

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

MICHAEL P. TELEMAQUE

PLAINTIFF

VS.

CASE NO. 2:05CV00183 JMM

MAURICE M. PAUL

DEFENDANT

ORDER

Pending is defendant's Motion to Dismiss contending that (1) he is immune from suit based upon actions taken in his official capacity as a United States District Judge in the United States District Court, Northern District of Florida and (2) plaintiff has failed to state a claim upon which relief may be granted.

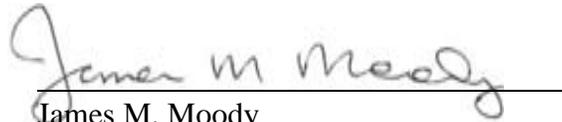
Plaintiff's complaint contains allegations that Judge Paul breached a contract which plaintiff contends resulted from an Order issued by Judge Paul in which he denied plaintiff's Motion to Vacate a Void Judgment. The Judgment which plaintiff sought to void resulted from actions taken in a criminal proceeding against plaintiff and a subsequent 42 U.S.C. § 2255 petition.

Pursuant to the holding in *Mireles v. Waco*, 502 U.S. 9, 11, 112 S.Ct. 286, 288, 116 L.Ed.2d 9 (1991) (*per curiam*) and *Duty v. City of Springdale*, 42 F.3d 460 (1994), Judge Paul is absolutely immune from a suit for damages for his actions taken in the criminal proceedings against plaintiff.

Furthermore, Judge Paul's actions in plaintiff's criminal case did not result in a contract with plaintiff resulting in plaintiff failing to state a claim upon which relief may be granted.

The Motion to Dismiss is granted (#3). Judgment will be entered accordingly.

IT IS SO ORDERED this 8 day of August 2005.

A handwritten signature in cursive script that reads "James M. Moody". The signature is written in black ink and is positioned above a horizontal line.

James M. Moody
United States District Judge