

1988 WL 56270

Only the Westlaw citation is currently available.
United States District Court, N.D. Illinois, Eastern
Division.

Geraldine G. CANNON, Plaintiff,
v.

LOYOLA UNIVERSITY OF CHICAGO;
Northwestern University; Rush–Presbyterian–St.
Luke’s Medical Center; Southern Illinois
University; the University of Chicago; University
of Health Sciences/The Chicago Medical School,
corporations, and the Board of Trustees of the
University of Illinois, a body corporate,
Defendants.

Nos. 86 C 5437, 87 C 4829.

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May 26, 1988.

MEMORANDUM ORDER

ASPEN, District Judge:

*1 In our December 2, 1987 Memorandum Opinion and Order issued on cases 84 C 8063 and 86 C 5437, we held Geraldine Cannon and John Cannon, her husband, in civil contempt for failing to comply with citations to discover their assets in 84 C 8063, and we found Cannon in civil contempt for filing a lawsuit (87 C 4829) in violation of an injunction issued in 86 C 5437 on January 22, 1987. Although we issued a joint opinion on the 84 and 86 cases, Cannon filed separate motions to alter or amend the judgment in our chambers. This Court directed its clerk to enter a minute order denying both motions to alter or amend the December 2, 1987 Memorandum Opinion and Order. Unfortunately, the clerk only listed the 84 case on the minute order. It has been this Court’s belief that both motions had been denied on January 5, 1988.

Currently before the Court is Cannon’s motion to confirm jurisdiction in the 86 case, 86 C 5437. Normally, all

substantive motions served within ten days of the entry of a judgment will be treated as based on Fed.R.Civ.P. 59(e) and therefore as tolling the time for appeal. *Marine Bank v. Meat Counter*, 826 F.2d 1577, 1579 (7th Cir.1987). Thus, until the district court rules on the Rule 59(e) motion, the Seventh Circuit has no jurisdiction to consider an appeal of the order. It was this Court’s intention that both motions to amend the December 2, 1987 order be denied on January 5, 1988. If the failure of the Court’s clerk to list the 1986 case on the minute order means that the Court’s order to deny the motion was not effective as of January 5, 1988, then we will remedy that defect by denying Cannon’s motion to alter or amend our December 2, 1987 Memorandum Opinion and Order as to the 1986 case at this time.

Also before this Court is Geraldine G. Cannon’s motion to dismiss certain defendants with prejudice in 87 C 4829 (the “1987 case”). The “certain” defendants are the University of Chicago, Northwestern University, Rush–Presbyterian–St. Luke’s Medical Center, Loyola University of Chicago and University of Health Sciences/The Chicago Medical School. On February 23, 1988, we dismissed the 1987 case as to *all* defendants. Given the history of the 1987 case, we treated the plaintiff’s failure to appear as a voluntary dismissal with prejudice.

On March 1, 1988, Cannon filed a motion to vacate our February 23, 1988 dismissal of the 1987 case. On March 9, 1988, we took the motion to vacate under advisement. Because we have never vacated our February 23, 1988 dismissal, this case remains dismissed as to all defendants. However, we will treat Cannon’s present motion to dismiss five defendants with prejudice as a request to withdraw her March 1, 1988 motion to vacate as to those five defendants: the University of Chicago, Northwestern University, Rush–Presbyterian–St. Luke’s Medical Center, Loyola University of Chicago and University of Health Sciences/The Chicago Medical School. Accordingly, we grant Cannon’s request to withdraw her March 1, 1988 motion to vacate as to the five defendants listed above, and they will remain dismissed with prejudice.

This leaves as pending Cannon’s motion to vacate our February 23, 1988 dismissal as to Southern Illinois University and the Board of Trustees of the University of Illinois. We grant that motion and reinstate case 87 C 4829. However, this means that the \$100 fine per business day we imposed on Cannon as a civil contempt sanction

in our December 2, 1987 Memorandum Opinion and Order will recommence. Additionally, the case will remain pending only as to defendants Southern Illinois University and the Board of Trustees of the University of Illinois.

***2** In conclusion, we enter our January 5, 1988 denial of Cannon's motion to alter or amend our December 2, 1987 Memorandum Opinion and Order in case 86 C 5437. We also grant Cannon's request to withdraw her motion to vacate our February 23, 1988 dismissal in case 87 C 4829 as to the following five defendants: the University of Chicago, Northwestern University, Rush-Presbyterian-St. Luke's Medical Center, Loyola University of Chicago and

University of Health Sciences/The Chicago Medical School. We also grant Cannon's motion to vacate our February 23, 1988 dismissal and reinstate case 87 C 4829 but only as to defendants Southern Illinois University and the Board of Trustees of the University of Illinois.¹ It is so ordered.

All Citations

Not Reported in F.Supp., 1988 WL 56270

Footnotes

¹ Because we are reinstating the 87 case, 87 C 4829, there is no reason to rule on Cannon's motion to "Confirm pending Rule 59(e)" on the 1987 case.