

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO
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4 JUAN M. RIVERA-ORTIZ,

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6 Plaintiff,

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8 v.
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10 COMMONWEALTH OF PUERTO RICO,
11 et al.,

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13 Defendants.
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Civil No. 09-2073 (JAF)

16 **OPINION AND ORDER**

17 Plaintiff, Juan M. Rivera-Ortiz, brings this action under 42 U.S.C. § 1983 against
18 Defendants, Gloria E. Ortiz-Martínez, María Meléndez-Rivera, and Edwin Zayas-Figueroa
19 (“Movants”), alleging violations of his constitutional rights arising from an alleged delay in the
20 resolution of his parole hearing. (Docket No. 19.) Movants request summary judgment,
21 asserting quasi-judicial immunity and Plaintiff’s failure to state a claim upon which relief can
22 be granted. (Docket No. 40.) Plaintiff opposes. (Docket No. 50.)

23 **I.**

24 **Factual and Procedural Summary**

25 On October 9, 2009, while still an inmate at Puerto Rico’s Ponce Correctional Institute,
26 Plaintiff filed the case before us. (Docket No. 19.) Plaintiff alleged that the Junta de Libertad
27 Bajo Palabra (“Parole Board”) held his parole hearing on January 30, 2009, but subsequently
28 failed to issue a disposition. (Id.) Plaintiff named as defendants the Commonwealth of Puerto

1 Rico, the Parole Board, and the individual members of the Parole Board. He sought both an
2 order releasing him from custody and \$75,000 in damages. (Id.)

3 On April 15, 2010, we issued an opinion and order dismissing, on grounds of sovereign
4 immunity, all claims against the Commonwealth of Puerto Rico, the Parole Board, and the
5 individual Parole Board members in their official capacities. (Docket No. 25.) Movants now
6 seek summary judgment on the remaining claims against them in their personal capacities.
7 (Docket No. 40.)

8 II.

9 **Rule 56 Summary Judgment**

10 We grant a motion for summary judgment “if the pleadings, the discovery and disclosure
11 materials on file, and any affidavits show that there is no genuine issue as to any material fact
12 and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). A factual
13 dispute is “genuine” if it could be resolved in favor of either party and “material” if it potentially
14 affects the outcome of the case. Calero-Cerezo v. U.S. Dep’t of Justice, 355 F.3d 6, 19 (1st Cir.
15 2004). In evaluating a motion for summary judgment, we view the record in the light most
16 favorable to the nonmovant. Adickes v. S.H. Kress & Co., 398 U.S. 144, 157 (1970).

17 The movant carries the burden of establishing that there is no genuine issue as to any
18 material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986). “Once the moving party has
19 made a preliminary showing that no genuine issue of material fact exists, the nonmovant must
20 ‘produce specific facts, in suitable evidentiary form, to establish the presence of a trialworthy

1 issue.” Clifford v. Barnhart, 449 F.3d 276, 280 (1st Cir. 2006) (quoting Triangle Trading Co.
2 v. Robroy Indus., Inc., 200 F.3d 1, 2 (1st Cir. 1999)). The nonmovant “may not rely merely on
3 allegations or denials in its own pleading; rather, its response must . . . set out specific facts
4 showing a genuine issue for trial.” Fed. R. Civ. P. 56(e)(2).

5 III.

6 Analysis

7 Because Plaintiff appears pro se, we construe his filings more favorably than we would
8 those drafted by an attorney. See Erickson v. Pardus, 551 U.S. 89, 94 (2007). Nevertheless,
9 Plaintiff’s pro se status does not excuse him from complying with procedural and substantive
10 law. Ahmed v. Rosenblatt, 118 F.3d 886, 890 (1st Cir. 1997).

11 Plaintiff seeks \$75,000 in damages for the alleged violations of his rights. Movants
12 assert that they are immune from damages claims brought against them in their personal
13 capacities, citing Johnson v. Rhode Island Parole Board Members, 815 F.2d 5 (1st Cir. 1987).
14 In Johnson, the First Circuit held that, because of their quasi-judicial role, members of the
15 Rhode Island Parole Board were entitled to absolute immunity from suit for all actions taken
16 within the scope of their official duties. See id. at 6–8. The First Circuit joined the Ninth
17 Circuit in qualifying that absolute immunity would be granted only for actions within the scope
18 of a parole board member’s official duties, “i.e., in processing parole applications and deciding
19 whether to grant, deny, or revoke parole.” Id. at 6.

1 It is clear from the record that the Movants performed the same quasi-judicial functions
2 of processing and deciding parole applications as performed by the Rhode Island Parole Board
3 members in Johnson. Furthermore, Plaintiff makes no argument that the alleged delay in
4 holding his initial hearing was attributable to an action outside the scope of Movants' duties.
5 (See Docket No. 50.) We find that Movants' quasi-judicial role confers absolute immunity
6 upon them for their actions in this case. Having decided that Movants are immune from suit,
7 we need not reach the merits of Plaintiff's claims of violations of his constitutional rights.

8 IV.

9 Conclusion

10 For the foregoing reasons, we hereby **GRANT** Movants' request for summary judgment
11 (Docket No. 40). We **DISMISS** Plaintiff's complaint (Docket No. 19) against Movants.

12 **IT IS SO ORDERED.**

13 San Juan, Puerto Rico, this 18th day of April, 2011.

14 s/José Antonio Fusté
15 JOSE ANTONIO FUSTE
16 Chief U.S. District Judge
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