

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KEITH CLEVELAND,

Plaintiff,

v.

INDIANA STATE, et al.,

Defendants.

CAUSE NO. 3:19CV777-PPS/MGG

OPINION AND ORDER

Keith Cleveland, a prisoner without a lawyer, is unhappy with how his criminal case was handled in state court. He has now filed a civil suit against the Lake County Jail, Judge Samuel L. Cappas, Prosecutor Veronica M. Gonzalez, Attorney Thomas Mullins, and Attorney Kristin A. Mulholland. "A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Nevertheless, pursuant to 28 U.S.C. § 1915A, I must review a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

As an initial matter, Cleveland has sued the Lake County Jail, but the jail is a building. It is not a suable entity. *Smith v. Knox County Jail*, 666 F.3d 1037, 1040 (7th Cir. 2012). Therefore, he cannot state a claim against the Lake County Jail.

Additionally, two of the defendants that Cleveland has named in this lawsuit, Judge Samuel L. Cappas and Prosecutor Veronica M. Gonzalez, are immune from suit. “[I]n initiating a prosecution and in presenting the State’s case, the prosecutor is immune from a civil suit for damages under § 1983.” *Imbler v. Pachtman*, 424 U.S. 409, 431 (1976). Absolute immunity shields prosecutors even if they act maliciously, unreasonably, without probable cause, or even on the basis of false testimony or evidence. *Smith v. Power*, 346 F.3d 740, 742 (7th Cir. 2003). Similarly, “[a] judge has absolute immunity for any judicial actions unless the judge acted in absence of all jurisdiction.” *Polzin v. Gage*, 636 F.3d 834, 838 (7th Cir. 2011). “A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the clear absence of all jurisdiction.” *Stump v. Sparkman*, 435 U.S. 349, 359 (1978). Because the doctrines of prosecutorial and judicial immunity apply, Cleveland cannot proceed on a claim for damages against Judge Samuel L. Cappas or Prosecutor Veronica M. Gonzalez.

Cleveland has also sued Thomas Mullins and Kristin A. Mulholland – the attorneys that represented him in his criminal case. “In order to state a claim under [42 U.S.C.] § 1983 a plaintiff must allege: (1) that defendants deprived him of a federal constitutional right; and (2) that the defendants acted under color of state law.” *Savory v. Lyons*, 469 F.3d 667, 670 (7th Cir. 2006). While the conduct of private actors can transform them into state actors for § 1983 purposes, the facts must permit an inference that defendant’s actions are “fairly attributable to the state.” *L.P. v. Marian Catholic High*

