

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

HADDRICK BYRD

v.

ALBERT PARRIS, ET AL.

CIVIL ACTION  
NO. 99-769

M E M O R A N D U M

Broderick, J.

OCTOBER 15, 1999

Plaintiff Haddrick Byrd, proceeding pro se, brings this civil rights action under 42 U.S.C. §§ 1983, 1985, 1986, and 1988 against an array of police detectives, defense attorneys, prosecutors, and state and federal judges. The defendants are: Albert Paris, and Martin Buck (the "Detective Defendants"), Stephen Gallagher, Roger Reynolds, Paul Hughes, and Joseph Grimes (the "Defense Attorney Defendants"), District Attorney Lynne Abraham, Joseph McLaughlin (deceased), F. Emmett Fitzpatrick, Richard Goldberg, Elizabeth Chambers, Donna Zucker, Peter Gardner, Joan Weiner, Grady Gervino, and Catherine Marshall (the "District Attorney's Office Defendants"), Philadelphia District Magistrate John Doe as named in complaint, Common Pleas Administrative Judge Edward Blake, Common Pleas Judges Eugene Clarke, and David Savitt, Superior Court Judges Donald Wieand (deceased), Sydney Hoffman (deceased), and Thomas Saylor, State Supreme Court Justices Ronald Castille, Russell Nigro, John Flaherty, Sandra Schultz Newman, Ralph Cappy, Stephen Zappala (the "State Judicial Defendants") David Donaldson, Litigation

Chief for Administrative Office of Pennsylvania Courts, and Magistrate Judge Tullio Gene Leomporra, District Court Judges Stewart Dalzell and Daniel Huyett, 3rd, Circuit Court Judges Edward Becker, Jane Roth, Richard Nygaard, and Supreme Court Justices William Rehnquist, John Stevens, Sandra Day O'Connor, Antonin Scalia, Anthony Kennedy, David Souter, Clarence Thomas, Ruth Ginsburg, and Stephen Breyer (the "Federal Judicial Defendants").

Plaintiff alleges that his confinement is "a continuing violation and on-going conspiracy by the defendants" to deny Plaintiff of his constitutional rights of due process, equal protection and freedom from cruel and unusual punishment. Compl. at 1. Plaintiff also asserts state law claims of false arrest, false imprisonment and malicious abuse of the legal process. Plaintiff seeks compensatory and punitive damages, as well as declaratory and injunctive relief. Plaintiff's claims arise out of his February 25, 1975 arrest and subsequent conviction on charges of murder, robbery, and conspiracy for his participation in the 1974 killing of Isadore Levin at the Keshet Israel Synagogue in Philadelphia. On January 12, 1976, Plaintiff was sentenced to life imprisonment for second degree murder as well as a ten to twenty year term for robbery to run concurrently with the life sentence. Plaintiff's conviction was affirmed by the Pennsylvania Supreme Court on July 3, 1980. Plaintiff's subsequent petitions for state and federal habeas corpus relief challenging the validity of his conviction were denied.

Presently before the Court are motions brought by several of the Defendants to dismiss Plaintiff's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and Plaintiff's responses thereto. The motions to dismiss were brought by: the State and Federal Judicial Defendants, the Prosecutors, the Detectives, as well as Defendants Grimes, Hughes, and Donaldson. For the reasons stated below, Defendants' motions to dismiss Plaintiff's complaint will be granted.

In deciding a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), the Court looks to the allegations of the Plaintiff's complaint. The Court must accept as true the facts as alleged in Plaintiff's complaint and must "draw all reasonable inferences from those facts in the light most favorable to the plaintiff." Giusto v. Ashland Chemical Co., 994 F. Supp. 587, 592-93; Markowitz v. Northeast Land Co., 906 F.2d 100, 103 (3d Cir. 1990). Furthermore, because Byrd is proceeding pro se, the Court must read his allegations liberally, applying a less stringent standard of scrutiny to the pleadings than would be applied to a complaint drafted by counsel. Haines v. Kerner, 404 U.S. 519, 520 (1972).

Plaintiff's allegations, viewed in the light most favorable to the Plaintiff, are that he was arrested without probable cause and held without an arrest warrant or a criminal complaint. Compl. ¶ 18-20. Plaintiff further alleges he was "fraudulently arraigned" and convicted by a trial court lacking subject matter

jurisdiction over the case. Compl. ¶22,49. The Court will now address each motion to dismiss in turn.

### **State and Federal Judicial Defendants**

Plaintiff claims that the trial court judge improperly exercised subject matter jurisdiction over Plaintiff's case, apparently because no formal notice of charges were ever filed, and that therefore the lower court's judgment was "null and void". Compl. ¶ 98. Plaintiff further argues that all of the remaining State and Federal Judicial Defendants wrongfully denied both his direct appeals and habeas corpus petitions or wrongfully declined to hear them altogether. Compl. ¶ 95-183. Plaintiff's claims against all of the State and Federal Judicial Defendants are barred by the doctrine of judicial immunity.

The United States Supreme Court has made clear, as early as 1872, 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). Based on this rule, the Supreme Court has "consistently adhered to the rule 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) (quoting Supreme Court of Virginia v. Consumers Union, 446 U.S. 719, 734-35 (1980)). This judicial immunity is "immunity from suit, not just from an ultimate assessment of damages." Mireles v. Waco, 502 U.S. 9, 11 (1991). Judicial immunity can therefore

not be overcome by allegations of bad faith or malice. Pierson v. Ray, 386 U.S. 547, 554 (1967). The doctrine of judicial immunity applies equally to courts of limited jurisdiction, such as district justices, as to courts of general jurisdiction. See Schmidt v. Degen, 376 F. Supp. 664 (E.D. Pa. 1974).

Judicial immunity can be overcome only in two circumstances. Mireles, 502 U.S. at 11. A judge is not "not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity." Mireles, 502 U.S. at 11. A judge is also not immune for actions, although judicial in nature, taken in the "complete absence of all jurisdiction." Id. at 12. The State and Federal Judicial Defendants therefore enjoy absolute immunity unless their actions were taken outside of their judicial capacity or were taken in the "complete absence of all jurisdiction." Mireles, 502 U.S. at 12. Neither of these exceptions are present in this case. Every one of the Defendant Judges were clearly acting in their judicial capacity with respect to Byrd's trial and subsequent direct and collateral appeals. Plaintiff makes no allegation against any of the Judicial Defendants as to actions taken outside their judicial capacity. Therefore, the first exception to judicial immunity cannot apply.

Likewise, none of the Judicial Defendants' actions were taken in the "complete absence of all jurisdiction." Mireles, 502 U.S. at 12. District Justices have the power to preside over arraignments. 42 Pa.C.S. § 1515 (a)(4). Pennsylvania courts of

common pleas are vested with unlimited original jurisdiction to try a murder case. 42 Pa. C.S. § 931(a); see also Commonwealth v. Little, 314 A.2d 270, 272 (Pa. 1974). Plaintiff's complaint does not dispute the power of the Court of Common Pleas to exercise jurisdiction over his murder trial, nor does he dispute the power of any of the Pennsylvania appellate courts or the federal courts to exercise jurisdiction over his direct appeals and habeas corpus petitions. Rather, Plaintiff's complaint alleges that the trial court lacked subject matter jurisdiction because he was never indicted by a grand jury. Compl. 50. This allegation, even construed in the light most favorable to Plaintiff, is not sufficient to deprive any of the Defendant judges of judicial immunity. The Supreme Court has made clear that it is only the clear absence of jurisdiction, not merely an excess of jurisdiction, which deprives a judicial officer of immunity. Pierson, 386 U.S. at 554; Stump v. Sparkman, 435 U.S. 349, 356 (1978). There being no showing of any clear absence of jurisdiction, all of Plaintiff's claims against both the State and Federal Judicial Defendants are barred by the doctrine of judicial immunity. Therefore, both the State Judicial Defendants' and the Federal Judicial Defendants' motions to dismiss all of Plaintiff's claims against them pursuant to Federal Rule of Civil Procedure 12(b)(6) will be granted.

**Defendant Donaldson**

In addition, Defendant Donaldson, as the chief of litigation for Pennsylvania's courts, is entitled to qualified immunity.

Government officials performing discretionary functions are entitled to qualified immunity so long as their actions are deemed to be objectively reasonable. Anderson v. Creighton, 483 U.S. 635, 638-39 (1987); see also Malley v. Briggs, 475 U.S. 335, 341 (1986) (qualified immunity protects "all but the plainly incompetent or those who knowingly violate the law").

Plaintiff's only allegation against Defendant Donaldson is that Defendant Donaldson opposed Plaintiff's request for a writ of prohibition with the Pennsylvania Supreme Court so that Plaintiff could again challenge the trial court's lack of jurisdiction. Compl. § 173, 175. Because this identical issue was raised and rejected several times both on direct appeal, on collateral appeal pursuant to the Pennsylvania Post Conviction Hearing Act as well as pursuant to federal habeas corpus petitions, Defendant Donaldson's opposition to Plaintiff's resurrecting the issue once again was quite reasonable. Defendant Donaldson is thus entitled to immunity from liability in this action. His motion to dismiss all of Plaintiff's claims against him pursuant to Rule 12(b)(6) will thus be granted.

#### **The District Attorney's Office Defendants**

Plaintiff alleges that the District Attorney's Office Defendants "impeded and obstructed justice" while participating in several stages of his trial and appeal. Plaintiff also alleges that District Attorney Lynne Abraham failed to adequately respond to a criminal complaint he filed complaining of his murder conviction. Compl. § 141-142. All of Plaintiff's

allegations against the District Attorney's Office Defendants, however, are barred by the doctrine of absolute prosecutorial immunity. The Supreme Court, in Imbler v. Pachtman, 424 U.S. 409 (1976), held that a state prosecuting attorney acting within the scope of his prosecutorial duties by initiating and pursuing a criminal prosecution and by presenting the state's case, is absolutely immune from suit for alleged deprivations of a complainant's constitutional rights. See also Kalina v. Fletcher, 522 U.S. 118 (1997). All of Plaintiff's allegations against the District Attorney's Office Defendants stem from acts taken within the scope of their prosecutorial duties that "were intimately associated with the judicial phase of the criminal process, and thus were functions to which the reasons for absolute immunity apply with full force." Imbler at 430. Therefore, the District Attorney's Office Defendants are absolutely immune from liability, and their motion to dismiss all of Plaintiff's claims against them pursuant to Rule 12 (b)(6) will be granted.

### **The Remaining Defendants**

Plaintiff alleges that the Defendant Detectives "fraudulently arrested [him] without probable cause." Compl. § 18. In Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), the Supreme Court held that a section 1983 plaintiff seeking to recover damages from an unconstitutional conviction or imprisonment must prove that the conviction or sentence has been "reversed on direct appeal, expunged by executive order, declared

invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus." Id. at 487.

In his complaint, Plaintiff undeniably challenges the constitutionality of his conviction. However, he has not and indeed cannot prove that his conviction has been invalidated. "Even a prisoner who has fully exhausted available state remedies has no cause of action under §1983 unless and until the conviction or sentence is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus." Heck at 489. Therefore, Plaintiff's claim against the Detective Defendants is not cognizable under section 1983. For the same reasons, Plaintiff's 1983 claims against the Defendant Defense Attorneys must also fail. Moreover, it is clear that the Defendant Defense Attorneys, even if they were court-appointed, are not state actors for section 1983 purposes. "It is well established that court-appointed attorneys performing a lawyer's traditional functions as counsel to [a] defendant do not act 'under color of state law' and therefore are not subject to suit under 42 U.S.C. § 1983." Rodriguez v. Weprin, 116 F.3d 62, 65 (2d Cir. 1997).

Plaintiff's claims under sections 1985, 1986, and 1988 are similarly without merit. Plaintiff does not once in his lengthy complaint state any claim upon which relief can be granted pursuant to any of these statutes. Though Plaintiff makes a vague reference to an "on-going conspiracy" by the defendants to deprive him of his constitutional rights, his complaint fails to

allege any facts that would support this claim. Therefore, Plaintiff's claims pursuant to sections 1985, 1986, and 1988 must also be dismissed.

Because it is clear that even taking all allegations as true, Plaintiff can prove no set of facts which would entitle him to relief under any federal theory against any of the Defendants, this Court will also dismiss Plaintiff's complaint against Defendant Defense Attorneys Gallagher and Reynolds. "It is well established that, even if a party does not make a formal motion to dismiss, the court may, sua sponte, dismiss the complaint where the inadequacy of the complaint is clear." Michaels v. State of New Jersey, 955 F.Supp. 315, 331 (D.N.J. 1996); see also Bryson v. Brand Insulations, Inc., 621 F.2d 556, 559 (3d Cir. 1980). Even under a liberal reading, Plaintiff's federal claims against Defendants Gallagher and Reynolds are clearly without merit, therefore this Court will dismiss them.

Because all Plaintiff's federal claims will be dismissed, this Court, pursuant to 28 U.S.C. § 1367(c)(3) declines to exercise jurisdiction over Plaintiff's remaining state claims against the Defendant Detectives and the Defendant Defense Attorneys.

An appropriate Order follows.

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O R D E R

AND NOW, this 15th day of October, 1999; Defendants Albert Paris, Martin Buck, Paul Hughes, Joseph Grimes, District Attorney Lynne Abraham, Joseph McLaughlin (deceased), F. Emmett Fitzpatrick, Richard Goldberg, Elizabeth Chambers, Donna Zucker, Peter Gardner, Joan Weiner, Grady Gervino, Catherine Marshall, Philadelphia District Magistrate John Doe as named in complaint, Common Pleas Administrative Judge Edward Blake, Common Pleas Judges Eugene Clarke, David Savitt, Superior Court Judges Donald Wieand (deceased), Sydney Hoffman (deceased), Thomas Saylor, State Supreme Court Justices Ronald Castille, Russell Nigro, John Flaherty, Sandra Schultz Newman, Ralph Cappy, Stephen Zappala, David Donaldson, Magistrate Judge Tullio Gene Leomporra, District

Court Judges Stewart Dalzell and Daniel Huyett, 3rd, Circuit Court Judges Edward Becker, Jane Roth, Richard Nygaard, and Supreme Court Justices William Rehnquist, John Stevens, Sandra Day O'Connor, Antonin Scalia, Anthony Kennedy, David Souter, Clarence Thomas, Ruth Ginsburg, and Stephen Breyer having motioned pursuant to Fed.R.Civ.P. 12(b)(6) to dismiss Plaintiff Byrd's complaint and Plaintiff Byrd's having responded thereto; for the reasons set forth in this Court's accompanying memorandum of this date;

**IT IS ORDERED:** The motions to dismiss for failure to state a claim pursuant to Fed.R.Civ.P. 12(b)(6) are **GRANTED** as to all of the above Defendants; and because it appears beyond doubt that Plaintiff can prove no set of facts which would provide him with a federal cause of action against any of the Defendants including Defendants Gallagher and Reynolds, Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** as to all of the Defendants;

**IT IS FURTHER ORDERED:** The remaining state law claims against Defendants Paris, Buck, Gallagher, Reynolds, Hughes, and Grimes are **DISMISSED WITHOUT PREJUDICE** to Plaintiff's rights to transfer these alleged causes of action to state court pursuant to the transfer provisions of 42 Pa.Cons.Stat.Ann. § 5103(b);

**IT IS FURTHER ORDERED:** Plaintiff Byrd's motion for default

judgment against Defendant Gallagher is **DENIED**;

**IT IS FURTHER ORDERED:** Defendant Hughes' Motion for more specific pleading pursuant to Fed.R.Civ.P. 12(e), and Defendant Huyett's Motion for an extension of time are **DISMISSED AS MOOT**.

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**Raymond J. Broderick, J.**

