

STATE OF MICHIGAN
COURT OF APPEALS

RITA CHASTANG,

Plaintiff-Appellee,

v

JOHN ERIC SANDLES,

Defendant-Appellant.

UNPUBLISHED
January 22, 2015

No. 318640
Wayne Circuit Court
LC No. 13-009008-AS

Before: FORT HOOD, P.J., and HOEKSTRA and O'CONNELL, JJ.

PER CURIAM.

Defendant appeals as of right an order requiring defendant to seek approval from the Chief Judge of the Third Circuit before filing future lawsuits in the Third Circuit. Specifically, the order enjoined defendant “from filing any complaint or pleading in the Third Circuit Court without seeking and obtaining an order from the Chief Judge approving the filing of any complaint or pleading[.]” Because the circuit court had jurisdiction to consider plaintiff’s claim and the prefiling review requirements imposed by the circuit court did not violate defendant’s due process rights, we affirm.

This case arises from defendant’s history as a prolific litigant, which includes more than 80 federal cases filed since 1995. Many of these actions relate generally to defendant’s incarceration for two federal bank robbery convictions, one of which occurred in Michigan. See generally *United States v Sandles*, 469 F3d 508 (CA 6, 2006); *United States v Sandles*, 80 F3d 1145 (CA 7, 1996). On January 28, 2008, after defendant filed a frivolous complaint in the United States District Court for the Eastern District of Michigan, Judge Marianne O. Battani dismissed the action with prejudice and ordered that defendant “be and hereby is enjoined from filing future actions without first seeking and obtaining leave of court.” Thereafter, in an effort to evade Judge Battani’s order, defendant filed three lawsuits in Wayne Circuit Court in 2012. He did not seek leave of the federal court before filing any of the Wayne Circuit Court cases. The named defendants included judges, attorneys and prosecutors involved in defendant’s Michigan bank robbery conviction. The defendants removed the actions to federal court, where they were consolidated in a single action before Judge Patrick J. Duggan. Judge Duggan dismissed the action as frivolous, and as a violation of Judge Battani’s order, reiterating that defendant must seek leave before filing further claims. Defendant thereafter filed two more Wayne Circuit Court actions naming similar defendants. These cases were also removed to

federal court, where they were dismissed by Judges Sean F. Cox and Lawrence P. Zatkoff as violations of the orders previously entered by Judges Battani and Duggan.

Plaintiff, an attorney for the Federal Defender's Office, briefly represented defendant in connection with his Michigan bank robbery charge. Plaintiff has been included in several of defendant's lawsuits since 2007. Most relevant to the instant case, defendant named plaintiff as an opposing party in three of the five Wayne Circuit Court complaints he filed following Judge Battani's order.

Hoping to avoid further litigation, on July 10, 2013, plaintiff filed a complaint for "Supervisory Control by Chief Judge Virgil C. Smith Pursuant to MCR 8.110(C)(3)(a)[.]" Plaintiff requested that Judge Smith "exercise his administrative superintending authority" to direct the Wayne County Circuit Court clerk to refuse defendant's filings unless defendant first sought and obtained approval from the chief judge. Plaintiff later filed a motion for supervisory control over defendant, but this time requested that the trial court enter an order enjoining defendant from filing further complaints without first seeking permission from the Chief Judge to do so. On September 25, 2013, Chief Judge Smith entered an order granting plaintiff's motion and enjoined defendant "from filing any further complaint or pleading" in the Wayne Circuit Court without first "seeking and obtaining an order from the Chief Judge approving the filing of the complaint or pleading[.]" and specified that the order "resolves the last pending claim and closes the case." Defendant now appeals as of right.

On appeal, defendant first argues that the trial court lacked subject-matter jurisdiction to entertain plaintiff's claim.

A claim that the lower court lacks subject-matter jurisdiction is a question of law this Court reviews de novo. *Davis v Dep't of Corrections*, 251 Mich App 372, 374; 651 NW2d 486 (2002). "In general, subject-matter jurisdiction has been defined as a court's power to hear and determine a cause or matter." *In re Wayne Co Treasurer*, 265 Mich App 285, 291; 698 NW2d 879 (2005). The class of cases over which a circuit court has jurisdiction is described in the Michigan Constitution and by statute. Const 1963, art 6, § 13; MCL 600.605. Specifically, the Michigan Constitution provides:

The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with the rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court. [Const 1963, art 6, § 13.]

Similarly, by statute, "[c]ircuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state." MCL 600.605. In short, "[c]ircuit courts are courts of general jurisdiction," *Cherry Growers, Inc v Agricultural Marketing & Bargaining Bd*, 240 Mich App 153, 160; 610 NW2d 613 (2000), and they "are presumed to have subject-matter jurisdiction

unless jurisdiction is expressly prohibited or given to another court by constitution or statute,” *In re Wayne Co Treasurer*, 265 Mich App at 291.

Although defendant contests the circuit court’s jurisdiction in this case, he offers no statute or constitutional provision prohibiting circuit courts from exercising jurisdiction in an action to impose review requirements to limit the repetition of vexatious litigation by prolific litigators such as defendant, and we know of no such authority. Rather, as a court of general jurisdiction, the circuit court had subject-matter jurisdiction to hear civil cases such as plaintiff’s and to grant injunctive relief enjoining defendant’s pattern of improper conduct. See *Cherry Growers, Inc*, 240 Mich App at 160-161. See also *Feathers v Chevron USA, Inc*, 141 F3d 264, 269 (CA 6, 1998) (“[T]he general pattern of litigation in a particular case may be vexatious enough to warrant an injunction in anticipation of future attempts to relitigate old claims.” (citation omitted)). Indeed, it is well-established that, to protect the integrity of the judicial process, circuit and other state courts have inherent authority to sanction party misconduct, including a party’s bad-faith or vexatious use of court proceedings. *Prince v MacDonald*, 237 Mich App 186, 189; 602 NW2d 834 (1999); *Cummings v Wayne Co*, 210 Mich App 249, 251-253; 533 NW2d 13 (1995). Particularly in light of the circuit court’s inherent authority to sanction misuse of judicial proceedings, we can discern no reason why, as a court of general jurisdiction, the circuit court would lack subject-matter jurisdiction in a civil action to enjoin future vexatious lawsuits by defendant. Thus, the circuit court had subject-matter jurisdiction to determine plaintiff’s claim. See Const 1963, art 6, § 13; MCL 600.605.

On appeal, defendant specifically argues that the circuit court lacked jurisdiction because he had no claims pending against plaintiff in Wayne Circuit Court at the time plaintiff filed her complaint. This fact does not alter our jurisdictional analysis in this case. Plaintiff was the repeated sufferer of defendant’s frivolous filings and she initiated the present action to address defendant’s conduct. See MCR 2.101(B). Although defendant did not have a suit pending, given defendant’s history of vexatious litigation, nothing prohibited plaintiff, as a party injured by defendant’s conduct, from filing suit to enjoin defendant from filing additional frivolous actions in Wayne Circuit Court in the future. The trial court’s jurisdiction over this action was proper for the reasons discussed *supra*, and jurisdiction is not lacking merely because defendant did not initiate the present suit.

Defendant also maintains on appeal that the trial court lacked jurisdiction because he appealed orders in other cases, including the federal court orders imposing prefiling requirements and those appeals were not yet resolved. Contrary to this assertion, defendant’s efforts to appeal federal orders did not prevent the circuit court from entertaining plaintiff’s case or from entering the order at issue in this case. The requirement that defendant seek the chief judge’s approval before filing in Wayne Circuit Court was wholly separate from any requirements imposed by the federal courts and did not in any way interfere with the federal courts’ jurisdiction or the federal courts’ previous orders. Cf. *Arbor Farms, LLC v GeoStar Corp*, __ Mich App __, __; 853 NW2d 421 (2014), slip op at 9. In sum, defendant’s jurisdictional challenges are without merit.

Defendant next argues that the trial court’s order violates his due process rights by inhibiting his access to the courts.

It is well-settled that individuals have a due process right of reasonable access to the courts, including reasonable access to litigate general civil legal issues. See *Hall v Hall*, 128 Mich App 757, 759; 341 NW2d 206 (1983). Generally, a litigant, even if vexatious, cannot be “absolutely foreclosed” from initiating claims in court. *Ortman v Thomas*, 99 F3d 807, 811 (CA 6, 1996).¹ See also *Boddie v Connecticut*, 401 US 371, 377; 91 S Ct 780; 28 L Ed 2d 113 (1971) (“[D]ue process requires, at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.”). However, “the right of access to the courts is neither absolute nor unconditional,” and “there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious.” *Tripati v Beaman*, 878 F2d 351, 353 (CA 10, 1989). It is therefore “permissible to require that one who has abused the legal process to make a showing that a tendered lawsuit is not frivolous or vexatious before permitting it to be filed.” *Ortman*, 99 F3d at 811. See also *Filipas v Lemons*, 835 F2d 1145, 1146 (CA 6, 1987) (stating that “the proper method for handling the complaints of prolific litigators” was to require leave of the court before permitting the plaintiffs to file further complaints). Prefiling review restrictions may be appropriate where, as here, one party repeatedly summons the same defendant into court to relitigate old claims. *Feathers*, 141 F3d at 269. However, before entry of an order imposing prefilng requirements, to ensure compliance with due process, an individual is typically “entitled to notice and an opportunity to oppose the court’s order before it is instituted.” *Tripati*, 878 F2d at 354. See also *Hinky Dinky Supermarket, Inc v Dep’t of Community Health*, 261 Mich App 604, 606; 683 NW2d 759 (2004) (recognizing due process in the civil context requires notice of the nature of the proceedings, an opportunity to be heard in a meaningful time and manner, and an impartial decisionmaker).

In this case, defendant’s history as a vexatious litigant is well-documented. Before defendant began filing actions in Wayne Circuit Court, he had submitted over 80 claims in federal court, prompting Judge Battani to enter an order prohibiting him from submitting further claims without prior leave. Defendant then initiated five actions in Wayne Circuit Court, three of which named plaintiff as an opposing party. These actions were then removed to federal court, where they were ruled frivolous, prompting sanctions and additional orders imposing the same prefilng requirements. Given defendant’s established history as a serial frivolous filer of lawsuits, Chief Judge Smith acted appropriately in entering an order enjoining defendant from filing future pleadings and lawsuits without obtaining approval from the Chief Judge.

Moreover, as required by due process, before entry of the order defendant was given notice of plaintiff’s request. He had an opportunity to respond to plaintiff’s complaint and her motion in the trial court. He also appeared in court and was permitted to voice his objections, but offered no coherent reason why the trial court should not grant plaintiff’s motion. Further, under the order, defendant still has an opportunity to pursue future litigation and to be heard on

¹ In the absence of binding state authority on this issue, this Court may consider federal precedent as persuasive authority. *Wilcoxon v Minnesota Mining & Mfg Co*, 235 Mich App 347, 360 n 5; 597 NW2d 250 (1999) (“[F]ederal precedent is generally considered highly persuasive when it addresses analogous issues.”).

future claims, provided that he seeks leave from the Chief Judge before filing his claim. In light of defendant's history, this prefiling review requirement does not offend his due process rights. See *Tripati*, 878 F2d at 353-354.

On appeal, defendant does not contest the basic factual allegations underlying plaintiff's complaint nor does he attempt to explain his litigious past. Instead, defendant claims that the prior federal orders were voided by something he refers to as the "habeas judgment." Among other efforts to litigate the substance of his previous lawsuits, he also contends that plaintiff engaged in an unspecified "abuse of process" while she was his appointed counsel. These arguments are unintelligible and unsupported. As an appellant acting in propria persona, defendant is entitled to liberal construction of his submissions and he is subject to "less stringent standards." See *Estelle v Gamble*, 429 US 97, 106; 97 S Ct 285; 50 L Ed 2d 251 (1976). Nonetheless, he cannot leave it entirely to this Court to discover and rationalize his claims. *DeGeorge v Warheit*, 276 Mich App 587, 596; 741 NW2d 384 (2007). Defendant's failure to properly address the merits of his allegations of error constitutes an abandonment of those issues on appeal. *Yee v Shiawassee Co Bd of Com'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). Moreover, his suggestion that there were errors in the prior cases is, in any event, irrelevant. This Court's review is limited to the order issued by the circuit court in this case. See MCR 7.203(A); *Dean v Tucker*, 182 Mich App 27, 31; 451 NW2d 571 (1990). If defendant believed the federal orders inappropriate, his remedy was to appeal to the Sixth Circuit Court of Appeals, not to relitigate them here.

Finally, defendant suggests that the trial court violated his due process rights by failing to consider his motion for summary disposition. From the lower court record, it is not clear that this motion was properly filed in a timely manner. In any event, defendant explained his summary disposition argument before the trial court during the hearing on plaintiff's motion for supervisory control. When the trial court granted plaintiff's motion, it also effectively ruled on defendant's motion for summary disposition. Defendant has not established that the trial court's order violated his due process rights.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Joel P. Hoekstra

/s/ Peter D. O'Connell