

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

H. BEATTY CHADWICK :  
 :  
 : CIVIL ACTION  
 v. :  
 :  
 : NO. 05-1443  
 COURT OF COMMON PLEAS :  
 OF DELAWARE COUNTY, :  
 PENNSYLVANIA, ET AL. :

**MEMORANDUM ORDER**

AND NOW this 23<sup>rd</sup> day of June, 2006, upon consideration of Defendant Court Of Common Pleas Of Delaware County's Motion To Dismiss Plaintiff's Complaint (Doc. No. 9), we find as follows:

1. Defendant contends that it is not a "person" for purposes of § 1983, in that it is a component of the judicial branch of Pennsylvania's government. (Doc. No. 9.) Plaintiff responds that the "'court' referred to in this action" are the individual judges of the Court of Common Pleas who have "insisted on enforcing [the] contempt sanction order—by long-term confinement in the county prison, notwithstanding Plaintiff's health condition." (Doc. No. 13 at 3.) Injunctive relief under § 1983 may be available against individual judicial officers. (Doc. No. 13 at 3-6 (citing *Supreme Court of Va. v. Consumers Union*, 446 U.S. 719 (1967).))
2. Relief against judicial officers under Section 1983 is strictly limited by the doctrine of judicial immunity. *See, e.g., Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 347 (1872). Judicial immunity is overcome in only two instances: (1) "a judge is not immune from liability for nonjudicial actions, *i.e.*, actions not taken in the judge's judicial capacity" and (2) "a judge is not immune for actions, though judicial in nature, taken in complete

absence of all jurisdiction.” *Mireles v. Waco*, 502 U.S. 9, 10-11 (1991) (internal citations omitted).

3. Defendant individual judges of the Court of Common Pleas are entitled to judicial immunity.

(a) To determine whether an act falls within the range of judicial action, one must consider the “nature of the act itself, *i.e.*, whether it is a function normally performed by a judge, and . . . the expectations of the parties, *i.e.*, whether they dealt with the judge in his judicial capacity.” *Stump v. Sparkman*, 435 U.S. 349, 362 (1978). “There is little doubt that holding an individual in contempt is an act normally performed by a judge”. *Figueroa v. Blackburn*, 208 F.3d 435 (3d Cir. 2000); *see also Serton*, 2003 U.S. App. LEXIS 24199, at \*1-2 (incarceration for civil contempt for failure to pay past-due child support constitutes judicial act); *Crooks v. Maynard*, 820 F.2d 329, 332 (9th Cir. 1990) (“The issuance of a contempt order is undoubtedly a function normally performed by judge.”). Thus, the actions of the individual judges in holding Plaintiff in contempt and in directing his incarceration until the contempt is purged, constitute judicial acts. The denial of Plaintiff’s petitions for habeas corpus and motions for release by the individual judges of the Court of Common Pleas also constitute judicial acts. *Cf. Clymer v. Attorney Gen.’s Office*, Civ. A. No. 98-6111, 1999 U.S. Dist. LEXIS 898, at \*10-11 (E.D. Pa. Jan. 29, 1999) (discharge of habeas petition and consideration of post- and pretrial motions constitute judicial acts).

(b) The individual judges of the Court of Common Pleas did not at anytime act in the complete absence of jurisdiction. *See, e.g., Reese v. Reese*, 506 A.2d 471, 474 (Pa. Super. Ct. 1986) (“The courts of common pleas have been given jurisdiction to hear and decide divorce actions and related economic claims by Section 301(a) of the Divorce Code of 1980.”).

4. Plaintiff’s constitutional rights are not being violated by the conditions of his confinement under the standards set forth in *Bell v. Wolfish*, 441 U.S. 520(1979), and *Estelle v. Gamble*, 429 U.S. 97 (1976). (See Memorandum and Order dated June 15, 2006, Doc. No. 14.)

Accordingly, since the individual judges of the Court of Common Pleas are entitled to the protection of judicial immunity and since the constitutional rights of Plaintiff have not been violated in any event, it is ORDERED that Defendant’s Motion To Dismiss Plaintiff’s Complaint is GRANTED.

IT IS SO ORDERED.

BY THE COURT:

/s R BARCLAY SURRICK

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R. Barclay Surrick, Judge