

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

KEVIN SPENCE, : CIVIL ACTION
Plaintiff, :
 :
v. :
 :
COMMUNITY LIFE IMPROVEMENT, :
Defendant. : No. 03-CV-3406

MEMORANDUM AND ORDER

J. M. KELLY, J. SEPTEMBER , 2003

Presently before the Court is a styled "Petition" filed by pro se Plaintiff Kevin Spence ("Plaintiff") seeking to name the undersigned judge as a party to this case, which has been marked "CLOSED" by the Clerk of Court following this Court's June 26, 2003 Memorandum and Order dismissing Plaintiff's Complaint as frivolous. Although Plaintiff fails to aver any facts in support of any legal theory for naming the undersigned judge as a party to this matter, this Court will assume that Plaintiff's request is predicated on the unfavorable result rendered in this Court's June 26, 2003 Memorandum and Order. That being the case, the doctrine of judicial immunity applies, and Plaintiff's Petition is **DENIED**.

The doctrine of judicial immunity is an absolute bar for any suit seeking damages from a judicial defendant. See Kalina v. Fletcher, 522 U.S. 118, 132 (1997); Mireles v. Waco, 502 U.S. 9, 9 (1991); Forrester v. White, 484 U.S. 219, 225 (1988). "The doctrine of judicial immunity is supported by a long-settled

understanding that the independent and impartial exercise of judgment vital to the judiciary might be impaired by exposure to potential damages liability." Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 435 (1993); see also Supreme Court of Virginia v. Consumers Union of United States, Inc., 462 U.S. 1137, 1141 (1983). Absolute immunity ensures that judges are free to exercise their functions with independence and without fear of suit, and is not easily overcome. See Mireles, 502 U.S. at 9; Pierson v. Ray, 386 U.S. 547, 554 (1967). Allegations of bad faith or malice do not destroy judicial immunity, nor is immunity lost when accusations of conspiracy are averred. See Mireles, 502 U.S. at 11; Dennis v. Sparks, 449 U.S. 24, 26-27 (1980); Pierson, 386 U.S. at 554.

Absolute immunity extends to judicial officials provided the judge performed a "judicial act" within his or her jurisdictional authority. See Mireles, 502 U.S. at 11; Stump v. Sparkman, 435 U.S. 349, 362 (1978). Two factors determine whether a judge's act was judicial in nature: (1) if it was a function normally performed by a judge and (2) if the parties dealt with a judge in his or her judicial capacity. See Mireles, 502 U.S. at 12; Stump, 435 U.S. at 362. Mere ministerial or administrative tasks performed by judges are not protected by immunity because they are not sufficiently judicial in nature. See, e.g., Forrester, 484 U.S. at 221 (determining judge's hiring practices were not

judicial in nature). Additionally, a judge will forfeit absolute immunity if he or she acts in complete absence of jurisdiction. See Stump, 435 U.S. at 362; Grove v. Rizzolo, 441 F.2d 1153, 1154 (3d Cir. 1971).

The undersigned's issuance of the June 26, 2003 Memorandum and Order is an action "normally performed by a judge," and one that is clearly judicial in nature. See Stump, 435 U.S. at 362. Moreover, jurisdiction was proper in this Court since Plaintiff's Complaint made out vague allegations of Fourth and Fourteenth Amendment violations. See 28 U.S.C. § 1331. Since judicial immunity applies to the result rendered on June 26, 2003, Plaintiff's Petition (Doc. No. 3) is **DENIED**.

BY THE COURT:

JAMES MCGIRR KELLY, J.