

UNITED STATES COURT OF APPEALS March 15, 2022

TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

NIGEL RAY LACHEY,

Plaintiff - Appellant,

v.

JANE C. LEVY; RACHELLE
KLUMP,

Defendants - Appellees.

No. 21-2156
(D.C. No. 1:21-CV-01093-RB-LF)
(D.N.M.).

ORDER AND JUDGMENT*

Before **HARTZ**, **BALDOCK**, and **McHUGH**, Circuit Judges.**

Plaintiff Nigel Lachey, appearing *pro se*, appeals the district court's dismissal of his amended civil rights complaint. *See* 42 U.S.C. § 1983. The court dismissed the amended complaint on the basis of absolute immunity. We exercise jurisdiction under 28 U.S.C. § 1291 and summarily affirm. The amended complaint alleges Defendants, New Mexico state district judge Jane Levy and state hearing officer

* This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** After examining Defendant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument.

Rachelle Klump, deprived Plaintiff of due process of law when they declined to admit into evidence in a state child-support proceeding a notarized statement from Plaintiff's ex-wife stating Plaintiff would not be required to pay her child support. According to Plaintiff, Defendants illegally "denied admission of evidence . . . that meets the 'self-authenticating' evidence rules of the state of New Mexico NMRA 11-902(2)." Plaintiff's amended complaint seeks both actual and punitive damages against Defendants.

Plaintiff's federal complaint likely fails for any number of reasons.¹ But, as the district court held, it undoubtedly fails based on the doctrines of absolute judicial and quasi-judicial immunity. The Supreme Court has recognized the absolute immunity of judges from civil damage lawsuits for conduct within their judicial function. *Pierson v. Ray*, 386 U.S. 547, 554–55 (1967). And the Tenth Circuit has recognized that hearing officers acting in a quasi-judicial fashion enjoy the same absolute immunity as judges. *Guttman v. Khalsa*, 446 F.3d 1027, 1033 (10th Cir. 2006). Only a complaint that alleges facts suggesting a defendant judge or hearing officer was not acting in a judicial or quasi-judicial capacity can overcome a motion to dismiss based on absolute immunity. *Id.* at 1033–34. The facts alleged in

¹ The record is unclear whether Plaintiff is seeking or has sought relief from his child-support obligation in the New Mexico appellate courts by way of direct appeal. Therefore, we do not consider the applicability of the *Rooker-Feldman* doctrine to Plaintiff's lawsuit. See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005).

Plaintiff's amended complaint make no such suggestion; rather they suggest quite the contrary. A decision on the admissibility of evidence in judicial and quasi-judicial proceedings is an integral part of the judicial process and renders the decision-maker absolutely immune from suit based on such decision. *Benavidez v. Howard*, 931 F.3d 1225, 1234 (10th Cir. 2019) (Baldock, J., concurring) (setting forth the law as to when absolute immunity protects a public official involved in litigation).

Accordingly, Plaintiff's motion to proceed on appeal *in forma pauperis* is granted and the judgment of the district court dismissing his amended complaint is AFFIRMED.

Entered for the Court,

Bobby R. Baldock
United States Circuit Judge