

FILED

NOT FOR PUBLICATION

MAR 03 2009

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRIAN CARR,

Plaintiff - Appellant,

v.

SAM REED, in his official capacity as  
Secretary of State of the State of  
Washington; et al.,

Defendants - Appellees.

No. 07-35962

D.C. No. CV-07-05260-RJB

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Robert J. Bryan, District Judge, Presiding

Submitted February 18, 2009\*\*

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Brian Carr appeals pro se from the district court's summary judgment for

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

defendants in his action alleging violations of state and federal law arising from state court domestic violence proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003) (*Rooker-Feldman* doctrine); *Alaska Right to Life Political Action Comm. v. Feldman*, 504 F.3d 840, 848 (9th Cir. 2007) (ripeness and standing). We affirm in part, vacate in part, and remand.

The district court properly determined that it lacked subject matter jurisdiction under the *Rooker-Feldman* doctrine to hear Carr's claims that prior state court rulings are invalid and void because these claims constitute a "forbidden de facto appeal" of those state court decisions. *Noel*, 341 F.3d. at 1158.

The district court properly determined that Carr's challenge to Washington State laws concerning the eligibility requirements for judicial candidates is not ripe for review because the record lacks any indication that Carr, a non-attorney, attempted to run for judicial office in the State of Washington. *See Feldman*, 504 F.3d at 849-50. Moreover, Carr's claims lack merit because these eligibility laws are constitutional. *See O'Connor v. Nevada*, 27 F.3d 357, 362 (9th Cir. 1994); *Andress v. Reed*, 880 F.2d 239, 242 (9th Cir. 1989).

The district court properly determined that Carr lacked standing to challenge the Commission on Judicial Conduct's alleged failure to consider his complaints

against judges and justices of the State of Washington because “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973).

We vacate the district court’s judgment and remand with instructions to dismiss the action without prejudice to raising the claims in the proper forum.

The parties shall bear their own costs on appeal.

**AFFIRMED in part; VACATED in part; and REMANDED WITH INSTRUCTIONS.**