J. A42014/00

2001 PA Super 21

TROY BEAM,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	
	:	
DONALD DAIHL,	:	
	:	
Appellee	:	No. 1218 MDA 1999

Appeal from the Order Entered May 19, 1999,
In the Court of Common Pleas of Cumberland County,
Civil Division at No. 98-962.

BEFORE: POPOVICH, FORD ELLIOTT and BROSKY, JJ.

OPINION BY POPOVICH, J.: Filed: January 22, 2001

¶ 1 This is an appeal from the order entered in the Court of Common Pleas of Cumberland County which dismissed appellant's claim with prejudice. Upon review, we affirm.[1]

¶ 2 The relevant facts and procedural history are as follows: In 1996, appellant, Troy A. Beam, was a litigant in a number of cases before appellee, District Justice Donald W. Daihl.[2] Appellant believed he could not receive fair and judicious treatment from appellee and requested that the cases be

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[1] Because neither party has objected to our review of this case, we will address the merits of it. 42 Pa. C.S.A. § 704(a) and Pa.R.A.P. 741(a). However, we note that this case would be normally more appropriate to the jurisdiction of the Commonwealth Court. ***Cf., Wilson v. School District of Philadelphia,*** 600 A.2d 210 (Pa. Super. 1991), (cases involving the issue of governmental immunity typically fall within the jurisdiction of the Commonwealth Court).

[2] Appellee is now retired.

removed from appellee's court. On November 27, 1996, former President Judge Harold E. Sheely granted appellant's request and assigned the cases to District Justice Helen B. Shulenberger for disposition. On December 20, 1996, appellee issued an arrest warrant for appellant for his failure to accept service of a properly served summary criminal complaint. Appellant was subsequently arrested. Following appellant's arrest, President Judge Sheely issued a second order requiring any future civil actions and criminal procedures involving appellant to be filed with the office of District Justice Shulenbeger for adjudication and disposition. On February 20, 1998, appellant instituted a civil action against appellee, alleging false imprisonment and false arrest as a result of appellee's issuance of the arrest warrant for appellant on December 20, 1996. Appellee filed preliminary objections, in the form of a demurrer, to appellant's complaint. Appellee argued that appellant's complaint was barred by the doctrine of judicial immunity. The lower court dismissed appellant's complaint with prejudice, and this appeal followed.

¶ 3 Herein, appellant argues that the lower court abused its discretion by finding that the doctrine of judicial immunity barred appellant from pursuing a civil tort action against appellee. He claims that the doctrine of judicial immunity does not apply because appellee acted outside the scope of his judicial authority and abused his office as district justice. We disagree.

¶ 4 When reviewing an order granting preliminary objections, we must assume that all material facts set forth in the complaint, as well as all inferences reasonably deducible therefrom, are true. ***County of Berks ex rel. Baldwin v. Pennsylvania Labor Relations Board,*** 544 Pa. 541, 678 A.2d 355 (1996). We then determine whether the law says with certainty that no recovery is possible on the facts averred. ***Id.***

¶ 5 We find that the doctrine of judicial immunity applies to the facts of this case and that no recovery is possible. Judges are absolutely immune from liability for damages when performing judicial acts, even if their actions are in error or performed with malice, provided there is not a clear absence of all jurisdiction over subject matter and person. ***Feingold v. Hill,*** 521 A.2d 33 (Pa. Super. 1987), *appeal denied,* 515 Pa. 607, 529 A.2d 1081, (citing ***Stump v. Sparkman,*** 435 U.S. 349, 98 S.Ct 1099, 1105, 55 L.Ed. 2d 331 (1978)). The rationale in support of such protection is that for magistrates to exercise their discretion freely and apply their understanding of the law to the facts before them, they must be granted such a measure of independence that they are not compelled to respond in damages for mistakes honestly made provided they have not acted beyond the pale of their authority. ***Id.; see also Petition of Dwyer***, 486 Pa. 585, 591, 406 a.2d 1355, 1358 (1979); ***see also McNair's Petition,*** 324 Pa. 48, 55-56, 187 A.2d 498, 502 (1936) (*quoting* ***Commonwealth v. Cauffiel,*** 79 Pa. Super. 596 (1922)).

¶ 6 The facts of this case do not warrant a finding of a "clear absence of all jurisdiction over subject matter and person." ***Feingold, supra.*** On the contrary, we find that appellee did not lack subject matter jurisdiction over appellant. Pursuant to 42 Pa.C.S.A. § 1515, appellee retained subject matter jurisdiction over appellant despite the transfer of appellant's cases to another magistrate. 42 Pa.C.S.A. § 1515 provides in pertinent part:

> Pa.C.S.A § 1515. Jurisdiction and venue.
>
> (A) JURISDICTION.-- Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:
>
> > (4) As commissioners to preside at arraignments, fix and accept bail, except for offenses under 18 Pa.C.S §§ 2502 (relating to murder) and 2503 (relating to voluntary manslaughter) for which the fixing and accepting of bail shall be performed by any judge of any court of common pleas, and to issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings.

¶ 7 42 Pa.C.S.A. § 1515 (4) clearly states that district justices have jurisdiction to issue warrants. As stated in ***Feingold, supra,*** there must be a clear absence of all jurisdiction over subject matter and person to deprive the magistrate of judicial immunity. Appellee retained subject matter jurisdiction over appellant because he had authority to issue arrest warrants. Thus, the doctrine of judicial immunity bars appellant's civil action against

appellee. Accordingly, we find no recovery is possible on the facts averred and affirm the lower court's dismissal of this case with prejudice.[3]

¶ 8 Order affirmed.

[3] We note that the lower court based its ruling largely on the fact that President Judge Sheely's order transferred appellant's cases for "adjudication and disposition" to another magistrate and that the issuance of an arrest warrant does not qualify as a "disposition." Trial court opinion, p. 5. While we agree with the court's conclusion, we hold that the doctrine of judicial immunity applies because appellee retained subject matter jurisdiction over appellant.