

FILED
06-20-2024
CIRCUIT COURT
DANE COUNTY, WI
2018CV003122

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,
Plaintiff,

vs.

Case No. 18CV3122

JAMES FETZER;
MIKE PALECEK;
WRONGS WITHOUT WREMEDIES, LLC;
Defendants.

**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SANCTIONS AND
ORDER TO SHOW CAUSE**

PLEASE TAKE NOTICE that Plaintiff, by Plaintiff's undersigned counsel, will appear before the Dane County Circuit Court, the Honorable Frank Remington presiding, on a date and time to be set by the Court, and seek an Order requiring Defendant Fetzter to show cause why he should not be held in contempt, and why appropriate sanctions should not issue, due to Defendant Fetzter's repeated failure to abide by the Court's Order that Mr. Fetzter follow the requirements of Wis. Stat. §801.19.

I. BACKGROUND

Defendant Fetzter has spent a decade harassing and vilifying Leonard Pozner. Despite admitting in open court the falsity of his reasons for claiming Noah Pozner's death certificate was fake, he continues to publish those statements on his website. Moreover, he continues to claim that Mr. Pozner, who sat before all of us in this courtroom for three days of trial, is not Mr. Pozner. Despite seven hours of deposition, a cross examination in front of a jury, and two rounds of DNA testing, including by the Court-appointed expert, Dr. Fetzter continues to frivolously assert that

Leonard Pozner is an imposter¹. In this Court and elsewhere, Fetzer has relentlessly pursued a strategy of publishing information to enable Fetzer's hoaxer followers to also harass and threaten Mr. Pozner.

Recently, Dr. Fetzer's cohorts, which include Wolfgang Halbig, who continues to email excerpts from Mr. Pozner's deposition video, and disbarred lawyer Alison Maynard, obtained Mr. Pozner's home address. True to form, Dr. Fetzer immediately filed (and then almost immediately withdrew) a frivolous brief at the United States Supreme Court that disclosed Mr. Pozner's home address.

Dr. Fetzer's most recent unhinged missive, filed with this Court on June 18, 2024, once again violates Wisconsin rules and statutes regarding filing protected information. Defendant Fetzer previously filed an unredacted image of Noah Pozner's passport. (*See* Doc. 85.) At the April 26, 2019 hearing, the Court Ordered Mr. Fetzer to not file the passport in its unredacted form. (Doc. 123 at 11:15-17.) The Court followed up on that oral directive with a written Order repeating the prohibition on filing protected information in unredacted forms. (*See* Doc. 129.) Despite those clear, unambiguous Orders, Dr. Fetzer has once again filed the unredacted passport image. (Doc. 603, Fetzer Aff., Exhibit O, at 139, 141.)

II. ARGUMENT

A. Legal Standard

Contempt for the violation of a court order arises from the court's inherent authority, but is constrained by, in this case, Wis. Stat. § 785 et seq. *See Frisch v Henrichs*, 304 Wis.2d 1, 19, 763 N.W.2d 85, 94-95 (2007). Contempt of court is defined to include intentional disobedience of

⁴Given the fact that the Court-appointed expert concluded that Mr. Pozner is the father of Noah Pozner, Dr. Fetzer's argument that Noah Pozner is actually Noah's step-brother, Michael Vabner, is frivolous. (Doc. 231, at 86:23-87:2.)

the authority, process or order of a court. Wis. Stat. § 785.01(1)(b). Following notice and a motion and evidentiary hearing, a court may impose a remedial sanction. Wis. Stat. § 785.03(1)(a).

B. Dr. Fetzer's Egregious Violation Justifies A Severe Sanction Under § 805.03

Dr. Fetzer was aware of the Court's Order regarding Wis. Stat. § 801.19 and that he was prohibited from filing Noah Pozner's unredacted passport. A failure to follow a court order under Wis. Stat. § 805.03 need not be ongoing, but instead even a single act can give rise to a sanction, including dismissal of an action. *Morrison v. Rankin*, 305 Wis. 2d 240, 257, 738 N.W.2d 588, 596 (Ct. App. 2007).

C. The Court Can Find Defendant Fetzer is in Contempt and Issue a Remedial Sanction under Wis. Stat. § 785.03

Dr. Fetzer is in contempt and therefore the Court may impose a remedial sanction for his intentional violation of the Court's Order. Wisconsin Stat. § 804.12(2)(a)(4) allows the Court to treat the failure to obey a court order as a contempt of court. Contempt of court is governed by Wis. Stat. § 785.03.

Remedial sanctions under Wis. Stat § 785.03 focus on ending the harm to the victim resulting from noncompliance with the order. *Christensen v. Sullivan*, 307 Wis. 2d 754, 765, 746 N.W.2d 553, 559 (Wis. Ct. App. 2008), rev'd on other grounds, 320 Wis. 2d 76, 768 N.W.2d 798. Here, the harm that a remedial sanction for contempt should seek to end is the ability of Dr. Fetzer to file documents in violation of the Wisconsin Rules of Civil Procedure.

Wisconsin Stat. § 785.04 sets forth potential remedial sanctions for contempt. Those sanctions include (a) payment of money sufficient to compensate a party for a loss or injury suffered by the party as a result of a contempt of court; (b) imprisonment while the contempt is ongoing for up to six months; (c) forfeiture of up to \$2000 per day while the contempt continues; (d) and order designed to ensure compliance with a prior order; and (e) a sanction of than those

specified if the Court finds those sanctions would be ineffectual to terminate a continuing contempt. *Id.* In addition, the Court may award attorney fees and other litigation costs. *See Town of Seymour v. City of Eau Claire*, 112 Wis. 2d 313 (Ct. App. 1983).

1. Defendant Fetzter's Violation is Ongoing

Defendant Fetzter's contempt is ongoing. He has repeatedly filed Noah Pozner's unredacted passport in spite of clear, unequivocal orders prohibiting him from doing so. That has occurred as part of an overarching, pervasive strategy whereby Dr. Fetzter uses e-filing systems to spread confidential and protected information through absurdly frivolous filings.

2. A Meaningful Remedial Sanction Will Encourage Defendant Fetzter To Secure Compliance

Monetary sanctions will not secure Dr. Fetzter's compliance. A jury already awarded Mr. Pozner \$450,000. The Court awarded costs. (*See* Doc. 355.) As the Court is aware from Plaintiff's various garnishment and turnover actions, Dr. Fetzter is essentially judgment-proof. While incarceration is certainly a possibility, it is not clear that it would cause Dr. Fetzter to comply.

Given the paucity of options to secure compliance, Plaintiff requests that the Court order Fetzter to not file any document without first seeking review by either Plaintiff's counsel or the Court to ensure that the filing complies with the Wisconsin Rules of Civil Procedure, relevant statutes, and other prior court orders. Plaintiff also requests that the Court's purge condition require Defendant Fetzter to pay the costs and the attorney fees for time expended related to this motion.

III. CONCLUSION

Defendant Fetzter intentionally violated the plain, unambiguous language of the Court's April 26, 2019, Order. Accordingly, Plaintiff asks the Court for an order requiring Defendant Fetzter to show cause why he should not be held in contempt and why a sanction should not be imposed.

Dated: June 20, 2024

QUARLES & BRADY LLP

Electronically signed by Emily M. Feinstein

Emily M. Feinstein (WI SBN: 1037924)

emily.feinstein@quarles.com

33 East Main Street

Suite 900

Madison, WI 53703-3095

(608) 251-5000 phone

(608) 251-9166 facsimile

MESHBESHER & SPENCE LTD.

Genevieve M. Zimmerman (WI #1100693)

1616 Park Avenue South

Minneapolis, MN 55404

Phone: (612) 339-9121

Fax: (612) 339-9188

Email: gzimmerman@meshbesh.com

THE ZIMMERMAN FIRM LLC

Jake Zimmerman (*Pro Hac Vice*)

15 Crocus Hill

Saint Paul, MN 55102

Phone: (651) 983-1896

Email: jake@zimmerman-firm.com

Attorneys for Plaintiff Leonard Pozner