

REVISED July 14, 2015

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 15-60093
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 10, 2015

Lyle W. Cayce
Clerk

CATHY L. TOOLE,

Plaintiff - Appellant

v.

BARACK OBAMA, President; JOHN ROBERTS, Chief Judge; LOUIS GUIROLA, JR., Judge; ROBERT H. WALKER, Magistrate Judge; HALIL SULEYMAN OZERDEN, Judge; JUDGE MICHAEL T. PARKER, Magistrate Judge; KEITH STARRETT, Judge; C. R. FISCHER; GEORGE OPFER; LINDA A. HALLIDAY; RICHARD A. DALEY; SCOTT LEVINS; MELANIE S. LANE; SUPREME COURT JUDGES (13-9004); DOCTOR UNKNOWN SANDERS, Ms.; ROBERT MCDONALD,

Defendants - Appellees

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:14-CV-415

Before HIGGINBOTHAM, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Cathy L. Toole brings suit against numerous defendants, alleging that the Department of Veterans Affairs failed to pay benefits to her and her children. The district court dismissed the suit. We affirm.

Ms. Toole's late-husband, James L. Toole, served in the United States Army in the 1950s and was discharged after he was struck in the left ear with a rifle during training. After he died, Ms. Toole alleged that her husband's death was service-related. The Board of Veterans Appeals disagreed. Ms. Toole appealed to the United States Court of Appeals for Veterans Claims, which affirmed.¹ Ms. Toole appealed to the Federal Circuit, which dismissed the appeal as it was required to do under 38 U.S.C. § 7292(d)(2) after finding that Ms. Toole raised only factual challenges to the decision below.² Ms. Toole subsequently filed six more lawsuits in different federal district courts challenging the agency's decision, all of which were dismissed.³ This case is the seventh. It is brought against President Obama, numerous federal judges, and several administrative officers of the Department of Veterans Affairs.

All claims against the President of the United States in his official capacity were properly dismissed because he is absolutely immune from any damages stemming from official acts.⁴ All claims against the named federal judges arise from actions taken in their judicial capacities, and it is long-settled law that a judge is immune from liability from actions "taken in the judge's judicial capacity."⁵ Finally, this Court of Appeals lacks jurisdiction to review

¹ *Toole v. Shinseki*, No. 07-2675, 2009 WL 2612426 (Vet. App. Aug. 27, 2009).

² *Toole v. Shinseki*, 364 F. App'x 627, 629 (Fed. Cir. 2010).

³ See *Toole v. Weinstein*, No. 06-CV-716 (S.D. Miss. 2006); *Toole v. Peak*, No. 08-CV-1481 (S.D. Miss. 2008), *aff'd*, 361 F. App'x 621 (5th Cir. 2010); *Toole v. Obama*, No. 10-CV-418 (S.D. Miss. 2010); *Toole v. Obama*, No. 11-CV-508 (S.D. Miss. 2011); *Toole v. Obama*, 12-CV-363 (S.D. Miss. 2012); *Toole v. Obama*, No. 13-CV-1038 (D.D.C. 2013), *aff'd*, 542 F. App'x 1 (D.C. Cir. 2013), *cert denied* 134 S. Ct. 1948 (2014).

⁴ *Forrester v. White*, 484 U.S. 219, 225 (1988).

⁵ *Mireles v. Waco*, 502 U.S. 9, 11 (1991) (per curiam).

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the decisions of the Board of Veterans Appeals.⁶ We affirm the dismissal of all claims brought against Veterans Affairs employees.

The district court dismissed the appeal as frivolous pursuant to 28 U.S.C. § 1915(e)(2). For the well-stated reasons of the court below, we agree. We affirm the district court in all other respects.

We DISMISS THIS APPEAL AS FRIVOLOUS and AFFIRM the judgment of the district court.

⁶ *Zuspann v. Brown*, 60 F.3d 1156, 1158 (5th Cir. 1995); *see also* 38 U.S.C. § 7292.