

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

NORMAN SCOTT, SR., et al.
Plaintiffs,

Civil Action No. 06-98

v.

ROBERT J. MATTHEWS, et al.
Defendants.

MEMORANDUM/ORDER

July 10, 2006

Plaintiffs Norman Scott, Sr. and members of his immediate family have sued several officials of the state of Pennsylvania, including a number of Philadelphia County Court of Common Pleas judges¹, under 42 U.S.C. §§ 1983, 1985, and 1986 because of the officials' actions in connection with litigation between plaintiff Norman Scott, Sr. and Lorraine Brown over custody of their son, Nicholas Scott. The defendant judges have filed "Defendants' Philadelphia County Court of Common Pleas Motion to Dismiss" (Docket # 5), in which they move to dismiss plaintiffs' complaint as to them based on lack of jurisdiction and judicial

¹ The Philadelphia County Court of Common Pleas judges who are named as defendants in this action are Myrna Field, Idee C. Fox, Robert J. Matthews, Rosalyn Robinson, Denis Cohen, Jerome Zaleski, Leonard Ivanoski, and James Murray Lynn. They will hereafter be referred to as the "defendant judges" or "the judges."

immunity. For the reasons given below, the motion will be granted.

I agree with the defendant judges that they are immune from this suit to the extent it seeks monetary damages. The claims asserted against the judges by plaintiffs appear to be based on actions the judges took in their judicial capacity while properly exercising their jurisdiction. *See Mireles v. Waco*, 502 U.S. 9, 11 (1991). Nothing in the complaint suggests that the judges acted outside their judicial capacity or in the complete absence of jurisdiction. Indeed, plaintiffs, in their response to the judges' motion to dismiss, appear to concede that the judges are entitled to immunity from a suit for money damages. Plaintiffs' response contends only that the judges are not immune to a suit for injunctive relief and that attorneys' fees are available even against judges pursuant to 42 U.S.C. § 1988.

To the extent that plaintiffs' suit seeks injunctive relief against the judges, however, it is precluded by the *Rooker-Feldman*² doctrine, which bars lower federal courts from reviewing state court decisions. *See In re General Motors Corp. Pick-up Truck Fuel Tank Products Liability Litigation.*, 134 F.3d 133, 143 (3d Cir. 1998). The injunctive relief that the plaintiffs seek consists of "enjoining defendants from continuing to rely upon the erroneous and unjust income imputation to justify the enormous child support arrearages to in turn justify the incarceration of plaintiff Norman Scott, Sr. and the deprivation of all plaintiffs of their family relationship with minor plaintiff Nicholas Scott." In other words, plaintiffs ask this court to instruct the Philadelphia County Court of Common Pleas that its

² *See Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

judgments with respect to plaintiffs' custody dispute are in error and must be vacated. The *Rooker-Feldman* doctrine deprives this court of jurisdiction to do so³.

Before concluding, I take note of the following: 1) plaintiffs' response to the defendant judges' motion to dismiss was filed over two months after the motion was filed; and 2) another motion in this case – “Defendants’ Motion for a More Definite Statement” (Docket # 7) – has been pending for four months, yet plaintiffs have not responded to that motion. Plaintiffs are hereby advised that Local Civil Rule of Procedure 7.1(c) requires a party that wishes to oppose a motion to serve a memorandum in opposition within 14 days of service of the motion. Because plaintiffs appear *pro se*, I will not at this time grant the motion for a more definite statement as uncontested. However, if plaintiffs do not file their opposition to the motion for a more definite statement within 14 calendar days of the date of this order, that motion will be granted as uncontested.

For the foregoing reasons, it is hereby ORDERED that “Defendants’ Philadelphia

³ Plaintiffs' only argument in opposition to defendant judges' jurisdiction argument is that, in connection with their motion for change of venue (this action was initially filed in the District of New Jersey), defendants argued that this case had to be transferred to this court because this court is the one with jurisdiction. Thus, plaintiffs contend, the defendant judges' current position conflicts with their previous position. However, plaintiffs have not attached to their response any of the moving papers defendants filed in connection with the motion to transfer venue, and I therefore have no basis on which to determine whether defendants have taken inconsistent positions. In any event, it seems likely that what defendants previously argued was that *venue* was proper in this court, not that this court has *jurisdiction*. The concept of venue has to do with the appropriate place for a cause to be brought, while jurisdiction has to do with the power of a federal court to adjudicate the merits of the cause. Venue may well lie in this court even though it lacks jurisdiction over this case.

County Court of Common Pleas Motion to Dismiss” (Docket # 5) is GRANTED. All claims against the defendant judges listed in footnote 1, *supra*, are dismissed. It is further ORDERED that plaintiffs shall have until July 20, 2006 to file any opposition to the “Defendants’ Motion for a More Definite Statement” (Docket # 7).

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.