

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

Vance Gillette,)	
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT
)	
vs.)	
)	
)	
North Dakota Disciplinary Board Counsel,)	Case No. 4:08-cv-102
Brent Edison,)	
)	
Defendant.)	

This is an action filed against the Assistant Disciplinary Counsel for the Disciplinary Board of the North Dakota Supreme Court, Brent Edison, in his official capacity. This action has been filed subsequent to Edison initiating state disciplinary proceedings against the plaintiff, Vance Gillette, for professional misconduct which occurred on the Fort Berthold Indian Reservation.

On December 12, 2008, Gillette filed a “Motion for Declaratory and Injunctive Relief,” seeking a declaration that North Dakota disciplinary law does not apply on the Fort Berthold Indian Reservation, and an injunction to enjoin the Defendant from administering state disciplinary proceedings against him See Docket No. 3. On December 17, 2008, the Defendant filed a motion to dismiss, contending that Gillette’s complaint is barred under the doctrine of abstention, as announced in Younger v. Harris, 401 U.S. 37 (1971). See Docket No. 5. The Defendant filed a second motion to dismiss for failure to state a claim. See Docket No. 12. On January 14, 2009, Gillette filed a motion for summary judgment without filing an accompanying brief. See Docket No. 14.

On January 14, 2009, the Court granted the Defendant’s motions to dismiss and denied Gillette’s motion for declaratory and injunctive relief. See Docket No. 15. The Court expressly found that the Younger abstention doctrine applies and that any challenges to the constitutionality

of the state disciplinary action can be raised, and should be raised, in the state disciplinary proceedings.

Gillette fails to raise any new factual issues in his summary judgment motion. Gillette's arguments were fully considered and addressed in the Court's January 14, 2009, order. Accordingly, Gillette's motion for summary judgment (Docket No. 14) is **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated this 16th day of January, 2009.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court