

appeared before Magisterial District Judges Scott and/or Lachina ³ and bail was set at \$6,433.75. Compl. ¶ 67(d)-(e). Maloney was taken to Berks County Prison until he posted bail the following day. Compl. ¶ 67(d). On April 1, 2004, after a hearing, Judge Scott fined Maloney \$355.55 for his failure to secure the housing permit. Compl. ¶ 22. On August 10, 2004, Maloney appeared before Common Pleas Judge Forrest Scheffer for a criminal proceeding on the matter. Compl. ¶ 76. Judge Schaeffer dismissed all charges against Maloney and ordered the cash bail returned. Compl. ¶ 68. Maloney claims \$4,522.15 of his bail was never returned to him. Compl. ¶ 67(f)-(g).

DISCUSSION

The purpose of a rule 12(b)(6) motion is to test the legal sufficiency of the complaint. *Holder v. City of Allentown*, 987 F.2d 188, 194 (3d Cir. 1993). When considering a motion to dismiss for failure to state a claim under Fed.R.Civ.P. 12b(6), the court must accept all well pleaded allegations in the complaint as true and view them in the light most favorable to plaintiff. *Christopher v. Harbury*, 536 U.S. 403, 406 (2002); *Jordan v. Fox, Rothschild, O'Brien & Frankel*, 20 F.3d 1250, 1261 (3d Cir. 1994). The court must consider only the facts alleged in the complaint and its attachments, without reference to other items in the record. *Id.* The court may not dismiss the complaint unless the plaintiffs can prove no set of facts which would entitle them to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

State judges have absolute immunity from suits under 42 U.S.C. § 1983 for acts done in the performance of their judicial duties. *Gallas v. Supreme Court*, 211 F.3d 760, 768 (3d Cir. 2000);

³ It is unclear from Maloney's complaint whether he appeared solely before Judge Scott or before both Judge Scott and Judge Lachina.

Stump v. Sparkman, 435 U.S. 349, 356 (1978). Judicial duties include 1) acts that are judicial in nature and, 2) acts not done in the “clear absence of all jurisdiction over the subject-matter.” *Id.* at 356.

“[T]he factors determining whether an act by a judge is a judicial one relate to the nature of the act itself, i.e., whether it is a function normally performed by a judge and to the expectation of the parties, i.e., whether they dealt with the judge in his judicial capacity” *Id.* at 362. Judicial immunity “may be invoked even if the conduct was in excess of [the judge’s] jurisdiction and done maliciously and corruptly.” *Schuler v. Chambersburg*, 641 F. Supp. 657, 659 (M.D. Pa. 1986). “Further, immunity will not be lost merely because the judge’s action is unfair or controversial.” *Gallas*, 211 F.3d at 769.

Maloney claims the Judicial Defendants wrongfully arrested him, incarcerated him and imposed an unreasonably high bail and an improper fine of \$355.55 for his failure to secure a \$30.00 housing permit. He also claims his cash bail of \$4,522.15 was never returned to him. All of the acts Maloney complains of were done while Judge Scott and Judge Lachina were in court presiding over Maloney’s hearing, and are acts normally performed by judges. Furthermore, Pennsylvania law gives District Judges and the Courts of Common Pleas “unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law” 42 Pa.C.S. § 931. Judge Scott and Judge Lachina had jurisdiction over Maloney’s criminal case and were performing a judicial act. They are therefore entitled to absolute immunity.

Judicial errors are subject to correction on appeal. If Maloney believes the decisions of Judge Scott and Judge Lachina were made in error, his recourse is to appeal their decision to the Pennsylvania Superior Court. A judge “should not have to fear that unsatisfied litigants may hound

him with litigation charging malice or corruption. Imposing such a burden on judges would contribute not to principled and fearless decision-making but to intimidation.” *Pierson v. Ray*, 386 U.S. 547, 554 (U.S. 1967). Accordingly, we enter the following:

ORDER

And Now this 7th day of March, 2005, Defendants’, Magisterial District Justice Wallace Scott and Magisterial District Justice Deborah Lachina, Motion to Dismiss (Doc. 5) is GRANTED.

BY THE COURT:

/s/ Juan R. Sánchez

Juan R. Sánchez, J.