

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

GARY L. KRETCHMAR,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	No. 04-5124
v.	:	
	:	
PATRICIA L. BACHTLE, <u>et al</u> ,	:	
	:	
Defendants.	:	

MEMORANDUM AND ORDER

JOYNER, J.

June 6, 2005

Via the instant Motions, Defendants G. Thomas Wiley, Honorable Ward F. Clark, Honorable Mary Jane Bowes, Honorable Stephen J. McEwen, Jr., Honorable Correale F. Stevens, Honorable Ralph Cappy, Honorable Ronald D. Castille, Honorable J. Michael Eakin, Honorable William H. Lamb, Honorable Russell M. Nigiro, Honorable Sandra Schultz Newman, Honorable Thomas G. Saylor, and Honorable Stephen A. Zappala (the "Judicial Defendants") and Defendant Patricia L. Bachtle move to dismiss Plaintiff's Complaint. For the reasons that follow, the Motions shall be granted.

Factual Background

On April 25, 2002, Plaintiff's former counsel filed a Petition for Writ of Habeas Corpus with the Office of the Prothonotary, Court of Common Pleas of Bucks County. While the

Petition challenged the legality of Plaintiff's criminal conviction, Plaintiff contends that the Petition was erroneously processed as a civil action. On August 7, 2002, the Petition was denied by Judge Ward F. Clark. Plaintiff then filed a Petition for Writ of Habeas Corpus in the criminal division of the Court of Common Pleas on September 26, 2002, pursuant to his original criminal prosecution at Crim. No. 87-1190-1. That Petition was denied, as was Plaintiff's Petition for Rehearing and subsequent appeal to the Superior Court of Pennsylvania. The Supreme Court of Pennsylvania further denied Plaintiff's Petition for Allowance of Appeal.

42 Pa. C.S. § 5103(c) governs the appropriate disposition of appeals or other matters brought within a division of a court to which such matter is not allocated by law. In such a situation, "the court shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper division of the court, where the appeal or other matter shall be treated as if originally filed in the transferee division on the date first filed." 42 Pa. C.S. § 5103(c). Plaintiff now brings this 42 U.S.C. § 1983 action against Defendants, judges, officers, and administrators of the Court of Common Pleas of Bucks County. Plaintiff maintains that Defendants violated his rights under the 14th Amendment by erroneously processing his Petition for Writ of Habeas Corpus in the civil division, dismissing the Petition

rather than transferring it to the criminal division, and denying Plaintiff's appeals without addressing these issues.

Standard of Review

In considering a motion to dismiss filed pursuant to Fed. R. Civ. P. 12(b), a court must consider only those facts alleged in the complaint and accept all of the allegations as true. ALA, Inc. v. CCAIR, Inc., 29 F.3d 855, 859 (3rd Cir. 1994). A motion to dismiss may only be granted where the allegations fail to state any claim upon which relief could be granted. Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997).

Discussion

1. The Rooker-Feldman Doctrine as a Jurisdictional Bar

Defendants first move to dismiss Counts II, III, and IV on the grounds that these Counts seek review of state court judgments in violation of the Rooker-Feldman doctrine.

The Rooker-Feldman doctrine bars federal district courts from exercising jurisdiction over cases that are the functional equivalent of appeals from state court judgments. Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). A case is the functional equivalent of an appeal where the claim was actually litigated before the state court, or where the claim is

"inextricably intertwined" with the state adjudication. Marran v. Marran, 376 F.3d 143, 149 (3rd Cir. 2004) (citing ITT Corp. v. Intelnet Int'l Corp., 366 F.3d 205, 210 (3rd Cir. 2004)).

Notably, the Rooker-Feldman doctrine bars district court review even where a plaintiff alleges that the state court's actions infringed upon the plaintiff's constitutionally protected rights. Feldman, 460 U.S. at 486. With the exception of proper habeas corpus petitions, review of such actions is properly had only in the state appellate courts and in the United States Supreme Court. Feldman, 460 U.S. at 486; see also 28 U.S.C. § 1257.

Plaintiff in this action contends that the Honorable Ward F. Clark of the Court of Common Pleas of Bucks County violated Plaintiff's constitutional rights by adjudicating under civil law an erroneously filed Petition for Writ of Habeas Corpus that challenged the legality of a criminal conviction, and later dismissing a properly filed Petition in reliance on the reasoning of the civil adjudication. Complaint, Count II. Plaintiff further contends that the Honorable Judges of the Superior Court of Pennsylvania erred in affirming Judge Clark's Order dismissing the properly filed Petition "without addressing the underlying issue of the adjudication of the erroneously filed Petition." Complaint, Count III, ¶ 52. Plaintiff raises similar claims of error with respect to the Supreme Court of Pennsylvania's denial of Plaintiff's Petition for Appeal. Complaint, Count IV.

This Court finds that Plaintiff's claims regarding the adjudication of his erroneously filed Petition are inextricably intertwined with the underlying state court actions. In order to grant Plaintiff the relief he seeks, this Court would have to make a determination that the judgments of the Pennsylvania state courts were erroneously entered. See Marran, 376 F.3d at 149-50 (citing FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834, 840 (3rd Cir. 1996)). There can be no question that the Rooker-Feldman doctrine bars federal review under such circumstances. Id.

2. Failure to State a Claim Against Defendants Wiley and Bachtle

Defendants further move to dismiss Count I with respect to Defendants Wiley and Bachtle, on the grounds that Plaintiff has not demonstrated that these Defendants were personally involved in the alleged deprivation of Plaintiff's constitutional rights.

Any defendant in a § 1983 civil rights action must have personal involvement in the alleged wrongs, either by personal participation or by "actual knowledge and acquiescence." Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3rd Cir. 1988). Liability cannot be predicated solely on the doctrine of *respondeat superior*. Rode, 845 F.2d at 1207. Indeed, the Third Circuit has upheld dismissal of § 1983 claims predicated on supervisory

liability where allegations of participation, actual knowledge, and acquiescence were not made "with appropriate particularity. Rode, 845 F.2d at 1207-08.

The allegations raised by Plaintiff in Count I against Defendants Wiley and Bachtle focus exclusively on these Defendants' supervisory capacities. Plaintiff does not allege that either Defendant personally participated in, was actually aware of, or acquiesced in the actions of his or her subordinates. Plaintiff merely contends that Defendants Wiley and Bachtle violated his constitutional rights "by virtue of the actions of the people [they] supervise[]." As Plaintiff has failed to plead that Defendants Wiley and Bachtle were personally involved in the alleged wrongs, Count I must be dismissed as against these two Defendants.

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PATRICIA L. BACHTLE, et al, :
 :
Defendants. :

ORDER

AND NOW, this 6th day of June, 2005, upon consideration of the Motions to Dismiss filed by Defendants G. Thomas Wiley, Honorable Ward F. Clark, Honorable Mary Jane Bowes, Honorable Stephen J. McEwen, Jr., Honorable Correale F. Stevens, Honorable Ralph Cappy, Honorable Ronald D. Castille, Honorable J. Michael Eakin, Honorable William H. Lamb, Honorable Russell M. Nigiro, Honorable Sandra Schultz Newman, Honorable Thomas G. Saylor, and Honorable Stephen A. Zappala (Doc. No. 12) and Defendant Patricia L. Bachtle (Doc. No. 13), and Plaintiff's responses thereto (Docs. No. 35, 36, 37), it is hereby ORDERED that the Motions are GRANTED and Plaintiff's Complaint is DISMISSED as against the above-named Defendants.

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.