

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Daniel L. Spuck, :
Appellant :
v. : No. 402 C.D. 2008
: Submitted: May 23, 2008
J. Michael Williamson, Fredric :
J. Ammerman; in their individual :
and official capacity :

BEFORE: HONORABLE DORIS A. SMITH-RIBNER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE JOSEPH F. McCLOSKEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE McCLOSKEY

FILED: July 10, 2008

Daniel L. Spuck (Spuck) appeals pro se from an order of the Court of Common Pleas of Mercer County (trial court) that sustained the preliminary objections filed by defendants J. Michael Williamson and Frederic J. Ammerman and dismissed Spuck's claims against the defendants with prejudice.¹ We now affirm.

The record indicates that Spuck is an inmate confined at the State Correctional Institution in Mercer. Spuck's complaint contends that Judge Williamson dismissed a civil complaint he had filed that apparently involved various legal challenges to a criminal proceeding against him. Spuck asserted in his complaint that

¹ J. Michael Williamson is a Judge of the Court of Common Pleas of Clinton County. Frederic J. Ammerman is a Judge of the Court of Common Pleas of Clearfield County. Spuck's complaint also originally named the Honorable Charles C. Brown, Judge of the Court of Common Pleas of Centre County, as a defendant; however, Spuck, in his response to defendants' preliminary objections, agreed to dismiss the case against this defendant.

Judge Williamson's actions were negligent with regard to his actions pertaining to the civil action and that he "created a Defamation against [Spuck] for sending a copy of his order to the Pennsylvania Parole Board." (Complaint, p.2). Spuck also claims that Judge Ammerman violated his constitutional rights by (1) dismissing his habeas corpus petition, (2) "seizing" legal documents he produced at a hearing Judge Ammerman conducted under the Post Conviction Relief Act, 42 Pa.C.S. §§9541-9546, and (3) "overworking" the jury. Spuck asserted that as a result of the actions of the various defendants, he sustained a loss of income of over five million dollars; he further sought one billion dollars in punitive damages.

The defendants filed preliminary objections to the complaint raising judicial and sovereign immunity as defenses. Spuck filed a response to the preliminary objections on August 15, 2007, and then on September 6, 2007, filed a document captioned "Motion to Strike and or in alternative Response to Reply to Answer to Preliminary Objections."² The trial court, citing Heicklen v. Hoffman, 761 A.2d 207 (Pa. Cmwlth. 2000) and Feingold v. Hill, 521 A.2d 33 (Pa. Super. 1987), sustained the preliminary objections, concluding that the doctrines of judicial and sovereign immunity precluded Spuck's complaint, and dismissed the complaint, but did not issue an order regarding Spuck's Motion to Strike.

In his statement of matters complained of on appeal, Spuck asserted that the trial court erred in sustaining the preliminary objections and in failing to grant the

² This Motion includes pleadings suggesting that the defendants were required to file answers to the complaint and have waived their right to file answers to the complaint. However, the filing of preliminary objections defers the necessity of a defendant to file an answer to the complaint until the trial court resolves the objections. If the trial court sustains the objections and dismisses the complaint, no answer is necessary; if the trial court overrules the objections, the Rules of Civil Procedure provide for the time period within which a defendant must then file an answer to the complaint.

relief he requested in his Motion to Strike.³ Spuck includes various arguments in support of his appeal; however, the majority of his arguments relate to the merits of his claim in his underlying prosecution and conviction. While Spuck recognizes that a plaintiff may not maintain an action against a judicial officer for actions such an officer takes in performing duties relating to matters over which he or she has jurisdiction, he suggests that two actions of these defendants did not involve the exercise of their authority as judges. Specifically, with regard to Judge Ammerman, Spuck asserts that the Judge's alleged retention of documents pertaining to his request for relief under the Post Conviction Relief Act constitutes a matter outside Judge Ammerman's powers and duties as a judge. With regard to Judge Williamson, Spuck asserts that the act of sending a copy of an order issued in a civil suit to the Pennsylvania Board of Probation and Parole was beyond his jurisdictional authority. Aside from making these simple arguments, Spuck has offered no legal argument as to why these actions fell outside the jurisdiction or authority of the defendants in their judicial capacity, and even if so, why the doctrine of immunity would not apply.

The Court concludes that the trial court did not err in sustaining the preliminary objections. As defendants point out, judicial immunity precludes a litigant from suing judges unless the actions for which a plaintiff seeks to recover damages occurred while not acting in his/her role as a judge. Furthermore, acts performed in excess of jurisdiction do not prevent the application of the doctrine to insulate a judge

³ The Court notes that Spuck's brief does not include a separate section delineating a statement of issues involved. This failure constitutes a breach of the requirements of the Rules of Appellate Procedure and consequently results in a waiver of the issues he preserved in his statement of matters complained of on appeal. However, he did include a summary of his issues in the first paragraph of his argument section, and the Court will consider these issues above. We note further that, in the text of his argument section, Spuck asks the Court to strike the defendants' response to his answer to the preliminary objections. However, this is a matter beyond this Court's jurisdiction.

from suit. Mireles v. Waco, 502 U.S. 9 (1991). Additionally, defendants note that the United States Supreme Court has concluded that judicial immunity applies where a judge has jurisdiction over the subject matter before him and he is performing a judicial act. Stump v. Sparkman, 435 U.S. 349 (1978). Erroneous or even malicious actions performed in the course of judicial duties will not prevent the operation of the immunity doctrine. Feingold.

In this case, Spuck avers that Judge Williamson's conduct, i.e., forwarding an opinion in a civil suit he was involved in to the Pennsylvania Board of Probation and Parole, should not be protected by judicial immunity. As stated earlier, Spuck asserts that this conduct amounts to defamation. However, we agree with Judge Williamson that, because said opinion would not support a defamation action (as it is protected judicial activity), his act of sending a copy of the opinion, which act was also performed in the course of his exercise of jurisdiction over the civil action, does not remove the protection of judicial immunity.

As to Judge Ammerman, the only act Spuck alleges that could possibly be construed as not being part of the judicial decision-making process --- Judge Ammerman's alleged "seizure" of his documents, also constitutes an act performed while engaging in judicial activities, and, thus, bars his complaint against Judge Ammerman.

Because we have concluded that the doctrine of judicial immunity applies, we cannot say that the trial court erred in relying upon this conclusion in sustaining the preliminary objections and we need not address the question of whether sovereign immunity also precludes Spuck from maintaining his complaint against the defendants.

Based upon the foregoing discussion, we affirm the decision and order of the trial court.

JOSEPH F. McCLOSKEY, Senior Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Daniel L Spuck,	:	
Appellant	:	
	:	
v.	:	No. 402 C.D. 2008
	:	
J. Michael Williamson, Fredric	:	
J. Ammerman; in their individual	:	
and official capacity	:	

ORDER

AND NOW, this 10th day of July, 2008, the order of the Court of Common Pleas of Mercer County is hereby affirmed.

JOSEPH F. McCLOSKEY, Senior Judge