

IN THE UTAH COURT OF APPEALS

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Frank L. Sindar,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	
	)	Case No. 20080321-CA
v.	)	
	)	F I L E D
Honorable Sharon P. McCully,	)	(August 21, 2008)
	)	
Defendant and Appellee.	)	<span style="border: 1px solid black; padding: 2px;">2008 UT App 312</span>

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Third District, Salt Lake Department, 080904774  
The Honorable Robert K. Hilder

Attorneys: Frank L. Sindar, Draper, Appellant Pro Se  
            Brent M. Johnson, Salt Lake City, for Appellee

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Before Judges Thorne, Bench, and Orme.

PER CURIAM:

Frank L. Sindar appeals from the district court's order dismissing his complaint alleging malfeasance in office against Juvenile Court Judge Sharon P. McCully. This matter is before the court on its own motion for summary disposition on the basis that the issues presented are so insubstantial as to not merit further proceedings. We affirm the district court's order.

Sindar filed his complaint against Judge McCully, seeking her removal from office for malfeasance. See generally Utah Code Ann. §§ 77-6-1 to -9 (2003). Utah Code section 77-6-1 states that

[a]ll justices of the peace and all officers of any city, county, or other political subdivision of this state not liable to impeachment shall be subject to removal as provided in this chapter for high crimes and misdemeanors or malfeasance in office.

Id. § 77-6-1. The statute is clear that it applies only to justice court judges and officers of cities, counties, and other political subdivisions of the state who are not subject to impeachment. See id. The statute does not apply to state

officers. See Estes v. Talbot, 597 P.2d 1324, 1326 (Utah 1979) ("Unless the defendant can be categorized as an officer of one of the state's political subdivisions, and not of the state, this action must be dismissed with prejudice."). Instead, removal of state and judicial officers is governed by the impeachment provisions of Utah Code sections 77-5-1 to -12. See Utah Code Ann. §§ 77-5-1 to -12 (2003). These sections allow for the impeachment of "state and judicial officers, except justices of the peace, . . . for high crimes and misdemeanors or malfeasance in office." Id. § 77-5-1. As a state judicial officer, Judge McCully is subject to impeachment under this chapter of the code. Therefore, because Judge McCully is a judicial officer subject to impeachment, she cannot be removed from office under the provisions set forth by Sindar in his complaint. Accordingly, the district court properly dismissed Sindar's complaint.

Affirmed.

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William A. Thorne Jr.,  
Associate Presiding Judge

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Russell W. Bench, Judge

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Gregory K. Orme, Judge