

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

DEBORAH PARKER : CIVIL ACTION
 :
 v. :
 :
 CALVIN WILSON, RITA SHEFSKO, :
 and TIMOTHY J. WOOLFORD : NO. 98-3531

MEMORANDUM AND ORDER

HUTTON, J.

February 18, 1999

Presently before the Court are the Motion to Dismiss by Timothy J. Woolford, Esquire ("Defendant") (Docket No. 6), the response thereto by Deborah Parker ("Plaintiff" or Parker") (Docket No. 8), and the Defendant's reply (Docket No. 16). For the reasons stated below, the Defendant's Motion is **GRANTED**.

I. BACKGROUND

On July 9, 1998, Deborah Parker ("Plaintiff" or "Parker") filed a Complaint in the United States District Court for the Eastern District of Pennsylvania alleging violations of her constitutional rights under the 4th and 14th Amendments, pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983. The Complaint named several defendants including Timothy J. Woolford, Assistant District Attorney in Chester County ("Defendant" or "Woolford"). It is the allegations against Woolford, which are at issue here.

The core factual allegations against Woolford on which the Plaintiff bases her Complaint are as follows. On June 19,

1997, Plaintiff parked her red 1986 Ford Econoline Van ("Van") on 7th Avenue in Coatesville, Pennsylvania. She claims that when she returned to her Van, several police officers were searching it. (Compl., ¶ 13.) She claims that the police officers conducted their search without a search warrant. (Id., ¶ 17.) Then, she claims that the police officers had the Van towed away. (Id., ¶ 19.)

The claims against Woolford include the claim that he was aware that there had been an "unlawful search and seizure of the [Van]," but nevertheless instituted forfeiture proceedings on July 17, 1997. (Compl., ¶ 23.) The Complaint goes on to allege that the search warrant was drawn up "after the fact," in an effort to cover up "unlawful activities of the police officers and the defendant Assistant District Attorney." (Id., ¶ 24.) On October 15, 1997, Plaintiff signed a document entitled "Statement of Automobile Owner," containing a release for civil claims against Woolford and an agreement for return of property ("Release"). The Complaint alleges that Woolford forced her to sign the Release. (Id., ¶ 28-29.)

Plaintiff claims that she committed no crime, was charged with no crime, and upon receipt of the return of her Van, found that it was damaged and that items from the Van had been stolen. (Compl., ¶¶ 30-34, 36.) As a result of Woolford's alleged misconduct, Plaintiff contends that Woolford violated her 4th and

14th Amendment rights not to have her property unlawfully seized and damaged without due process, as well as threatening her with arrest and confiscation of her property unless she signed a Release. (Id., ¶¶ 40, 41.)

On August 19, 1998, Defendant Woolford filed a Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6). Plaintiff filed a response on September 8, 1998. On December 18, 1998, Defendant Woolford filed a reply brief to Plaintiff's response. Because the Defendant's Motion is ripe for adjudication, this Court considers the Defendant's Motion to Dismiss.

II. DISCUSSION

A. Rule 12(b)(6) - Claims Upon Which Relief May Be Granted

Federal Rule of Civil Procedure 8(a) requires that a plaintiff's complaint set forth "a short and plain statement of the claim showing that the pleader is entitled to relief" Fed. R. Civ. P. 8(a)(2). Accordingly, the plaintiff does not have to "set out in detail the facts upon which he bases his claim." Conley v. Gibson, 355 U.S. 41, 47 (1957). In other words, the plaintiff need only to "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." Id.

When considering a motion to dismiss a complaint for failure to state a claim under Federal Rule of Civil Procedure

12(b)(6),¹ this Court must "accept as true the facts alleged in the complaint and all reasonable inferences that can be drawn from them. Dismissal under Rule 12(b)(6) . . . is limited to those instances where it is certain that no relief could be granted under any set of facts that could be proved." Markowitz v. Northeast Land Co., 906 F.2d 100, 103 (3d Cir. 1990) (citing Ransom v. Marrazzo, 848 F.2d 398, 401 (3d Cir. 1988)); see H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 249-50 (1989). The court will only dismiss the complaint if "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." H.J. Inc., 492 U.S. at 249-50 (quoting Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)).

B. Plaintiff's Claims

In the present motion, the moving Defendant has raised just one issue. Woolford asserts that Plaintiff's Complaint fails to state a cause of action against him based on absolute prosecutorial immunity. Plaintiff contends, however, that Woolford's actions are not covered by prosecutorial immunity because "Plaintiff was never arrested, never charged, and in fact

^{1/} Rule 12(b)(6) states as follows:

Every defense, in law or fact, to a claim for relief in any pleading . . . shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: . . . (6) failure to state a claim upon which relief can be granted

Fed. R. Civ. P. 12(b)(6).

was never even questioned about drug activities. At best, the stage of this entire event was still in an investigatory phase . . . in which the assistant district attorney is not supposed to be involved." (Pl.'s Mem. at 8.) To support this contention, Plaintiff relies on Guiffre v. Bissell, 31, F.3d 1241 (3d Cir. 1994). This Court finds Plaintiff's reliance on Guiffre misguided and absolute prosecutorial immunity applies to Woolford's actions in initiating the in rem prosecution of Plaintiff's Van.

1. Standard

Prosecutors are entitled to absolute immunity in suits for monetary damages for actions related to the prosecution of a criminal case. Imbler v. Pachtman, 424 U.S. 409, 431 (1976) (finding that absolute prosecutorial immunity attaches to all actions performed in a "quasi-judicial" role). This includes activity taken while in court, such as the presentation of evidence or legal argument, as well as selected out-of-court behavior "intimately associated with the judicial phases" of litigation. See id.; Fry v. Melaraqno, 939 F.2d 832, 838 (9th Cir. 1991) (activity occurring as part of presentation of evidence is absolutely protected). By contrast, a prosecutor acting in an investigative or administrative capacity is protected only by qualified immunity. Imbler, 424 U.S. at 430-31, 96 S. Ct. at 994-96; Burns v. Reed, 500 U.S. 478, 483-84 n. 2 (1991). In addition, there may be instances where a prosecutor's behavior falls

completely outside the prosecutorial role. See Rose v. Bartle, 871 F.2d 331, 346 (3d Cir. 1989). In that case, no absolute immunity is available.

In determining whether absolute immunity is available for particular actions, the courts engage in a "functional" analysis of each alleged activity. See Harlow v. Fitzgerald, 457 U.S. 800, 811 (1982); Rose, 871 F.2d at 343. Three factors determine whether a government official should be given absolute immunity for a particular function: 1) whether there is "a historical or common law basis for the immunity in question;" 2) whether performance of the function poses a risk of harassment or vexatious litigation against the official; and 3) whether there exists alternatives to damage suits against the official as means of redressing wrongful conduct. Mitchell, 472 U.S. at 521-22. See Burns, 500 U.S. at 483-85; Fry, 939 F.2d at 836 n. 6.

The Third Circuit in Schrob v. Catterson, 948 F.2d 1402, 1411-1412 (3d Cir. 1991) held that a prosecutor's initiation of an in rem civil proceeding for the forfeiture of criminal property was absolutely immune because it was "intimately connected with the criminal process," and because an owner of the property would have sufficient opportunity to challenge the legality of the proceeding. 948 F.2d at 1411-12. The Court held that the prosecutor was entitled to absolute immunity in connection with his actions in drafting and filing the in rem complaint for forfeiture of the

business, drafting and applying for the warrant to seize the business and even making incorrect statements at the warrant hearing. Id. at 1408-19. In finding that the prosecutors' actions were protected by absolute immunity, the Schrob Court reasoned that alternative remedies such as criminal liability for unlawful enforcement actions and professional discipline "suggest that it is not necessary to subject prosecutors to personal liability to encourage them to conform their actions to the dictates of the law. Id. at 1411-12.

2. Analysis

The facts alleged by Plaintiff are analogous to those alleged in Schrob and therefore, absolute immunity applies to the actions taken by Woolford in this case. Plaintiff's only factual allegations against Woolford are that he instituted forfeiture proceedings² and "forced" Plaintiff to sign a release to resolve the forfeiture proceeding before her van was returned.³ See

²Plaintiff alleges:

23.) Defendant assistant district attorney of Chester County, Timothy J. Woolford, knowing there had been an unlawful search and seizure of the vehicle, and thus knowing that the law did not support a forfeiture of the vehicle, and knowing there had never been any unlawful traffic stop of the vehicle as claimed nevertheless instituted forfeiture proceedings on July 17, 1997, a month after the van had been unlawfully seized and searched, and after the insides had been gutted by the police.
(Pl.'s Compl. ¶ 23.)

³Plaintiff alleges:

28.) On or about October 15, 1997 the plaintiff, Deborah Parker, was forced by defendants to sign a document entitled "Statement of Automobile Owner" (statement) containing a release for civil claims against the defendants and an "Agreement For Return of

(continued...)

Schrob, 948 F.2d at 1411-1412. Since absolute immunity applies to the instant case, whether or not Woolford's actions were proper is of no relevance to this inquiry. Id. at 1412 (finding absolute immunity warrants dismissal of plaintiff's action even though prosecutor obtained search warrant by making "factual misstatements"). Plaintiff "has sufficient opportunity to challenge the legality of the proceeding to justify granting absolute immunity to [Woolford]." Id. at 1412.

Plaintiff's reliance on Guiffre v. Bissell, 31, F.3d 1241 (3d Cir. 1994) is misguided. In Guiffre, the Third Circuit was not presented with an in rem proceeding and its attendant safeguards. Id. at 1253. In Guiffre, Prosecutor Bissell advised investigators and police in an informal transaction giving arrestee Guiffre his freedom in exchange for cooperation and property. Id. As prosecutor Bissell's role was to provide advice to the police, the Court analogized his conduct to that of a prosecutor providing legal advice to police during the investigative stages of a criminal proceeding, an act not absolutely immune. Id. (citing Burns v. Reed, 500 U.S. 478, 496 (1991)). Plaintiff's Complaint does not allege that Woolford advised the police how to proceed at the scene or in any other manner. Thus, Guiffre is inapplicable to

³(...continued)
Property" (agreement) in return for the defendant's release of the van, which had been severely damaged inside by defendants, and some of whose contents had been taken.
(Pl.'s Compl. ¶ 28.)

the instant case. Accordingly, Plaintiff's Complaint must be dismissed as it pertains to Woolford.

An appropriate Order follows.

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O R D E R

AND NOW, this 18th day of February, 1999, upon consideration of the Motion to Dismiss by Timothy J. Woolford, Esquire ("Defendant") (Docket No. 6), the response thereto by Deborah Parker ("Plaintiff" or Parker") (Docket No. 8), and the Defendant's reply thereto (Docket No. 16), the Defendant's Motion is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Complaint **IS DISMISSED** as it pertains to Defendant Timothy J. Woolford, Esquire.

BY THE COURT:

HERBERT J. HUTTON, J.