



SCOTT BALES
CHIEF JUSTICE

JANET JOHNSON
CLERK OF THE COURT

Supreme Court

STATE OF ARIZONA
ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007-3231

TELEPHONE: (602) 452-3396

February 5, 2019

RE: **IKEMEFULA IBEABUCHI v JAMES BLOMO**
Arizona Supreme Court No. CV-18-0269-PR
Court of Appeals, Division One No. 1 CA-CV 17-0776
Maricopa County Superior Court No. CV2017-011312

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on February 5, 2019, in regard to the above-referenced cause:

ORDERED: Petition for Review = DENIED.

Justice Gould did not participate in the determination of this matter.

Janet Johnson, Clerk

TO:

Ikemefula Charles Ibeabuchi, ADOC 177007, Arizona State Prison,
Florence - Eyman Complex-Meadows Unit
Cynthia D Starkey
Amy M Wood
pm

APPENDIX, C.

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

IKEMEFULA CHARLES IBEABUCHI, *Plaintiff/Appellant*,

v.

JAMES T. BLOMO, *Defendant/Appellee*.

No. 1 CA-CV 17-0776
FILED 9-20-2018

Appeal from the Superior Court in Maricopa County

No. CV 2017-011312

The Honorable Margaret R. Mahoney, Judge

AFFIRMED

COUNSEL

Ikemefula Charles Ibeabuchi, Florence
Plaintiff/Appellant

Arizona Attorney General's Office, Phoenix
By Cynthia D. Starkey
Counsel for Defendant/Appellee

MEMORANDUM DECISION

Judge Michael J. Brown delivered the decision of the Court, in which Presiding Judge James P. Beene and Judge James B. Morse Jr. joined.

APPENDIX, A (4-Pages)

IBEABUCHI v. BLOMO
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B R O W N, Judge:

¶1 Ikemefula Charles Ibeabuchi appeals the superior court's judgment granting Judge James T. Blomo's motion to dismiss. Because Judge Blomo's allegedly tortious actions are protected by judicial immunity, we affirm.

BACKGROUND

¶2 In 2014, Ibeabuchi filed a complaint against attorney Sabinus A. Megwa alleging legal malpractice and requesting that Judge Blomo issue an order terminating Megwa's services. According to Ibeabuchi, Judge Blomo denied the request in an unsigned minute entry. Ibeabuchi appealed from the minute entry, but the appeal was dismissed by this court for lack of jurisdiction. Several years later, he filed a second appeal, arising out of Judge Blomo's denial of a motion for reconsideration. The second appeal was deemed abandoned for failure to pay filing fees.

¶3 Ibeabuchi filed a complaint against Judge Blomo, alleging the court orders "formed the basis" for an intentional tort and that Ibeabuchi suffered a violation of his constitutional rights. He also claimed damages of \$50,000. In lieu of filing an answer, Judge Blomo sought dismissal of the complaint under Arizona Rule of Civil Procedure ("Rule") 12(b)(6) asserting, among other arguments, that the doctrine of judicial immunity barred Ibeabuchi's claims.

¶4 Ibeabuchi did not specifically respond to Judge Blomo's motion, but instead filed two documents titled "Acknowledgement" and "Notice of Claim Statute, At-Law." In his reply, Judge Blomo requested summary disposition of the motion under Rule 7.1(b)(2), but alternatively argued that even assuming Ibeabuchi timely responded, dismissal was still appropriate. The superior court entered a final, appealable judgment in favor of Judge Blomo, and Ibeabuchi timely appealed.

DISCUSSION

¶5 We review the dismissal of a claim under Rule 12(b)(6) de novo. *Coleman v. City of Mesa*, 230 Ariz. 352, 356, ¶ 7 (2012). We assume all well-pled facts alleged are true and will not affirm the dismissal unless, as a matter of law, the plaintiff is not "entitled to relief under any interpretation of the facts susceptible of proof." *Fid. Sec. Life Ins. Co. v. State, Dep't of Ins.*, 191 Ariz. 222, 224, ¶ 4 (1998) (citation omitted). Because we find the issue of judicial immunity dispositive, we need not address other assertions raised by the parties.

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Decision of the Court

¶6 Judicial immunity is a common law doctrine recognized in both state and federal courts. *Acevedo v. Pima Cty. Adult Prob. Dep't*, 142 Ariz. 319, 321 (1984). The doctrine provides judges absolute civil immunity for their judicial acts, "even when such acts are in excess of their jurisdiction or are alleged to have been done maliciously or corruptly." *Id.* at 321 (citation omitted).

¶7 The doctrine's primary purpose is to safeguard the judiciary so "judges will perform their functions independently and without fear of personal consequences." *Burk v. State*, 215 Ariz. 6, 12, ¶ 7 (App. 2007) (citation omitted); *see also Grimm v. Ariz. Bd. of Pardons & Paroles*, 115 Ariz. 260, 264-65 (1977) (discussing several policy reasons underlying the doctrine). "Whether judicial immunity exists is a legal question for the court." *Burk*, 215 Ariz. at 9, ¶ 7 (citation omitted).

¶8 Simply stated, a judicial act is a "function normally performed by a judge, and to the expectations of the parties, *i.e.*, whether [the parties] dealt with the judge in his judicial capacity." *Stump v. Sparkman*, 435 U.S. 349, 362 (1978). When determining whether a judicial act occurred, we focus on the function's nature and relationship to the judicial process, instead of the act itself, because "an improper or erroneous act cannot be said to be normally performed by a judge." *Burk*, 215 Ariz. at 12, ¶ 14 (quoting *Mireles v. Waco*, 502 U.S. 9, 12 (1991)). However, "[i]f judicial immunity means anything, it means that a judge 'will not be deprived of immunity because the action he took was in error . . . or was in the excess of authority.'" *Id.* (quoting *Mireles*, 502 U.S. at 12-13 (internal citation omitted)).

¶9 Here, Judge Blomo denied Ibeabuchi's motions by issuing orders confirming his decisions, which is a mandatory function and thus plainly falls under the category of a "function normally performed by a judge." Moreover, Ibeabuchi filed the motions for the purpose of seeking a judicial determination, so there is no reasonable argument he was not expecting to deal with Judge Blomo in his official capacity.

¶10 Without citation to authority, Ibeabuchi asserts Judge Blomo "acted ministerially" when he denied Ibeabuchi's motions and Judge Blomo "is burdened with the proof that his [a]ct which he sought immunity was made in good faith." However, judicial immunity does not turn on whether a judge's act was ministerial and done in good faith. Instead, because Ibeabuchi's claims are based solely on Judge Blomo's judicial acts, he is protected from civil suits "even when such acts are in excess of [his] jurisdiction or are alleged to have been done maliciously or corruptly,"

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Acevedo, 142 Ariz. at 321 (citation omitted), or in error, *Burk*, 215 Ariz. at 12, ¶ 14 (quoting *Mireles*, 502 U.S. at 12-13). Thus, his judicial acts are protected by absolute judicial immunity and there is no interpretation of the alleged facts that would result in an alternate outcome.

CONCLUSION

¶11 For the foregoing reasons, we affirm the superior court's judgment.

Michael K. Jeanes, Clerk of Court

*** Electronically Filed ***

11/15/2017 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-011312

11/13/2017

HONORABLE MARGARET R. MAHONEY

CLERK OF THE COURT
G. Verbil
Deputy

IKEMEFULA CHARLES IBEABUCHI

IKEMEFULA CHARLES IBEABUCHI
T308156
201 S 4TH AVE
PHOENIX AZ 85003

v.

JAMES BLOMO

CYNTHIA DAWN STARKEY

ORDER SIGNED

IT IS ORDERED approving and settling the formal written Judgment for Dismissal with Prejudice signed by the Court on November 13, 2017, and entered (filed) by the clerk on November 13, 2017.

Please note: The Court has signed a hard-copy version of the order. Therefore, copies of the order and self-addressed, stamped envelopes were not available for mailing to the parties. After the order has been scanned and docketed by the Clerk of Court, copies of this order may be available through ECR Online at clerkofcourt.maricopa.gov or through AZTurboCourt.gov and from the Public Access Terminals at the Clerk of Court's offices located throughout Maricopa County.

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FILED
11-13-17 10:00AM
MICHAEL K. JEANES, Clerk
By *M. Jeanes*
G. Verbil, Deputy

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IBEABUCHI IKEMEFULA CHARLES,

Case No.: CV2017-011312

Plaintiff,

**JUDGMENT OF DISMISSAL
WITH PREJUDICE**

v.

JUDGE JAMES BLOMO,

Defendant.

The Court having considered Defendant Judge James Blomo's Motion to Dismiss; Plaintiff's "Notice of Claim Statute, At-Law" which the Court construed to be Plaintiff's Response in Opposition to the Motion to Dismiss; Defendant Blomo's Reply in Support of the Motion to Dismiss; and Plaintiff's Notice of Pending Motion, filed November 1, 2017; and good cause appearing,

IT IS HEREBY ORDERED that judgment is entered in favor of Defendant Judge James Blomo and against Plaintiff Ikemefula Charles Ibeabuchi. No further matters remain pending against Defendant James Blomo and there is no just reason for delay. Judgment is hereby entered pursuant to Rule 54(b) of the Arizona Rules of Civil Procedure.

DATED this 13th day of November, 2017.

M. Mahoney
Hon. Margaret Mahoney
Maricopa County Superior Court

APPENDIX, B (2-Pages)