

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

MARK A. SMITH,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	NO. 04-cv-5636
FIRST JUDICIAL DISTRICT OF	:	
PENNSYLVANIA, COURT OF	:	
COMMON PLEAS FAMILY DIV.;	:	
MYRNA P. FIELD, HEAD OF AGENCY	:	
Defendants	:	

**MEMORANDUM**

**Baylson, J.**

**May 25, 2005**

**I. Introduction**

Presently before this Court is a joint Motion to Dismiss, pursuant to Federal Rules of Civil Procedure 12(b)(6) filed by Defendants, the First Judicial District of Pennsylvania, Court of Common Pleas of Philadelphia (“Defendant Court”); and the Honorable Myrna P. Field, Administrative Judge of the Court of Common Pleas of Philadelphia, Family Division (“Defendant Field”)(collectively, “Defendants”). For the reasons set forth below, the Motion to Dismiss the Amended Complaint will be granted.

**II. Procedural Background**

On December 6, 2004, Mark A. Smith (“Plaintiff”), appearing pro se, filed a Complaint against the First Judicial Court of Pennsylvania, Court of Common Pleas; and Myrna P. Field, Head of Agency. In his Complaint, Plaintiff alleges that Defendants violated the Americans with Disabilities Act (“ADA”) by requiring him to take a psychiatric exam before scheduling a custody hearing, thereby preventing him access to the courts. On March 24, 2005, Plaintiff filed

an Amended Complaint making the same allegations and also stating that the action is commenced under 42 U.S.C. § 1983.<sup>1</sup> (Amended Complaint at ¶2). On May 10, 2005, Defendants filed this Motion to Dismiss. A hearing was held on May 24, 2005.

### **III. Legal Standard**

When deciding a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), the court may grant the motion only if, accepting all well-pleaded allegations in the complaint as true, and viewing them in the light most favorable to plaintiff, the plaintiff is not entitled to relief. Doug Grant, Inc. V. Greate Bay Casino Corp., 232 F.3d 173, 183 (3d Cir. 2000). Accordingly, a federal court may dismiss a complaint for failure to state a claim only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. Doe v. Delie, 257 F.3d 309, 313 (3d Cir. 2001).

### **IV. Allegations**

Defendants present six arguments in support of their Motion to Dismiss. First, Defendants argue that pursuant to the Rooker-Feldman doctrine, this court lacks subject matter

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<sup>1</sup> 42 U.S.C. §1983 states, in pertinent part:

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

(Emphasis added).

jurisdiction to review this case. Second, Defendants argue that this Court should abstain from taking jurisdiction over this case. Third, Defendants contend that Plaintiff cannot state a prima facie case under the ADA because the ADA does not govern substantive proceedings in state court where the court orders mental testing for purposes of deciding custody issues. Fourth, the Defendants argue that Eleventh Amendment immunity bars Plaintiff's §1983 claims against the Court entity and the Administrative Judge in her official capacity. Fifth, Defendants state that no respondeat superior exists under §1983; therefore Administrative Judge Field cannot be held liable individually as an administrative judge. Moreover, Defendants argue that an administrative judge has no authority over the decisions made by individual judges in the cases before them. Finally, Defendants argue that the Plaintiff's ADA claim against Judge Field should be dismissed because no individual liability exists under the ADA. See Def's Motion at ¶1(a)-(f).

## **V. Discussion**

### **A. Section 1983**

#### **1. Defendant Field**

It is well-settled that judges defending against § 1983 actions enjoy absolute immunity from damages liability for acts performed in their judicial capacities. Dennis v. Sparks, 449 U.S. 24, 27 (1980) (affirming grant of judicial immunity because judge was immune from liability in §1983 suit). The doctrine is also recognized by the Supreme Court of Pennsylvania. See Matter of XYP, 567 A.2d 1036, 1039 (Pa. 1989) ("Judicial immunity rests upon recognition of preserving an independent judiciary, and reflects a belief that judges should not be hampered by fear of vexatious suits and personal liability. . . . A judge must be free to administer the law

without fear of consequences.”).

Judges are immune from liability when 1) the judge has jurisdiction over the subject matter before him; and 2) he is performing a judicial act. Mireles v. Waco, 502 U.S. 9, 112 (1991) (reversing court of appeals and granting immunity to judge). Whether the act is judicial depends upon 1) whether it is a function normally performed by a judge and 2) whether the parties dealt with the judge in his judicial capacity. Stump v. Sparkman, 435 U.S. 349, 361-62 (1978) (reversing court of appeals decision, which reversed district court’s decision that judge was entitled to judicial immunity in § 1983 claim).

Although the basis of Plaintiff’s § 1983 claim is not entirely clear from the Complaint or the Amended Complaint, it appears that Plaintiff is basing his claim against Judge Field on some alleged authority she has over the individual judges and their decisions in the Family Court Division of the Court of Common Pleas of Philadelphia County. However, Plaintiff makes no specific allegations against Defendant Field. Importantly, Plaintiff does not plead any facts that suggest Defendant Field acted outside of her judicial capacity or “beyond the normal course of court business.” Feingold v. Hill, 521 A.2d 33, 36 (Pa. Super. 1983) (affirming trial court’s dismissal of tort claims against judge on grounds of judicial immunity). Thus, Plaintiff has failed to plead sufficient facts to state a § 1983 claim against Defendant Field. Because Defendant Field is entitled to judicial immunity, the court will grant her Motion and the § 1983 claim against her will be dismissed with prejudice.

**2. Defendant First Judicial District of Pennsylvania, Court of Common Pleas of Philadelphia**

The Court also agrees with the Defendants’ argument that the Court of Common Pleas is

not a “person” under § 1983 and there is no authority under Pennsylvania law permitting a department or agency of county government, such as the First Judicial District of Pennsylvania, Court of Common Pleas, Family Court Division, to be sued for damages as a separate legal entity.

In federal court, the capacity of a party to be sued is “determined by the law of the state in which the district court is held.” Fed. R. Civ. P. 17(b). A review of the relevant Pennsylvania state law reveals that there is no authority permitting Plaintiff to continue this suit against the Defendant Court.

Moreover, the federal courts in this district have consistently held that state courts such as the Court of Common Pleas of Philadelphia are arms of the state and are immune from liability under 42 U.S.C. §1983. See Reiff v. Philadelphia Court of Common Pleas, 827 F. Supp 319 (E.D. Pa. 1993) (Court of Common Pleas of Philadelphia is a state entity which cannot be sued under §1983). The court in Reiff stated:

The Court of Common Pleas is not subject to suit at all under §1983, because states or “governmental entities that are considered ‘arms of the state’ for Eleventh Amendment purposes” are not “persons” within the meaning of § 1983 and consequently are not among those liable for violations of the civil rights statute.

Id. at 324. Because Defendant Court is entitled to sovereign and Eleventh Amendment immunity and because Defendant Court is not a “person” to be sued under 42 U.S.C. §1983, this court will grant Defendants’ Motion and the § 1983 claim against Defendant Court will be dismissed with prejudice.

**B. Americans with Disabilities Act**

Plaintiff also makes a claim under Title II of the ADA (Amended Complaint, ¶ 9), which

provides, that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. §12132.

**1. Defendant Field**

A review of Third Circuit case law reveals that Defendant Field cannot be held individually liable under the ADA. See Emerson v. Thiel College, 296 F.3d 184, 189 (3d Cir. 2002) (agreeing with other courts of appeals that individuals are not liable under Titles I and II of the ADA). Thus, the court will grant Defendant Field’s Motion and the Plaintiff’s ADA claim against her will be dismissed with prejudice.

**2. Defendant Court**

Plaintiff also makes an ADA claim against Defendant Court. In order to state a prima facie case of discrimination under Title II of the ADA, a plaintiff must establish: 1) that he is a qualified individual with a disability;<sup>2</sup> 2) that he was either excluded from participation in or

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<sup>2</sup> 42 U.S.C. § 12131 states:

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

42 USCS § 12131.

This provision must be read in conjunction with 42 U.S.C. § 12102, which defines “disability” as:

- A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- B) a record of such an impairment; or
- C) being regarded as having such an impairment.

42 U.S.C. § 12102(2)(emphasis added).

denied the benefits of some public entity's services, programs, or activities or was otherwise discriminated against; and 3) that such exclusion, denial of benefits, or discrimination was by reason of the plaintiff's disability. See Parker v. Universidad de P.R., 225 F.3d 1, 5 (1st Cir. 2000) (vacating judgment because evidence was sufficient to make out a prima facie case under the ADA).

Although Plaintiff alleges he is a disabled American veteran, he denies having any mental or physical impairment. Instead, he argues that he "has been regarded as having a disability by the FJD and has been denied access to the FJD's Court of Common Pleas. . . ." (Pl's Compl. at ¶4).<sup>3</sup>

Under the ADA, individuals who are "regarded as" having a disability are disabled within the meaning of the statute. 42 U.S.C. § 12102(2)(c); see also Sutton v. United Air Lines, 527 U.S. 471 (U.S. 1999) (affirming decision upholding the trial court's dismissal of the plaintiff's ADA claims); Williams v. Phila. Hous. Auth. Police Dep't, 380 F.3d 751, 766 (3d Cir. 2004) (reversing summary judgment granted in favor of defendant and noting that a person is "regarded as" having a disability even if the person has no impairment but is treated by a covered entity as having a physical or mental impairment that substantially limits major life activities).

Here, Plaintiff alleges that the Defendant Court regarded him as having a mental impairment. However, this is not enough to give Plaintiff standing under the ADA. Plaintiff must also allege that the Defendant treated him as having an impairment that substantially limits

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<sup>3</sup>At the hearing on May 24, 2005, Plaintiff denied having a disability but asserted that agents of the Court of Common Pleas regarded him as having a mental disability. The Court will assume that Plaintiff meant to say that he is not impaired, but that the Defendant Court regards him as having a mental impairment. See supra note 2 (defining "disability" under ADA).

a major life activity. See 42 U.S.C. § 12102(2)(A). Plaintiff has not made any such allegations. Plaintiff merely states that the psychiatric exams required by the Court of Common Pleas and the subsequent denials of custody “have limited my lifes [sic] activity, etc with my child.”<sup>4</sup> It is not sufficient to allege that the Defendant’s actions substantially limited the Plaintiff’s major life activity.

As a result, Plaintiff has not alleged sufficient facts to state a claim and establish a prima facie case of discrimination under Title II of the ADA. Accordingly, the ADA claim against the Defendant Court will be dismissed.<sup>5</sup>

## **VI. Conclusion**

Because Defendant Field is entitled to judicial immunity, the § 1983 claim against her must be dismissed with prejudice. In addition, the Court of Common Pleas of Philadelphia County is not a “person” under 42 U.S.C. § 1983. Thus, the § 1983 claim against Defendant Court will also be dismissed with prejudice.

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<sup>4</sup> The Court notes that in Plaintiff’s Exhibit J (letter dated June 16, 2004 from Plaintiff to The Honorable Robert J. Matthews), the Plaintiff states that “[t]he ‘major life activity’ is having custody of my daughter.” Pl’s Ex. J at 2. The Court will assume, without deciding, that caring for a child is a major life activity. See Abbott v. Bragdon, 107 F.3d 934, 939 (1st Cir. 1997) (concluding that it is “highly likely” that childrearing and nurturing familial relations are major life activities contemplated by the ADA).

<sup>5</sup> The Court further notes that Plaintiff does not make any allegations that he was singled out when the Defendant Court required a mental health assessment in his custody proceedings. In fact, Plaintiff attached court documents to his Complaint in which the court psychologist explained that the mental health assessment “is used by the Judge as a dispositional aid. . . in order to assure that we will be better able to understand you and the needs of your family.” See Pl’s Ex. B.

Further, Plaintiff does not make any allegations that his exclusion from the Court of Common Pleas was on account of any disability or perceived disability. Rather, it appears to be Plaintiff’s own failure to comply with court orders to obtain a mental health assessment that is preventing him from having his day in court. Court orders provided by Plaintiff specifically state that the case will be “relist[ed] upon the request of respondent only when the psychiatric evaluation is completed and a written copy is provided to the court.” See Pl’s Exs. C, D, E, H.



Further, because there is no individual liability under the ADA, Plaintiff's ADA claim against Defendant Field will be dismissed with prejudice. Plaintiff has also failed to state sufficient facts to state a claim under Title II of the ADA against the Defendant Court. Therefore, Plaintiff's ADA claim against Defendant Court will be dismissed with prejudice.

An appropriate Order follows.

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	:	NO. 04-cv-5636
FIRST JUDICIAL DISTRICT OF	:	
PENNSYLVANIA, COURT OF	:	
COMMON PLEAS FAMILY DIV.;	:	
MYRNA P. FIELD, HEAD OF AGENCY	:	
Defendants	:	

**ORDER**

AND NOW, this 25<sup>th</sup> day of May, 2005, based on the foregoing memorandum and upon consideration of the pleadings and briefs, it is hereby ORDERED that Defendants' Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6) (Doc. No. 6) be GRANTED. Plaintiff's Amended Complaint is hereby dismissed with prejudice.

**BY THE COURT:**

/s/ Michael M. Baylson

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**MICHAEL M. BAYLSON, U.S.D.J.**