Wright & A. Miller, supra, § 1067.5 (quoting Goodyear, 564 U.S. at 918). This is “a high burden to meet.” Id. § 1067.2. Specific jurisdiction is not applicable here and plaintiff fails to establish that the court has general jurisdiction over defendants. See 4 C. Wright & A. Miller, supra, § 1067.5 (“When the cause of action sued on does not arise from or relate to the defendant’s contacts with the forum state, an assertion of general jurisdiction must be predicated on contacts that are sufficiently continuous and systematic to justify haling the defendant into a court in that state.”).

Plaintiff offers no persuasive argument in support of jurisdiction. The federal cases he cites in support of his position are inapposite and they do not stand for the proposition that plaintiff has the right to file suit against a defendant in the state court of his choosing. Cf. Bill Johnson’s

¹ Because we resolve this case on the ground that Vermont courts do not have personal jurisdiction over the parties, we do not consider the scope of Vermont’s subject matter jurisdiction as it relates to plaintiff’s claims. Likewise, we note that plaintiff’s stated intent to move to Vermont in the future has no bearing on the court’s personal jurisdiction over defendants in this case.

Rests., Inc. v. N.L.R.B., 461 U.S. 731, 741 (1983) (making general observation that “the right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances”); Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 507 (1945) (noting the importance of giving a plaintiff “a choice of courts,” but reinstating the Southern District of New York’s dismissal for inconvenient forum of an action arising out of Lynchburg, Virginia). Even if it had not been overruled, Hall would not assist plaintiff here. See 440 U.S. at 424 (concluding that U.S. Constitution does not bar private suits against a state in courts of another state), overruled by Franchise Tax Bd. of Cal. v. Hyatt, 139 S. Ct. 1485, 1492 (2019) (holding “that States retain their sovereign immunity from private suits brought in the courts of other States”). The trial court’s decisions here were not based on immunity grounds. We conclude that plaintiff’s complaints were properly dismissed for lack of personal jurisdiction over defendants.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice