UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

Warren Easterling,

Plaintiff,

v.

Case No. 3:15-cv-058
Judge Thomas M. Rose

James L. Manning, Judge,

Defendant.

ENTRY AND ORDER DENYING MOTION FOR INJUNCTIVE RELIEF (RULE 65A) AND WAIVER OF SECURITY (RULE 65C). DOC. 3**, GRANTING MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM,** DOC. 5, **DENYING MOTION TO OVERRULE,** DOC. 7, **FINDING MOOT MOTION FOR DISCOVERY,** DOC. 8, **AND TERMINATING CASE.**

Pro se Plaintiff Warren Easterling has filed a complaint stating one claim:

> VIOLATION [OF] TITLE 42 U.S.C. 1985 – VIOLATION OF TITLE 42 U.S.C. 1985 – OBSTRUCTION OF JUSTICE – DEPRIVING ONE OF RIGHTS GUARANTEED TO ALL CITIZENS (WHETHER BY CONSPIRACY OR NOT).

Complaint, Doc. 1 at 7. The Complaint opens a federal civil rights action against the Honorable James. L. Manning of the Montgomery County, Ohio Municipal Court, Western Division. Easterling's complaint stems from an underlying traffic case over which Judge Manning presided.

I. Background

On December 16, 2014, Judge Manning found Easterling guilty of a turn signal violation, as well as two other charges. (See Plaintiff's Exhibit #1). There was argument at trial by Easterling regarding the interpretation of which paragraph of Ohio Revised Code §4511.39 the words "when

required" referred to. Doc. 1 at 4. Judge Manning decided that the words "when required" referred to paragraph one of Ohio Revised Code §4511.39 and not paragraph two as Easterling argued. *Id.* Judge Manning found Easterling guilty. *Id.* at 5.

Easterling has now filed a Complaint against Judge Manning alleging that Judge Manning made a ruling contrary to law when he interpreted the meaning of "when required" as stated in Ohio Revised Code §4511.39. Easterling further argues that Judge Manning violated Title 42 U.S.C. §1985, violated the plaintiff's right to a fair trial, obstructed justice by an act of fraud, and conspired against him to change the course of the proceedings in favor of the state, thus violating his right to equal protection. *Id.* Plaintiff now asks this Honorable Court to reverse his state court conviction due to these alleged violations of federal law. *Id.* at 9.

For purposes of the pending motions, the Court will "construe the complaint liberally in the plaintiff's favor and accept as true all factual allegations and permissible inferences therein," *Gazette v. City of Pontiac*, 41 F.3d 1067, 1064 (6th Cir. 1994). However, a complaint must state a "plausible claim for relief" to survive a motion to dismiss. *Ashcroft v. Iqbal*, 556 U.S. 662, 173 L.Ed.2d 868 (2009).

Easterling's claims against Judge Manning fail as a matter of law because Judge Manning is absolutely immune from suit and Easterling fails to assert a claim against Judge Manning for which relief can be granted.

II. Standards

Plaintiff filed a Motion for Temporary Restraining Order seeking to enjoin "the requirement to pay fines," "any warrants for the Plaintiff's arrest associated with the judgment," and "the application of the violations to the Plaintiff's driving record (motor vehicle report (MVR))." (Motion, Doc. 3, at 2, PAGEID 34).

"In determining whether to issue a temporary restraining order, the Court should consider: '(1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether the issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the issuance of the injunction."' *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 233 (6th Cir. 2011).

Defendant's position on Plaintiff's likelihood of success on the merits is identical to Defendant's motion to dismiss: according to Defendant, Plaintiff has failed to state a claim. Thus, the Court will also state the standard for ruling on a motion to dismiss and analyze these questions together.

Rule 12(b)(6) authorizes the dismissal of a complaint for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). Under Rule 8(a)(2) of the Federal Rules of Civil Procedure a complaint must provide "'a short and plain statement of the claim showing that the pleader is entitled to relief' in order to 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests.'" *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957) and Fed. R. Civ. P. 8(a)(2)). "Although a plaintiff need not plead specific facts, the complaint must 'give the defendant fair notice of what the claim is, and the grounds upon which it rests.'" *Nader v. Blackwell*, 545 F.3d 459, 470 (6th Cir. 2008)(quoting *Erickson v. Pardus*, 551 U.S. 89, 93 (2007)). "To survive a motion to dismiss under Fed. R. Civ. P. 12(b)(6), a complaint must contain either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory." *Klusty v. Taco Bell Corp.*, 909 F. Supp. 516, 520 (S.D. Ohio 1995).

III. Analysis

Plaintiff alleges one claim in the Complaint against Defendant for violation of 42 U.S.C. § 1985(3). According to the Complaint, Defendant deprived him of rights or privileges granted to all citizens by way of wrongful termination in violation of Ohio Revised Code § 4112.02, possibly by conspiracy. (Complaint, Doc. 1). The Court notes that 42 U.S.C. § 1985(3) does not create substantive rights itself, but is a purely remedial statute. Instead, a plaintiff must support a § 1985(3) claim with allegation of a violation of an underlying right or privilege. However, Easterling's claims against Judge Manning are subject to dismissal because Judge Manning is immune from suit under the doctrine of judicial immunity.

A judge is absolutely immune from any claim arising against him related to the performance of a judicial act, provided he had at least some jurisdiction over the case before him. *Domanick v. Lias*, N.D. Ohio No. 1:11-cv-1102, 2011 WL 2149299 (June 1, 2011), citing *Mireles v. Waco*, 501 U.S.9, 9 (1991), and *Barnes v. Winchell*, 105 F.3d 1111, 1115 (6th Cir. 1997). In *Domanick*, the rationale for judicial immunity was explained when the court dismissed a *pro se* lawsuit against a judge. The Court stated, "Judges are provided with this far-reaching protection to ensure that their independent and impartial exercise of judgment is not impaired by the exposure of potential damages." *Domanick*, supra at *8. Judge Manning's absolute immunity can only be overcome in two situations:

- If he was acting in the complete absence of all jurisdiction, or

- If his challenged actions were non-judicial.

Mireles, 502 U.S. at 11-12; *Barnes*, 105 F.3d at 1116. Easterling's allegations do not support either situation.

As long as Judge Manning was acting with some jurisdiction, he is immune. See *Stump v. Sparkman*, 435 U.S 349, 356-357, 55 L.Ed.2d 331 (1978) (*Stern v. Mascio*, 262 F.3d 600, 608 (6th

Cir. 2001). The judicial immunity jurisdiction inquiry focuses only on jurisdiction over the subject matter, not the person or geographical location. See, e.g., *Ashelman v. Pope*, 793 F.2d 1072, 1076 (9th Cir. 1986) (en banc); *John v. Barron*, 897 F.2d 1387, 1392 (7th Cir. 1990); *Crabtree v. Muchmore*, 904 F.2d 1475, 1477 (10th Cir. 1990). Where a court has even some subject matter jurisdiction, there is sufficient jurisdiction for immunity purposes. See, e.g., *Stump*, 435 U.S. at 356-57 (focusing only on whether the judge has some subject matter, not personal, jurisdiction to find absolute immunity); *Borkowski v. Abood*, 117 Ohio St.3d 347, 2008-Ohio-857, 884 N.E.2d 7, paragraph 15, (2008) (judge had immunity, even when he ruled after a removal petition had been filed and the filing rendered him completely without jurisdiction over the proceedings; the fact he acted in the absence of jurisdiction during only part of the proceedings – but had jurisdiction at some other point in time – meant he had absolute immunity); see also *Stern*, 262 F.3d at 607-608 ("When, however, a court with subject matter jurisdiction acts where… personal jurisdiction is lacking, judicial and prosecutorial absolute immunity remain intact.") (citing *Holloway v. Brush*, 220 F.3d 767, 773 (6th Cir. 2000)(en banc); *Barnes v. Winchell*, 105 F.3d 1111, 1122 (6th Cir. 1997).

As a judge of the Montgomery County Municipal Court, Judge Manning had jurisdiction over Easterling's traffic case. Thus, his immunity cannot be challenged on this point.

The remaining inquiry is whether Judge Manning's alleged actions were "judicial acts," and thus protected by immunity. "The application of judicial immunity is simple and non-controversial when applied to 'paradigmatic judicial acts,' or acts of actual adjudication, i.e., acts involved in resolving disputes between parties who have invoked the jurisdiction of the court." *Barrett v. Harrington*, 130 F.3d 246, 255 (6th Cir. 1997).

Here, Easterling complains that Judge Manning interpreted the Ohio statute in a manner inconsistent with Easterling's argument at trial, which ultimately led to the Judge rendering a guilty verdict against him. This finding was a judicial act by Judge Manning and thus Judge Manning is immune from Easterling's claims.

Even if Judge Manning were not immune, Plaintiff could not prevail on the merits, as he has failed to state a claim upon which relief can be granted. Easterling alleges that Judge Manning conspired to deny him of his civil rights under 42 U.S.C. § 1985. Easterling, however, has failed to meet the requirements of any portion of this statute.

Section 1985(1) prohibits two or more persons from conspiring to prevent any person from holding public office or performing any official duty. Easterling has not alleged that he is a public official or that Judge Manning prevented him from accepting or holding a public officer's position. Therefore, he has failed to state a claim under § 1985(1).

Section 1985(2) prohibits conspiracies to influence parties, witnesses, or jurors in federal court proceedings. This is inapplicable to this case, which only challenges a state court action. *Fox v. Mich. State Police Dep't*, 173 Fed. App'x, 372, 376 (6th Cir. 2006). This section is inapplicable to Easterling's claims.

Additionally, under § 1985(2) and § 1985(3), a plaintiff must allege that there was "some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirator's actions." *Id.*, citing *Kuch v. Rutledge*, 460 U.S. 719, 726, 75 L.Ed.2d. 413 (1983); *Collyer v. Darling*, 98 F.3d 211, 233 (6th Cir. 1996); *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 268, 122 L.Ed.2d 34, (1993). Easterling's complaint lacks any reference to discriminatory animus behind Judge Manning's alleged conspiracy. He fails to articulate any claims with the requisite specificity to support this claim. See *Farhat v. Jopke*, 370 F.3d 580, 599

(6th Cir. 2004) ("Claims of [civil] conspiracy must be pled with some specificity: vague and conclusory allegations that are unsupported by material facts are not sufficient to state a § 1983 claim."). Therefore, Easterling fails to state a claim under § 1985(2) or § 1985(3).

Finally, the Court acknowledges that it lacks subject matter jurisdiction over Easterling's claim based on *Rooker-Feldman*. Easterling asks this court to reverse Judge Manning's guilty finding based on his equal protection/conspiracy/obstruction of justice claims. This is not the first time that Easterling has filed a complaint against a State Court Judge who has not ruled in his favor making these same claims. See, e.g., *Easterling v. Gorman*, 6th Cir. No. 3:14-cv-00096, 2014 WL 2095381, (May 20, 2014), *Easterling v. Henderson*, 6th Cir. No. 3:14-cv-064, 2014 WL 936305, (March 10, 2014), *Easterling v. Crawford*, 6th Cir. No. 3:13-cv-430, 2014 WL 428931 (February 4, 2014). In *Easterling v. Crawford*, Magistrate Judge Merz stated as follows:

> *Rooker-Feldman*, bars relitigation of claims actually raised in state-court proceedings as well as claims that are inextricably intertwined with the judgment of those proceedings." *Catz v. Chalker*, 142 F.3d, 279, 293 (6th Cir. 1998). "In practice this means that when granting relief on the federal claim would imply that the state-court judgment on the other issues was incorrect, federal courts do not have jurisdiction. "Where federal relief can only be predicated upon a conviction that the state court was wrong, it is difficult to conceive the federal proceeding as, in substance, anything other than a prohibited appeal of the state-court judgment." *Pieper v. American Arbitration Assn., Inc*., 336 F.3d 458, 460 (6th Cir. 2003) (Moore J.), quoting *Catz*: Simply put, "federal district courts do not stand as appellate courts for decision of state courts." *Hall v. Callahan*, 2013 U.S. App. LEXIS 11055, **7, 2013 WL 2364140 (6th Cir. 2013). The Sixth Circuit has explained the *Rooker-Feldman* as follows:
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> > The *Rooker-Feldman* doctrine, named for *Rooker v. Fidelity Trust Co*., 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983), stands for the proposition that a party aggrieved by a state-court decision

> cannot appeal that decision to a district court, but must instead petition for a writ of certiorari from the United States Supreme Court. This circuit has devised a number of formulae for determining when a district court lacks jurisdiction under the *Rooker-Feldman* doctrine; broken down to essentials, there are two categories of cases barred by the doctrine. First, when the federal courts are asked to "engage in appellate review of state court proceedings," the doctrine necessarily applies. *Peterson Novelties, Inc. v. City of Berkley*, 305 F.3d 386, 390 (6th Cir. 2002). In determining when a plaintiff asks for appellate review, we have in the past looked to the relief sought, See *Dubuc v. Mich. Bd. Of Law Exam'rs.*, 342 F.3d 610, 618-19 (6th Cir. 2003), or asked the question whether the plaintiff alleges "that the state court's judgment activity caused him injury [rather than] that the judgment merely failed to redress a preexisting injury," *Piper v. Am Arbitration Ass'n. Inc.*, 336 F.3d 458, 461 n.1 (6th Cir. 2003). See also *Hutcherson v. Lauderdale County*, 326 F.3d 747, 755 (6th Cir. 2003)("'The fundamental and appropriate question to ask is whether the injury alleged by the federal plaintiff resulted from the state court judgment itself or is distinct from that judgment.'" (quoting *Garry v. Geils*, 82 F.3d 1362, 1365 (7th Cir. 1996)); *Tropf v. Fid. Nat'l Title Ins. Co.*, 289 F.3d 929, 937 (6th Cir. 2002) (The doctrine "precludes federal court jurisdiction where the claim is a specific grievance that the law was invalidly--even unconstitutionally--applied in the plaintiff's particular case." (internal quotation marks and citations omitted).
>
> The second category of cases barred by *Rooker-Feldman* is those which allege an injury that predates a state-court determination, but present issues inextricably intertwined with the claim asserted in the prior state court proceeding.

Easterling v. Crawford, 3:13-cv-430, doc. 4 at 18, PAGEID 225, 2014 WL 428931 *10.

In this case, Easterling is asking this Court to engage in appellate review of a state court proceeding, something that is not subject to review under the *Rooker- Feldman* doctrine. This Court lacks subject matter jurisdiction to do so.

IV. Conclusion

Among the factors governing the issuance of an injunction, the likelihood of success factor predominates. *Gallina v. Wyandotte Police Dept*., 2008 WL 5090551, *4 (E.D. Mich. 2008). Thus, "[a]lthough no one factor is controlling, a finding that there is simply no likelihood of success on the merits is usually fatal." *Gonzales v. National Bd. of Med. Exam'rs*, 225 F.3d 620, 625 (6th Cir. 2000); *Michigan State AFL-CIO v. Miller*, 103 F.3d 1240, 1249 (6th Cir. 1997) ("While, as a general matter, none of these four factors are given controlling weight, a preliminary injunction issued where there is simply no likelihood of success on the merits must be reversed.").

Both because of Defendant's absolute immunity and because this Court lacks jurisdiction, Plaintiff's likelihood of success on the merits is non-existent, obviating the need to consider the other factors governing injunctive relief. For these reasons, Plaintiff's Motion for Injunctive Relief (Rule 65A) and Waiver of Security (Rule 65C), doc. 3, is **DENIED**. For the same reasons, Defendant's Motion to Dismiss for Failure to State a Claim, doc. 5, is **GRANTED**. Thus, Plaintiff's Motion for Discovery, doc. 8, is **MOOT,** and Plaintiff's Motion to Overrule Defendant's Motion to Dismiss, doc. 7, is **DENIED**.

The instant case is **TERMINATED** from the dockets of the Southern District of Ohio, Western District at Dayton.

DONE and **ORDERED** in Dayton, Ohio, on Wednesday, March 25, 2015.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE