

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:13-CV-825-H

JONAS SOSA, SR.

PLAINTIFF

V.

INNWOOD CONDOMINIUM OWNERS ASSCN, et al.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

Defendants, Judge Mary Shaw, Judge Judith McDonald-Burkman, Master Commissioner Edith Halbleib and Deputy Master Commissioner Brian Schaefer have moved to dismiss Plaintiff's complaint against them. After reviewing their memorandum and the circumstances of the case, the Court agrees entirely.

This action arises from an adverse foreclosure in Jefferson Circuit Court. Plaintiff here is the owner of five rental properties located in the Innwood Condominium complex. In 2010 and in again in 2012, the Condominium Board of Directors approved a special assessment levied on all condominium owners. Plaintiff did not pay either assessment and the Condominium Property Owners Association instituted foreclosure proceedings in Jefferson Circuit Court. Judge McDonald-Burkman presided. Judge McDonald-Burkman eventually referred the matter to the Master Commissioner. Thereafter, the Master Commissioner and her deputy conducted hearings and made a recommendation in favor of the Condominium Association.

First, Jefferson Circuit Court Judges Shaw and McDonald-Burkman are absolutely immune from civil lawsuits for money damages. *Mireles v. Waco*, 502 U.S. 9 (1991). This is a long-standing principle of law which clearly applies here.

Moreover, non-judicial officers such as Master Commissioner Halbleib and Deputy


Commissioner Schaefer are also immune for the performance of fact finding duties within the judicial process. *See Bush v. Rauch*, 38 F.3d 842, 847 (6th Cir. 1994). These two basic principles resolve the pending motion.

Regardless, Plaintiff's allegations of fraud and extortion do not meet minimal pleading requirements. Moreover, civil claims based on criminal statutes are similarly misplaced here. *See Robinson v. Overseas Military Sales Corp.*, 21 F.3d 502, 511 (2d Cir. 1994). For all these reasons, Plaintiff's complaint against these Defendants must be dismissed immediately.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Defendants' motion to dismiss is SUSTAINED and all claims against Judge Mary Shaw, Judge Judith McDonald-Burkman, Master Commissioner Edith Halbleib and Deputy Master Commissioner Brian Schaefer are DISMISSED WITH PREJUDICE.

October 21, 2013


John G. Heyburn II, Judge
United States District Court

cc: Counsel of Record