UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WESLEY-KEITH: MULLINGS, *Plaintiff,* v. **HARRIET ELAINE RAGHNAL, et al.,** *Defendants.*	**Civil Action No. 22-01294** **ORDER**

THIS MATTER comes before the Court by way of Defendants' State of New Jersey (the "State"), Hon. Lisa Fran Chrystal, P.J.F.P. ("Judge Chrystal"), Hon. Thomas Joseph Walsh, J.S.C. ("Judge Walsh"), and Hon. David Brian Katz, P.J.F.P. ("Judge Katz") (collectively, "Judiciary Defendants") Motion to Dismiss the First Amended Complaint ("FAC") pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and 9(b), ECF No. 35; [1]

[1] Under Rule 12(b)(1), Plaintiff bears the burden of persuading the Court that subject matter jurisdiction exists. Kehr Packages, Inc. v. Fidelcor, Inc., 926 F.2d 1406, 1409 (3d Cir. 1991). In resolving a Rule 12(b)(1) motion, a court must first determine whether the motion presents a "facial" or "factual" attack. See Const. Party of Pa. v. Aichele, 757 F.3d 347, 357 (3d Cir. 2014). A facial attack argues that a claim on its face "is insufficient to invoke the subject matter jurisdiction of the court," id. at 358, "without disputing the facts alleged in the complaint," Davis v. Wells Fargo, 824 F.3d 333, 346 (3d Cir. 2016). A court reviewing a facial attack must "consider the allegations of the complaint and documents referenced therein and attached thereto, in the light most favorable to the plaintiff." Const. Party of Pa., 757 F.3d at 358. Here, Defendants' Motion to Dismiss is a facial attack because they assert that the Court lacks subject matter jurisdiction over Plaintiff's claims as pleaded.

In considering a motion to dismiss under Rule 12(b)(6), the Court accepts as true all of the facts in the complaint and draws all reasonable inferences in favor of the nonmoving party. Phillips v. County of Allegheny, 515 F.3d 224, 233 (3d Cir. 2008). The facts alleged must be "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). A complaint will survive a motion to dismiss if it provides a sufficient factual basis such that it states a facially plausible claim for relief. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

Finally, since Plaintiffs are proceeding pro se, the Court must construe their pleadings liberally and hold them to a less stringent standard than those filed by attorneys, Haines v. Kerner, 404 U.S. 519, 520 (1972), but the "Court need not . . . credit a pro se plaintiff's 'bald assertions' or 'legal conclusions,'" Mestman v. Escandon, No. 14-3880, 2014 WL 11398143, at *1 (D.N.J. June 25, 2014) (internal citations omitted).

and it appearing that Plaintiff Wesley-Keith: Mullings ("Plaintiff") opposes the Motion, ECF Nos. 36, 39;[2]

and it appearing that this matter arises out of a custody dispute concerning Plaintiff's son, see generally FAC, ECF No. 33;

and it appearing that Plaintiff had custody of his son until he was incarcerated in May of 2018, FAC ¶ 4, Mullings Affidavit ¶ 5;[3]

and it appearing that while Plaintiff was incarcerated, his ex-wife and non-moving Defendant Aisha Margaret Smith ("Smith") applied for temporary custody of his son without his consent, FAC ¶ 5, id. Ex. C;

and it appearing that Judge Chrystal granted Smith temporary custody, id.;

and it appearing that when Plaintiff was released from prison, he sought to terminate Smith's temporary custody through litigation in Union County Family Court before Judge Walsh and Judge Chrystal, see FAC, Exhibits E-I;[4]

and it appearing that when that litigation was unsuccessful, Plaintiff sought, also unsuccessfully, to vacate Smith's 2015 adoption of his son before Judge Katz, see FAC, Exhibit J, M;

and it appearing that Plaintiff's FAC seeks redress for the Orders of the Judiciary Defendants;

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[2] Plaintiff styled his opposition at ECF No, 36 as a motion for "Temporary Injunction."

[3] Plaintiff has attached an Affidavit to his Complaint starting at ECF No. 33 page 12. The Court will refer to this document by paragraph number.

[4] During this litigation, Plaintiff was held in contempt of court for refusing to abide by Judge Walsh's Order and Smith was again granted temporary custody pending Plaintiff's further proceedings. FAC, Ex. F at 29. Judge Walsh also ordered Plaintiff to have no contact with his son. Id. In apparent violation of that order, Plaintiff took his son from Smith's home, and as a result Judge Chrystal again granted Smith temporary custody and ordered Plaintiff to have no contact with his son. FAC, Ex. G at 8-10. Judge Chrystal also issued a warrant for Plaintiff's arrest. Id. At a hearing concerning Plaintiff's contempt, Judge Chrystal released Plaintiff from custody but continued the Court's order conferring temporary custody to Smith and preventing Plaintiff from contacting his son. FAC, Ex. I at 11. See also Mulltings Affidavit ¶¶ 9-17.

and it appearing that the FAC asserts violations of 42 U.S.C. §§ 1981, 1983, and 1986, and also asserts a common law intentional infliction of emotional distress claim against the State and the Judiciary Defendants, FAC ¶¶ 13-23;

and it appearing that Plaintiff seeks damages, declaratory relief and injunctive relief enjoining the Judiciary Defendants from prohibiting contact with his son, id. ¶¶ 13-26;

and it appearing that Defendants contend that Plaintiff's FAC should be dismissed because: (1) the Judiciary Defendants are entitled to absolute Judicial Immunity; (2) the State and the Judiciary Defendants are entitled to sovereign immunity; and (3) the Rooker-Feldman[5] doctrine divests the Court of subject matter jurisdiction over Plaintiff's claims;

and it appearing that "as a general rule, judges acting in their judicial capacity are absolutely immune (in both their individual and official capacities) from suit for monetary damages under the doctrine of judicial immunity," Ingram v. Twp. of Deptford, 858 F. Supp. 2d 386, 390 (D.N.J. 2012) (citing Mireles v. Waco, 502 U.S. 9, 9 (1991));

and it appearing that judicial immunity applies when the alleged conduct involves "the function of resolving disputes between parties, or of authoritatively adjudicating private rights," Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 435-36 (1993) (internal quotation marks and citations omitted);

and it appearing that "judicial immunity can be overcome only for actions not taken in a judicial capacity or for actions taken in a complete absence of all jurisdiction," Ingram, 858 F. Supp. 2d at 390 (internal citations omitted);[6]

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[5] Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983).

[6] Plaintiff's argument that the Judiciary Defendants acted without jurisdiction by conducting ex parte hearings is unavailing. See Gallas v. Sup. Ct. of Pa., 211 F.3d 760, 769 (3d Cir. 2000) ("Immunity will not be forfeited because a judge has committed "grave procedural errors," or because a judge has conducted a proceeding in an "informal and ex parte" manner.") (internal citations omitted).

and it appearing that Plaintiff seeks redress for official conduct by the Judiciary Defendants, namely the Custody Orders they entered in their capacities as Union County Family Court Judges;

and it appearing that the Judiciary Defendants are entitled to judicial immunity, and Plaintiff's claims against them must be dismissed;[7]

and it appearing that the State seeks dismissal based on sovereign immunity;

and it appearing the Eleventh Amendment provides that "[t]he judicial power of the United States shall not be construed to extend any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state," U.S. Const. amend. XI, see also Acosta v. Democratic City Comm., 288 F. Supp. 3d 597, 626 (E.D. Pa. 2018) (finding that the Ex parte Young doctrine that permits sanctions and injunctive relief against state officers is inapplicable to the State and state agencies);

and it appearing that the State must also be dismissed because it is entitled to sovereign immunity;

and it appearing that even if the State and the Judiciary Defendants were not immune, the Court would dismiss Plaintiff's claims against them under the Rooker-Feldman Doctrine;

and it appearing that Rooker-Feldman "bars federal district courts from exercising appellate jurisdiction over state court actions," Nat'l R.R. Passenger Corp. v. Pa. Pub. Util. Comm'n, 342 F.3d 242, 256 (3d Cir. 2003), or, in other words, prohibits federal courts from

[7] Although judicial immunity primarily applies to claims for damages, injunctive relief cannot be awarded against a judge "unless a declaratory decree was violated or declaratory relief was unavailable." Azubuko v. Royal, 443 F.3d 302, 304 (3d Cir. 2006) (providing that "injunctive relief shall not be granted" in an action brought against "a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable") (quoting 42 U.S.C. § 1983). Here, although Plaintiff requests declaratory relief against the Judiciary Defendants, the Court finds no allegations in the FAC that would vitiate the Judicial Defendants' immunity. See Gallas,211 F.3d at 769.

hearing "controversies that are essentially appeals from state-court judgments," Williams v. BASF Catalysts LLC, 765 F.3d 306, 315 (3d Cir. 2014) (quotation marks and citation omitted);

and it appearing that this narrow doctrine bars a successive federal action only where "(1) the federal plaintiff lost in state court, (2) the plaintiff complains of injuries caused by the state-court judgment, (3) that judgment issued before the federal suit was filed, and (4) the plaintiff invites the district court to review and reject the state-court judgment," Geness v. Cox, 902 F.3d 344, 360 (3d Cir. 2018);

and it appearing that because the FAC and attached exhibits make clear that Plaintiff seeks review of the Judiciary Defendants' Family Court orders—and an order from this Court specifically contradicting those Orders—this Court declines to exercise such jurisdiction;

and it appearing that the Court is satisfied that the elements of Geness are met because Plaintiff lost in the state family court matters commenced prior to the instant suit, and Plaintiff "can not prevail on [his] federal claim without obtaining an order that would negate the state court[s'] judgment[s]," In re Knapper, 407 F.3d 573, 581 (3d Cir. 2005) (internal quotation omitted);

and it appearing that because the Rooker-Feldman doctrine further bars Plaintiff's claims that the Judiciary Defendants' custody orders and Order declining to vacate Smith's adoption were improper Plaintiffs' FAC must therefore be dismissed;

and it appearing that to the extent any state law claims remain, the Court declines to exercise supplemental jurisdiction where the federal claims have been dismissed, Mattern v. City of Sea Isle, 131 F. Supp. 3d 305, 320 (D.N.J. 2015) ("Where the federal claims are dismissed at an early stage in the litigation, courts generally decline to exercise supplemental jurisdiction over state claims.");

IT IS on this 10th day of July, 2023;

ORDERED that the Motion to Dismiss, ECF No. 35 is **GRANTED** and the First Amended Complaint is accordingly **DISMISSED with prejudice** against the State and Judiciary Defendants.[8]

/s Madeline Cox Arleo
MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

[8] The Court also notes that to the extent Plaintiff separately seeks injunctive relief, ECF No. 36, that request is also denied for the reasons explained above.