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

STANLEY ERIC BROWN,	:	
Plaintiff,	:	**CIVIL ACTION**
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.,	:	
Defendants.	:	**No. 04-5163**

MEMORANDUM AND ORDER

Schiller, J. **August 12, 2005**

Plaintiff Stanley Eric Brown brings this action pursuant to 42 U.S.C. § 1983 against the following Defendants: (1) the City of Philadelphia; (2) Lynne Abraham, Emmet Fitzpatrick, Catharine Marshall, and Roger King of the Philadelphia District Attorney's Office (collectively, "the District Attorney's Office Defendants"); (3) Philadelphia police officers Attilio Pascali and Albert Paris; (4) Judges John Geisz, Edward Blake and David Savitt of the Court of Common Pleas (collectively, the Judicial Defendants"); and (5) attorneys Joseph Santaguida, Michael Seidman, and Norris Gelman. Presently before the Court are motions to dismiss Plaintiff's Complaint filed by the District Attorney's Office Defendants, the Judicial Defendants, Santaguida, Seidman, and Gelman. For the reasons set forth below, the Court grants all of the Defendants' motions to dismiss, and also dismisses Plaintiff's claims against the City and police officers Pascali and Paris as frivolous.

I. BACKGROUND

On April 2, 1976, Plaintiff and an accomplice, Harvey Tabron, approached Carmen Falanga, an insurance agent, on the 2400 block of West Sergeant Street in Philadelphia. *Commw. v. Brown*, 414 A.2d 70, 73 (Pa. 1980). Plaintiff was armed with a manriki (a two and one half foot chain used

as a martial arts weapon) and Tabron possessed a handgun. *Id*. at 75. Plaintiff and Tabron accosted Falanga as he was getting into his car. *Id*. Plaintiff threw the manriki around Falanga's neck and pushed him towards Tabron, who faced Falanga with his gun drawn. *Id*. A struggle ensued; Falanga drew his own pistol and shot at Tabron. *Id*. Tabron returned fire, killing Falanga. *Id*.

On April 5, 1976, Plaintiff was arrested and charged with second-degree murder, robbery, possession of an instrument of crime, and conspiracy. (Compl. ¶ 23.) On November 17, 1976, a jury convicted Plaintiff on all counts charged. Plaintiff's post-trial motions were denied, and on June 29, 1977, he was sentenced to life imprisonment. His conviction and sentence were affirmed on direct appeal. *See Brown*, 414 A.2d at 81. Plaintiff's three post-conviction relief petitions were denied, as was his petition for federal habeas corpus relief.[1] Accordingly, to date, Plaintiff's criminal convictions remain valid and have not been modified or overturned by any court to have considered them. On November 12, 2004, Plaintiff instituted the instant § 1983 action.

II. STANDARD OF REVIEW

In considering a motion to dismiss for failure to state a claim upon which relief may be granted, courts must accept as true all of the factual allegations pleaded in the complaint and draw all reasonable inferences in favor of the non-moving party. *Bd. of Trs. of Bricklayers & Allied*

[1] See *Commw. v. Brown*, 541 A.2d 26 (Pa. Super. Ct. 1978) (denying first Post Conviction Hearing Act petition); *Commw. v. Brown*, 552 A.2d 249 (Pa. 1980) (denying petition for allocatur on first PCHA claim); *Brown v. Zimmerman*, Civ. A. No. 91-4045 (E.D. Pa. Nov. 1. 1991) (denying federal habeas claim); *Brown v. Zimmerman, et al.*, Civ. A. No. 92-2021 (3d Cir. Mar. 31, 1992) (affirming denial of federal habeas claim); *Commw. v. Brown*, 738 A.2d 454 (Pa. 1999) (denying allocatur of Plaintiff's second state-law collateral petition, brought under Post Conviction Relief Act ("PCRA")); *Commw. v. Brown*, 817 A.2d 1174 (Pa. Super. Ct. 2002) (denying third PCRA petition); *Commw. v. Brown*, 830 A.2d 974 (Pa. 2003) (denying allocatur of Plaintiff's third PCRA petition).

Craftsmen Local 6 of N.J. Welfare Fund v. Wettlin Assocs., Inc., 237 F.3d 270, 272 (3d Cir. 2001). A motion to dismiss will only be granted if it is clear that relief cannot be granted to the plaintiff under any set of facts that could be proven consistent with the complaint's allegations. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984) (*citing Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)).

Because Plaintiff is acting pro se, the Court must liberally construe his complaint and "apply the applicable law, irrespective of whether [he] has mentioned it by name." *Seville v. Martinez*, Civ. A. No. 04-5767, 2005 U.S. Dist. LEXIS 6696, at *6, 2005 WL 289906, at *2 (E.D. Pa. Feb. 4, 2005) (*quoting Higgins v. Beyer*, 293 F.3d 683, 688 (3d Cir. 2002)). A pro se complaint may be dismissed for failure to state a claim only if it appears "'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (*quoting Conley*, 355 U.S. at 45-46); *Milhouse v. Carlson*, 652 F.2d 371, 373 (3d Cir. 1981). If the plaintiff presents only vague and conclusory allegations, however, the complaint should be dismissed. *Riley v. Jeffes*, 777 F.2d 143, 148 (3d Cir. 1985).

III. DISCUSSION

Extending over thirty-five pages and 165 numbered paragraphs, Plaintiff has brought allegations against virtually everyone involved in his arrest, trial, and conviction. Plaintiff's claims are often difficult to understand, but the Court has carefully examined the pleadings and, to the extent that the Court can divine Plaintiff's meaning, it will discuss his allegations against each set of Defendants in turn.

A. The Judicial Defendants

Defendant Geisz presided over Plaintiff's criminal trial. Plaintiff alleges that Defendant

Geisz conspired to deprive him of his rights by wilfully concealing material facts tending to show Plaintiff's innocence. (Compl. ¶¶ 47, 59, 124, 165.) Defendant Blake heard Plaintiff's first state law collateral claim, brought under the Pennsylvania Post Conviction Hearing Act ("PCHA"), 42 PA. CONS. STAT. § 9541 (1978) (superceded), and Plaintiff asserts that Blake refused to provide Plaintiff with an evidentiary hearing on his meritorious PCHA claims. (Compl. ¶¶ 78-79.) Finally, Plaintiff insists that Defendant Savitt, who presided over another of Plaintiff's state law collateral petitions, erroneously denied that petition. (Compl. ¶¶ 92-95, 98-103, 117-121.) Plaintiff asserts that the actions of the Judicial Defendants were "motivated by racial and class-based invidious discriminatory animus," and that the proceedings held by them were "Null and Void." (Compl. ¶ 151.) In sum, Plaintiff alleges that the "corruptly influenced" Judicial Defendants perpetrated "'legal fraud' on the judicial institution" by filing false and fictitious writings in their opinions. (Compl. ¶ 165.III.A.5.) Plaintiff seeks declaratory and monetary relief against the Judicial Defendants, including compensatory damages of $50,000.00 against each Defendant plus $2,000.00 for each day of false imprisonment, and punitive damages of $50,000.000 against each Defendant and $5,000.00 for each day of false imprisonment. (*Id*.)

The Judicial Defendants dispute Plaintiff's allegations, and assert that the doctrine of judicial immunity bars Plaintiff's claims. They are correct. The Supreme Court has declared that judges "are not liable in civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." *Bradley v. Fisher*, 13 Wall. 335, 347 (1872). Judges enjoy absolute immunity from suits seeking damages for civil rights violations arising from acts performed in their judicial capacities. *Dennis v. Sparks*, 449 U.S. 24, 27 (1980); *see also Figueroa v. Blackburn*, 208 F.3d 435, 440 (3d Cir. 2000) ("It is a well-settled

principle of law that judges are generally 'immune from a suit for money damages.'") (*quoting Mireles v. Waco*, 502 U.S. 9, 9 (1991) (per curiam)). This immunity applies even if the judge acted maliciously or in bad faith. *Byrd v. Parris*, Civ. A. No. 99-769, 1999 U.S. Dist. LEXIS 15957, at *7, 1999 WL 895647, at *2 (E.D. Pa. Oct. 15, 1999) (*citing Pierson v. Ray*, 386 U.S. 547, 554 (1967)). A judge is also protected from suit even if the judge's actions resulted from a conspiracy between the judge and other lawyers in the case. *D'Alessandro v. Robinson*, 210 F. Supp. 2d 526, 529 (D. Del. 2002) (collecting cases applying doctrine of judicial immunity and dismissing conspiracy claims against judges).

The broad blanket of judicial immunity can only be overcome in two situations: first, if the judge is acting outside the scope of his judicial capacity; or second, if the judge's actions, though judicial in nature, are taken in the "complete absence of all jurisdiction." *Mireles*, 502 U.S. at 11-12. Whether an act falls within the scope of judicial action depends upon the "'nature of the act itself, i.e., whether it is a function normally performed by a judge, and [] the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity.'" *Id*. at 12 (*quoting Stump v. Sparkman*, 435 U.S. 349, 362 (1978)).

Clearly, presiding over a trial and hearing post-conviction petitions are acts judicial in nature. Accordingly, the Judicial Defendants acted within the scope of their judicial capacities. *Cf. id*. Moreover, the Judicial Defendants did not act in the "complete absence of all jurisdiction." Pennsylvania law grants the courts of common pleas "unlimited original jurisdiction of all actions and proceedings, including all actions and proceedings heretofore cognizable by law or usage in the courts of common pleas." 42 PA. CONS. STAT. § 931(a) (2005). Furthermore, Plaintiff does not argue that the Judicial Defendants lacked jurisdiction to hear his case or preside over his probation

hearing. Accordingly, the Court holds that the doctrine of judicial immunity bars Plaintiff's action against the Judicial Defendants and grants their motion to dismiss all claims against them.

B. The District Attorney's Office Defendants

Next, Plaintiff alleges a course of conspiracy and a pattern of misconduct against the Philadelphia District Attorney's office. First, Plaintiff repeatedly asserts that he is actually innocent of the charges for which he was convicted. (*See, e.g.*, Compl. ¶ 49.) Plaintiff also asserts that, inter alia, the District Attorney's Office Defendants: conspired with Plaintiff's trial counsel (*id*. ¶ 35); conspired to use perjured testimony at Plaintiff's trial (*id*. ¶¶ 31, 45); failed to file an Indictment against Plaintiff (*id*. ¶ 36); failed to disclose the criminal record of one of the witnesses at the trial (*id*. ¶ 126j); and committed misconduct in their summation (*id*. ¶ 126k). Plaintiff seeks the same declaratory and monetary relief against the District Attorney's Office Defendants as he seeks against the Judicial Defendants. (*Id*. ¶ 165.III.) In response, the District Attorney's Office Defendants argue that they are entitled to prosecutorial immunity against Plaintiff's individual capacity claims, that Plaintiff fails to make out an official capacity claim, that Plaintiff has not averred any specific facts tending to demonstrate a conspiracy, and that because Plaintiff's convictions remain valid, he may not maintain a § 1983 action for damages.

The Court holds that Plaintiff's claims against the District Attorney's Office Defendants must be dismissed. First, Plaintiff's individual capacity claims against these Defendants are barred by the doctrine of prosecutorial immunity. The Supreme Court has held that state prosecutors are immune from civil suits seeking damages under § 1983 for acts committed in initiating and presenting the State's case. *Imbler v. Pachtman*, 424 U.S. 409, 431 (1976). In *Imbler*, the Court declined to grant

merely qualified immunity to state prosecutors.[2] *Id*. at 424. Instead, the Court held that even the threat of lawsuits seeking civil damages against state prosecutors would undermine their performance and effectiveness. *Id*. The Court held that prosecutors could not effectively enforce the law if actions taken in furtherance of their duties left open the possibility of a lawsuit. *Id*. at 425. Moreover, the court found that forcing prosecutors, who operate under time constraints and limited information, to answer for long-past actions arising amid a myriad of indictments and trials would place an intolerable burden upon them. *Id*. at 425-26. In sum, the Supreme Court was simply unwilling to limit the discretion afforded to prosecutors in conducting a trial and presenting evidence. *Id*. at 426.

The law is thus clear that, provided that the District Attorney's Office Defendants acted within the scope of their duties as prosecutors, they are immune from liability. *See id*. at 430. The acts alleged against the District Attorney's Office Defendants all clearly arose in the course of the Commonwealth's prosecution of Plaintiff. The District Attorney's Office Defendants are therefore absolutely immune from suit for these actions, even accepting Plaintiff's allegations as true. *See Barnes v. City of Coatesville*, Civ. A. No. 93-1444, 1993 U.S. Dist. LEXIS 9112, at *22-23, 1993 WL 259329, at *8 (E.D. Pa. June 28, 1993) (noting that prosecutors enjoy absolute immunity "from civil liability for activities associated with the criminal justice process, including initiating a prosecution and presenting the state's case").

Moreover, even assuming that a case could be made against the District Attorney's Office Defendants, Plaintiff is prohibited from making it because of the Supreme Court's holding in *Heck*

[2] Absolute immunity defeats a lawsuit from its inception, while qualified immunity requires an examination of the circumstances and motivations surrounding a defendant's actions, which often must be adduced at trial. *See Imbler*, 424 U.S. at 419 n.13 (citations omitted).

v. Humphrey, 512 U.S. 477 (1994). In that case, the Court barred any award of monetary damages in a § 1983 action that would necessarily imply that the underlying conviction was unconstitutional or incorrect unless "the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus." *Id*. at 487. Therefore, when a state prisoner seeks damages arising from a § 1983 claim, "the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated." *Id*. Here, a finding against the District Attorney's Office Defendants would clearly imply that Plaintiff's convictions were invalid. As Plaintiff has failed to demonstrate that these convictions have been reversed or otherwise called into question, however, his § 1983 claim for damages cannot go forward.

C. Santaguida, Seidman, and Gelman

Next, Plaintiff has sued each of the lawyers who represented him during his criminal trial and post-conviction proceedings. Beginning on April 5, 1976 and ending on June 29, 1977, Defendant Santaguida represented Plaintiff during his criminal trial and post-trial motions. (Def. Santaguida's Mem. in Supp. of Mot. to Dismiss at 1.) In 1980, Defendant Seidman represented Plaintiff in his direct appeal to the Pennsylvania Supreme Court. (Def. Seidman's Mem. in Supp. of Mot. to Dismiss at 2.) Finally, in 1987 and 1988, Defendant Gelman represented Plaintiff during his first state court collateral appeal. (Def. Gelman's Mem. in Supp. of Mot to Dismiss at 2.) Plaintiff alleges violations of his constitutional rights by each attorney, and also argues that each attorney committed legal malpractice in his respective representation of Plaintiff. Plaintiff seeks the identical

injunctive and monetary relief against his lawyers as against the other classes of Defendants. Santaguida, Seidman, and Gelman all respond that, because they are not state actors, they cannot be sued under § 1983, and that both Pennsylvania Supreme Court precedent and the operation of the statute of limitations bar Plaintiff's claims for legal malpractice.

The Court holds that Plaintiff's § 1983 claims against Santaguida, Gelman, and Seidman must be dismissed. Section 1983 states, in relevant, part, that "[e]very person who, *under color of any statute*, ordinance, regulation, custom, or usage, *of any State* . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured." 42 U.S.C. § 1983 (2005) (emphasis added); *see also Gomez v. Toledo*, 446 U.S. 535, 640 (1980) (holding that § 1983 plaintiff "must allege that the person who has deprived him of [a federal] right acted under color of state or territorial law"). Of course, "a lawyer representing a client is not, by virtue of being an officer of the court, a state actor 'under color of state law' within the meaning of § 1983." *Polk County v. Dodson*, 454 U.S. 312, 318 (1981). Plaintiff himself concedes that Defendants Santaguida and Gelman were private attorneys at the time of their representation; therefore, they are not "state actors" for purposes of a § 1983 claim and Plaintiff's constitutional claims against them under that statute must be dismissed. (*See* Compl. ¶ 15.) This is equally true for Defendant Seidman, who was court-appointed (*see* Compl. ¶ 56), as the Supreme Court has also held that "a public defender does not act under color of state law when performing a lawyer's traditional functions as counsel to a defendant in a criminal proceeding." *Dodson*, 454 U.S. at 325. Therefore, Plaintiff cannot maintain a § 1983 action against Seidman.

Furthermore, the Court also holds that Plaintiff's malpractice claims against each of his

attorneys must be dismissed. Pennsylvania law establishes two-year and four-year statutes of limitations for legal malpractice arising out of negligence and breach of contract, respectively. *See* 42 PA. CONS. STAT. §§ 5524-25 (2005). The Supreme Court of Pennsylvania has held that the limitations period begins to run at "the termination of the attorney-client relationship." *See Bailey v. Tucker*, 621 A.2d 108, 116 (Pa. 1993). The Complaint indicates that Santaguida's representation of Plaintiff ended in 1977 (Compl. ¶ 40, 56); that Seidman's representation ended in 1980 (*id*. ¶ 73); and that Gelman's representation ended in 1988 (*id*. ¶¶ 86, 88-89). Because this action was not filed until November of 2004, the statute of limitations has long since run and Plaintiff's claims of legal malpractice must be dismissed.

D. The City and Pascali and Paris

Finally, this Court will dismiss Plaintiff's claims against both the City and police officers Pascali and Paris. It is well settled that a district court has the inherent power to dismiss a complaint sua sponte for failure to state a claim as to non-moving defendants when those claims are frivolous. *See Fitzgerald v. First E. Seventh St. Tenants Corp.*, 221 F.3d 362, 264 n.2 (2d Cir. 2000) (holding that district court has authority to dismiss sua sponte frivolous complaints whether litigant proceeds in forma pauperis or fee-paid); *McKinney v. Oklahoma*, 925 F.2d 363, 365 (10th Cir. 1991) (holding that court may dismiss complaint sua sponte "when it is patently obvious that the plaintiff could not prevail on the facts alleged"); *Jefferies v. Velasquez*, Civ. A. No. 88-1384, 1988 U.S. Dist. LEXIS 1668 at *1, 1988 WL 16959 at *1 (E.D. Pa. Feb. 26, 1988).

Plaintiff's claims against the City, Pascali, and Paris are patently frivolous, and there is no possibility, on the facts alleged, that Plaintiff could succeed on any of them. Plaintiff makes two claims against Pascali and Paris. First, he asserts that his April 5, 1976 arrest by Pascali and Paris

was "without cause or justification." (Compl. ¶ 23.) Second, Plaintiff alleges that Pascali and Paris did not file criminal complaints against him and did not file an Information or Indictment against him. (*Id*. ¶ 24.) Neither of these claims is cognizable and, therefore, they will be dismissed. Plaintiff's first claim comes within the purview of *Heck*, 512 U.S. 477 (1994). If Plaintiff truly was arrested without cause, this would "necessarily imply the invalidity of his conviction or sentence." *Id*. at 487. However, Plaintiff's convictions and sentence have not been invalidated or called into question; accordingly, *Heck* mandates that "the complaint must be dismissed." *Id*. Plaintiff's second claim against Pascali and Paris is nonsensical. Police officers have no authority to file criminal complaints, Informations, or Indictments. *See* PA. R. CRIM. P. 560(A) (2004) (stating that "[a]fter the defendant has been held for court, the *attorney for the Commonwealth shall proceed* by preparing an information and filing it with the court of common pleas") (emphasis added).

Plaintiff's claims against the City are similarly without merit and will be dismissed. Plaintiff asserts that the City, "as a matter of policy and practice," failed to discipline, train, investigate, sanction, or otherwise direct Pascali and Paris, the District Attorney's Office Defendants, and the Judicial Defendants, causing them to engage in the unlawful conduct he asserts against them. (Compl. ¶¶ 156-58.) Better training or supervision, Plaintiff claims, could have prevented the various infirmities attending his conviction and sentence. (*Id*. ¶¶ 159-61.) Again, though, if Plaintiff were correct regarding any of his claims against the various groups of Defendants in this action, and by extension against the City for encouraging and/or failing to prevent the other Defendants' behavior, his conviction and sentence would be invalid. *Heck* plainly dictates that because Plaintiff's conviction and sentence remain in force, he cannot maintain a § 1983 action based on these claims. *See Heck*, 512 U.S. at 487. His claims against the City are therefore dismissed as frivolous.

IV. CONCLUSION

For the reasons set forth above, Defendants' motions to dismiss are granted and Plaintiff's remaining claims are dismissed sua sponte. An appropriate Order follows.

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STANLEY ERIC BROWN,	:	
Plaintiff,	:	**CIVIL ACTION**
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.,	:	
Defendants.	:	**No. 04-5163**

ORDER

AND NOW, this **12th** day of **August**, **2005**, upon consideration of Defendants' Motions to Dismiss, Plaintiff's Consolidated Response thereto, and for the foregoing reasons, it is hereby **ORDERED** that:

1. Defendants Lynne Abraham, Emmet Fitzpatrick, Catharine Marshall and Roger King's Motion to Dismiss (Document No. 15) is **GRANTED**.
2. Defendants John Geisz, Edward Blake, and David Savitt's Motion to Dismiss (Document No. 16) is **GRANTED**.
3. Defendant Joseph Santaguida's Motion to Dismiss (Document No. 17) is **GRANTED**.
4. Defendant Michael Seidman's Motion to Dismiss (Document No. 12) is **GRANTED**.
5. Defendant Norris Gelman's Motion to Dismiss (Document No. 18) is **GRANTED**.
6. Plaintiff's claims against Defendant City of Philadelphia are **DISMISSED with prejudice**.
7. Plaintiff's claims against Defendants Attilio Pascali and Albert Paris are **DISMISSED with prejudice**.

8. The Clerk of Court is directed to close this case.

BY THE COURT:

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Berle M. Schiller, J.