

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

R. NEAL JACKSON : CIVIL ACTION
 :
 v. :
 :
 COMMON PLEAS COURT, et al. : NO. 98-2069

M E M O R A N D U M

LUDWIG, J. JUNE , 1998

Plaintiff, a Philadelphia County prisoner, has filed a pro se 42 U.S.C. § 1983 civil rights lawsuit against the Court of Common Pleas, Judge Genecece Brinkley, and the Philadelphia Police Force. Plaintiff's only allegation is "discrimination based on preferences." As relief, plaintiff requests that the Court "ask Judge Brinkley to stop stalking me, and awarded [sic] judgement against Phila. Police."

I. DISCUSSION

A. Common Pleas Court and Philadelphia Police Force

Municipal entities such as the Court of Common Pleas of Philadelphia County and the Philadelphia Police Department are not subject to a § 1983 action absent a showing that unlawful actions were taken pursuant to a municipality's policies, practices, customs, regulations or enactments, Monell v. Department of Social Services, 436 U.S. 658 (1978), and that municipal practice was the cause of the injuries suffered, Bielevicz v. Dubinon, 915 F.2d 845 (3d Cir. 1990). As plaintiff has failed to allege any of these requirements, his claim against these defendants must be dismissed as frivolous.

B. Judge Genece Brinkley

Plaintiff's claim against Judge Brinkley must be dismissed because judges have absolute immunity from § 1983 actions seeking money damages for actions performed in their judicial capacity. Stump v. Sparkman, 435 U.S. 349 (1978); Mireles v. Waco, 502 U.S. 9 (1991). Judges are not immune from § 1983 actions for declaratory or injunctive, rather than monetary, relief. Pulliam v. Allen, 466 U.S. 522 (1984). However, plaintiff can only obtain equitable relief under § 1983 if he demonstrates: 1) an inadequate remedy at law; and 2) irreparable injury which is "both great and immediate." Pulliam, 466 U.S. at 537 & n.17 (quoting Younger v. Harris, 401 U.S. 37, 46 (1971)). Plaintiff has failed to make such a demonstration. Moreover, plaintiff's claim that Judge Brinkley is "stalking" him is patently factually frivolous. See Denton v. Hernandez, 504 U.S. 25, 32-33 (1992).

II. CONCLUSION

As plaintiff has advanced an "indisputably meritless legal theory," Neitzke v. Williams, 490 U.S. 319, 327, and his factual contentions are "clearly baseless," Denton, 504 U.S. at 32, dismissal of this action as frivolous is appropriate.

M E M O R A N D U M

TO: Judge Edmund V. Ludwig
FROM: William J. Buckley, Pro Se Law Clerk
RE: Jackson v. Common Pleas Court, et al.
Civil Action No. 98-2069
DATE: June 22, 1998

Enclosed is a proposed memorandum and order dismissing this complaint as frivolous for the reasons stated in the memorandum.

Please let me know what action you decide to take by returning this memorandum to this office.

Thank you for your cooperation.

_____ Recommendation approved

_____ Recommendation disapproved

_____ Date

Attachments

