Appendix A

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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United States Courthouse
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ORDER

August 26, 2021

Before
MICHAEL S. KANNE, *Circuit Judge*
DIANE P. WOOD, *Circuit Judge*
DAVID F. HAMILTON, *Circuit Judge*

HYE-YOUNG PARK, Plaintiff-Appellant,	]	Appeals from the United States District Court for the Central District of Illinois.
Nos. 21-1723 & 21-1846 v.	]	
COLIN S. BRUCE, Defendant-Appellee.	]	No. 2:20-cv-02150-SLD-EIL
	]	Sara Darrow, Chief District Judge.

The following is before the court: **APPELLANT'S MOTOIN TO PROCEED ON APPEAL IN FORMA PAUPERIS**, filed on May 25, 2021, by pro se Appellant Hye-Young Park.

This court has carefully reviewed the final orders of the district court, the record on appeal, and appellant's motion to proceed in forma pauperis. Based on this review, the court has determined that any issues that could be raised are insubstantial and that further briefing would not be helpful to the court's consideration of the issues. *See Taylor v. City of New Albany*, 979 F.2d 87 (7th Cir. 1992); *Mather v. Village of Mundelein*, 869 F.2d 356, 357 (7th Cir. 1989) (per curiam) (court can decide case on motions papers and record where briefing would be not assist the court and no member of the panel desires briefing or argument). The district court correctly determined that appellant's claims are frivolous because the defendant has judicial immunity. Accordingly,

IT IS ORDERED that the motion to proceed in forma pauperis is **DENIED**, and the final orders of the district court are summarily **AFFIRMED**. Appellant is warned that further frivolous litigation may lead to sanctions.

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Clerk, U.S. District Court, ILCD

Appendix B

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

HYE-YOUNG PARK, a/k/a LISA PARK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:20-cv-02150-SLD-EIL
	)	
COLIN STIRLING BRUCE,	)	
	)	
Defendant.	)	

ORDER

Before the Court are Plaintiff Hye-Young Park a/k/a Lisa Park's Motion to Alter or Amend the Judgment, ECF No. 17, motion to proceed on appeal in forma pauperis, ECF No. 19, and motion to become an electronic filer in the Seventh Circuit's electronic case filing system, ECF No. 21. For the reasons that follow, the Motion to Alter or Amend the Judgment is DENIED, the motion to become an electronic filer is MOOT, and the Court reserves ruling on the motion to proceed on appeal in forma pauperis.

BACKGROUND

On May 29, 2020, Plaintiff filed her Complaint against United States District Judge Colin Stirling Bruce alleging he violated her rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution. Compl. 1, ECF No. 1. Her claims arise out of prior lawsuits she filed over which Judge Bruce presided. *See id.* at 3–4. In those cases, Plaintiff alleged that she suffered from sexual misconduct and retaliation at the University of Illinois (the "University") and that University officials failed to follow University policy and federal law in addressing the misconduct and further retaliated against her when she reported the misconduct.

Id. at 4.[1] In this case, she alleged that Judge Bruce "acted in excess of his authority [in the prior suits] in that he manufactured nonfactual facts or misleading statements . . . and ruled based on the fabrications in his judgments over" her first suit, which then affected her subsequent cases and appeals. *Id.* at 3; *see id.* at 6 (alleging that the Seventh Circuit "blindly follow[ed]" Judge Bruce's orders). Essentially, she highlighted statements from Judge Bruce's rulings, argued they were not accurate by pointing to other evidence, and alleged that Judge Bruce "fabricated" the statements. *See, e.g.*, *id.* at 16 (alleging that Judge Bruce "fabricated that 'Park failed to demonstrate that the defendants denied her equal protection of the law because there was no evidence that they knew about [the perpetrator's] sexual misconduct and facilitated or turned a blind eye to it'" (quoting *Park v. Secolsky*, 787 F. App'x 900, 903–04 (7th Cir. 2019) (summarizing Judge Bruce's ruling on the parties' summary judgment motions))). She sought relief in the form of a revocation of the rulings in her previous cases and $10,000,000 in compensatory damages, $10,000,000 in punitive damages, and the costs of the action. *Id.* at 36. She indicated that she was willing to withdraw her claim for damages and costs "if the Judge rule[d] over her new complaints[—she filed two new lawsuits in May 2020—] . . . based on facts and law." *Id.*

[1] In *Park v. Hudson*, Case No. 15-cv-2136, 2018 WL 8803899, at *10–24 (C.D. Ill. Jan. 30, 2018), Judge Bruce granted summary judgment in Plaintiff's favor on some of her claims, granted summary judgment in the defendants' favor on some claims, and left the remainder for trial. The jury found in Plaintiff's favor on some of the remaining claims and awarded her $500,000 in damages. *See Park v.* Secolsky, 787 F. App'x 900, 904 (7th Cir. 2019). Plaintiff appealed, and the Seventh Circuit affirmed Judge Bruce's rulings in the case and the jury's verdict. *See id.* at 904–07. In *Park v. Board of Trustees of the University of Illinois*, Case No. 18-CV-2090, 2018 WL 11306144, at *2 (C.D. Ill. May 7, 2018), Judge Bruce dismissed Plaintiff's claims at the merit review stage pursuant to res judicata; she had filed the same claims against the Board of Trustees of the University along with two new University officials. The Seventh Circuit affirmed the dismissal, though on the basis that her claims were barred by the doctrine of collateral estoppel rather than res judicata. *Park v. Bd. of Trs. of Univ. of Ill.*, 754 F. App'x 437, 439 (7th Cir. 2018). In *Park v. Abdullah-Span*, 2:19-cv-02107-CSB-EIL, slip op. at 2–6 (C.D. Ill. May 2, 2019), Judge Bruce again dismissed Plaintiff's claims at the merit review stage; the claims were the same as had been raised in the prior lawsuits and involved defendants who had been named in at least one of the prior lawsuits.

Magistrate Judge Eric I. Long entered a Report and Recommendation on January 22, 2021, recommending that Plaintiff's complaint be dismissed under 28 U.S.C. § 1915(e)(2)(B) because her claims against Judge Bruce were barred under the doctrine of judicial immunity. R. & R. 2–4, ECF No. 12. Plaintiff timely filed objections to the Report and Recommendation. Objs., ECF No. 13. She argued that judicial immunity did not apply because Judge Bruce's actions were nonjudicial since judges do not knowingly replace facts with false statements. *Id.* at 2–4 ("Adding blatant false statements are not functions normally performed by a judge nor are they expectations of the parties."). She also argued that because his actions were not "for 'the achievement of the greater public good deriving from a completely independent judiciary[,]'" and because "protecting [him] through judicial immunity prevents the greater public good to be achieved [sic]," his actions should not be protected by the doctrine. *Id.* at 6 (quoting *Stump v. Sparkman*, 435 U.S. 349, 370 (1978) (Powell, J., dissenting)). She then filed an amended complaint, which was construed as a motion for leave to amend the complaint, Order 1 n.1, ECF No. 15. Mot. Leave Amend Compl., ECF No. 14.

This Court adopted in part and rejected in part the Report and Recommendation. Order 1. As relevant here, the Court adopted Judge Long's recommendation that the suit be dismissed because Judge Bruce is absolutely immune from suit. *Id.* at 4–5. The Court found that because the proposed amended complaint was based on the same acts, allowing amendment would be futile, so it denied the motion for leave to amend. *Id.* at 5. Judgment was entered on March 30, 2021. Judgment, ECF No. 16.

On April 12, 2021, Plaintiff filed a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e). Mot. Alter Amend J. 1. She challenges the Court's Order adopting in part and rejecting in part the Report and Recommendation, arguing that "[a]llowing

absolute judicial immunity to a judge for knowingly replacing facts with false statements as in the instant case threatens the judicial process in judicial functions which the immunity was designed to protect." *Id.* at 1 & n.1 (emphasis omitted). She argues that the Court made manifest errors of fact and law in concluding that the suit was based on Judge Bruce's judicial acts. *Id.* at 2–6; *see also id.* at 8–11. She also introduces a new argument that judicial immunity cannot apply because she has been precluded from seeking other judicial remedies for Judge Bruce's actions. *Id.* at 6–8.

DISCUSSION

I. Motion to Alter or Amend the Judgment

a. Legal Standard

Rule 59(e) "enables the court to correct its own errors and thus avoid unnecessary appellate procedures." *Miller v. Safeco Ins. Co. of Am.*, 683 F.3d 805, 813 (7th Cir. 2012) (quotation marks omitted). A court should alter or amend its judgment under Rule 59(e) only if "the movant presents newly discovered evidence that was not available at the time of trial or if the movant points to evidence in the record that clearly establishes a manifest error of law or fact." *Burritt v. Ditlefsen*, 807 F.3d 239, 252–53 (7th Cir. 2015) (quotation marks omitted). "A manifest error occurs when the district court commits a wholesale disregard, misapplication, or failure to recognize controlling precedent." *Id.* at 253 (quotation marks omitted). Relief may be warranted when there is "an intervening change in controlling law" or "if necessary to prevent manifest injustice." 11 Charles Alan Wright et al., *Federal Practice & Procedure* § 2810.1 (3d ed. 2021 Update). A court may also reconsider its prior decision if it "misunderstands a party's arguments" or "overreaches by deciding an issue not properly before it." *United States v. Ligas*, 549 F.3d 497, 501 (7th Cir. 2008). But it is not appropriate, on a motion for reconsideration, "to

advance arguments or theories that could and should have been made before the district court rendered a judgment." *Miller*, 683 F.3d at 813 (quotation marks omitted).

b. Analysis

"[A] judicial officer, in exercising the authority vested in him, [should] be free to act upon his own convictions, without apprehension of personal consequences to himself." *Stump*, 435 U.S. at 355 (second alteration in original) (quotation marks omitted). Thus, judges "are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." *Id.* at 355–56 (quotation marks omitted). Though "judicial immunity is broad," however, "it is not limitless." *Kowalski v. Boliker*, 893 F.3d 987, 997 (7th Cir. 2018). "A judge does not enjoy immunity if he or she is acting in the 'clear absence of all jurisdiction,' rather than simply in 'excess of [the judge's] authority," *id.* (alteration in original) (quoting *Stump*, 435 U.S. at 356, 357), or "for non-judicial acts." *Id.*

The Court held that "Plaintiff's claims against Judge Bruce [we]re based solely on the orders he issued while presiding over [her] federal civil rights suits." Order 4. It concluded that issuing these orders was judicial in nature because the orders "involved the exercise of discretion and were the kinds of acts regularly performed by judges and expected by the parties," *id.*, and, accordingly, that "Judge Bruce [wa]s absolutely immune from this suit for damages," *id.* at 5.

Plaintiff argues the Court committed a manifest error of fact when it concluded her claims were based solely on the orders he issued. Mot. Alter Amend J. 2. She argues they are instead "based on Judge Bruce knowingly replacing facts with false statements." *Id.* (emphasis

omitted).[2] But the allegedly false statements were included in Judge Bruce's written orders. Therefore, her claims are based on the orders Judge Bruce issued. Her attempt to frame the issue as fabrication of statements is not successful. *Cf. Johnson v. McCuskey*, 72 F. App'x 475, 476 (7th Cir. 2003) ("Johnson contends that criminal actions (and cover-ups of such actions) are nonjudicial acts for which judicial immunity does not apply. But the 'criminal' conduct that Johnson complains about is [the judge's] decision to apply a particular statute concerning venue. That decision plainly was made in the judge's capacity as a judicial officer . . . .").

Plaintiff also argues the Court committed manifest errors of law in concluding that his actions were judicial acts. Mot. Alter Amend J. 3–6. The Court identified the correct standard to apply in determining whether an act is judicial:

> (1) whether the act or decision involves the exercise of discretion or judgment, or is rather a ministerial act which might as well have been committed to a private person as to a judge; (2) whether the act is normally performed by a judge; and (3) the expectations of the parties, i.e., whether the parties dealt with the judge as judge.

Order 4 (quoting *Dawson v. Newman*, 419 F.3d 656, 661 (7th Cir. 2005)); *see also Stump*, 435 U.S. at 362; *Ex Parte Virginia*, 100 U.S. 339, 348 (1879). And the Court held that issuing an order involves the exercise of discretion and is the kind of act regularly performed by judges and expected by the parties, so Judge Bruce's orders were judicial acts. Order 4.

Plaintiff's argument that the Court was incorrect is based on her insistence that the Court frame the relevant act as fabricating statements. *E. g.*, Mot. Alter Amend J. 5 ("Federal judges . . . do not normally replace facts with false statements . . . ."). But, again, the statements were made in written orders, and drafting and issuing orders are certainly acts that are judicial in

[2] Plaintiff states that "[t]he instant case is not meant to correct the false statements through reversing the orders," Mot. Alter Amend J. 3 n.2, despite requesting revocation of the rulings against her in both her Complaint and proposed amended complaint, *see* Compl. 36; Mot. Leave Amend Compl. 41.

nature. The judge's motives and any inaccuracies are irrelevant to the analysis; even if a judge exercises his jurisdiction in an "erroneous manner" and it "affect[s] the validity of the act," his act is no "less a judicial act." *Stump*, 435 U.S. at 359 (quotation marks omitted); *Mireles v. Waco*, 502 U.S. 9, 11 (1991) ("[J]udicial immunity is not overcome by allegations of bad faith or malice . . . ."); *cf. Lopez v. Vanderwater*, 620 F.2d 1229, 1231–35 (7th Cir. 1980) (holding that a defendant judge's acts of "arraigning, convicting, and sentencing" the plaintiff were judicial acts even though they were "outrageous," and "highly irregular" in that the judge "caused [the plaintiff] to be charged with petty theft, convicted him on the basis of a guilty plea that is alleged to have been forged, and sentenced him to jail for 240 days" all while the plaintiff allegedly remained in his jail cell, though holding that the judge's actions of causing the offense to be charged, preparing a guilty plea, and presenting them to himself were not judicial acts entitled to judicial immunity because the judge acted as a prosecutor).[3]

Plaintiff further argues that granting Judge Bruce immunity in this case "prevents the greater public good from being achieved" and that the Court should grant the motion to prevent manifest injustice. Mot. Alter Amend J. 8–12. She argues the Court should "make the right decision to leave a meaningful, impactful change for the greater good." *Id.* at 12. The Court cannot change the law to benefit Plaintiff. And, in any case, allowing judicial immunity in these

[3] Plaintiff cites to *Gregory v. Thompson*, 500 F.2d 59, 65 (9th Cir. 1974), for the proposition that "a judge's behavior that is highly irrational is considered a nonjudicial act." Mot. Alter Amend J. 5. That case does not stand for that proposition. The defendant-judge in *Gregory* physically removed the plaintiff from his courtroom. *Gregory*, 500 F.2d at 61. The Ninth Circuit held that exercising physical force in the courtroom was not a judicial act entitled to absolute immunity. *Id.* at 64–65. It held that the judge could, however, claim qualified immunity. *Id.* at 65. Plaintiff's argument about *Gregory*—she argues: "*Gregory* court affirmed the jury verdict 'for both actual and punitive damages' against Judge Thompson by concluding []Judge Thompson acted unreasonably, it also found him to have acted 'maliciously or wantonly or oppressively [sic],'" Mot. Alter Amend J. 5 (quoting *Gregory*, 500 F.2d at 65)—relies on the court's analysis of whether the case should be remanded so the jury could be instructed on the qualified immunity defense. *Gregory*, 500 F.2d at 65. The court explained that because the jury found that the judge acted maliciously, wantonly, or oppressively, remand was unnecessary. *Id.* That language has nothing to do with the judicial immunity analysis.

circumstances serves the public purpose of the doctrine; a judge should be free to write orders based on his assessment of the evidence without fear of personal liability.

Plaintiff also makes a new argument that judicial immunity is unavailable here because "[Judge] Bruce's nonjudicial act combined with his judicial act . . . led to a judicial result in the Federal court system 'in a manner that precludes all resort to appellate or other judicial remedies that otherwise would be available.'" Mot. Alter Amend J. 6–7 (footnotes omitted) (quoting *Stump*, 435 U.S. at 370 (Powell, J., dissenting). This is a new argument that was not raised in Plaintiff's objections to the Report and Recommendation. A motion to reconsider is not the time to raise an argument that could have been raised prior to judgment. *Miller*, 683 F.3d at 813. Moreover, Plaintiff is relying on a statement from a dissenting opinion; this is not part of the judicial immunity analysis the Court must apply. *King v. McCree*, 573 F. App'x 430, 442–43 (6th Cir. 2014).[4]

II. Miscellaneous Motions

Plaintiff moves to proceed on appeal in forma pauperis. *See generally* Mot. Leave Appeal. Pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A), "[a] party who was permitted to proceed in forma pauperis in [a] district-court action . . . may proceed on appeal in forma pauperis without further authorization, unless the district court . . . certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding." *See also* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing

[4] Plaintiff also briefly argues the Court should have allowed her to file her amended complaint and should have granted her motion to become an e-filer. Mot. Alter Amend J. 12–13. Both arguments are denied. Plaintiff argues that "permitting [her] Amended Complaint would not be futile if the Court grants [her] Complaint." *Id.* at 12. The Court declines to disturb its ruling that Plaintiff's claims are barred by judicial immunity, so permitting her to file her amended complaint, which asserts the same claims, would indeed be futile. Regarding e-filing, this case is now closed, so there is no reason to allow Plaintiff to become an e-filer.

that it is not taken in good faith."). "[T]o determine that an appeal is in good faith, a court need only find that a reasonable person could suppose that the appeal has some merit." *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

Here, the Court granted Plaintiff in forma pauperis status. Order 5. Therefore, she does not need further authorization from this Court to proceed on appeal in forma pauperis. However, the Court doubts that her appeal is taken in good faith. Plaintiff's claims are based on Judge Bruce's orders, and issuing an order is clearly a judicial act. A court that "doubts that [an appeal] is in good faith should, before yanking the appellant's [in forma pauperis] status, notify the appellant of the impending change of status and give h[er] an opportunity to submit a statement of h[er] grounds for appealing." *Celske v. Edwards*, 164 F.3d 396, 398 (7th Cir. 1999). Plaintiff may file a statement of her grounds for appeal within fourteen days. She is hereby notified that if she fails to submit such a statement, the Court will deny her motion and certify that her appeal is not taken in good faith.

Plaintiff has also filed a motion to become an electronic filer in the Seventh Circuit. *See* Mot. Becoming Electronic Filer 1. As this motion is not addressed to this court, it is MOOT.

CONCLUSION

Accordingly, Plaintiff Hye-Young Park a/k/a Lisa Park's Motion to Alter or Amend the Judgment, ECF No. 17, is DENIED. Her motion to become an electronic filer in the Seventh Circuit's electronic case filing system, ECF No. 21, is MOOT. The Court reserves ruling on the motion to proceed in forma pauperis on appeal, ECF No. 19. Plaintiff may file a statement of her grounds for appeal within fourteen days.

Entered this 6th day of May, 2021.

s/ Sara Darrow
SARA DARROW
CHIEF UNITED STATES DISTRICT JUDGE

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Clerk, U.S. District Court, ILCD

Appendix C

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

HYE-YOUNG PARK, a/k/a LISA PARK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:20-cv-02150-SLD-EIL
	)	
JUDGE COLIN S. BRUCE,	)	
	)	
Defendant.	)	

MERIT REVIEW ORDER

Plaintiff Hye-Young Park, proceeding pro se, alleges that Defendant United States District Judge Colin S. Bruce violated her Fifth Amendment rights to due process and equal protection by creating false facts and misleading statements during the lawsuit filed by Plaintiff against the University of Illinois and several individuals affiliated with the school. Compl. 3–4, ECF No. 1. Before the Court is United States Magistrate Judge Eric I. Long's Report and Recommendation ("R&R"), ECF No. 12, which recommends dismissing the Complaint as frivolous and denying Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, ECF No. 2 ("IFP Application"), Motion for ECF Registration, ECF No. 3, motion to assign the case to Judges Colin S. Bruce and Eric I. Long, ECF No. 5, and motion to supplement, ECF No. 7. Also before the Court are Plaintiff's objections, ECF No. 13, and Plaintiff's motion for leave to file an amended complaint, ECF No. 14.[1] For the reasons that follow, the R&R is ADOPTED IN PART and REJECTED IN PART, and the objections are OVERRULED. The motion for leave to file an amended complaint is DENIED.

[1] On February 12, 2021, after Judge Long's R&R had been entered, Plaintiff filed a 47-page amended complaint with 142 pages of exhibits. Am. Compl., ECF No. 14. The Court construes this filing as a motion for leave to file an amended complaint and an amended complaint.

BACKGROUND

In 2015, Plaintiff filed a twenty-count complaint against the University of Illinois and several individuals she sought to hold liable for discrimination and retaliation. *See Park v. Hudson*, 2:15-cv-02136-SLD-EIL ("2015 Case"). United States District Judge Colin S. Bruce presided over her case.[2] He entered orders on several dispositive motions and held a jury trial on the remaining claims. Plaintiff sought review of the district court's rulings in the Seventh Circuit Court of Appeals. The court affirmed. *Park v. Secolsky*, 787 F. App'x 900, 907 (7th Cir. 2019). Plaintiff filed two additional cases against virtually the same set of actors and about the same set of operative facts: *Park v. Board of Trustees of the University of Illinois*, 2:18-cv-02090-CSB-EIL ("2018 Case"), and *Park v. Abdullah-Span*, 2:19-cv-02107-CSB-EIL ("2019 Case"). Judge Bruce presided over those cases as well.

Now, Plaintiff claims Judge Bruce acted unconstitutionally, *see Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 397 (1971), and in excess of his authority in the 2015, 2018, and 2019 cases when he created "nonfactual facts or misleading statements," which she lists in the complaint as "fabrications." Compl. 1, 3, 4, 8, 10, 12, 16, 19, 22, 23, 24, 26, 27, 30–32 (identifying alleged fabrications in 2015 Case Jan. 30, 2018 Order 10, 43, 48, 50, 51, ECF No. 162; 2015 Case Oct. 18, 2018 Order 6, ECF No. 273; in the orders dismissing the 2018 and 2019 Cases, 2018 Case May 7, 2018 Order, ECF No. 8; 2019 Case May 2, 2019 Order, ECF No. 6). Judge Long concludes the case is barred by absolute judicial immunity and recommends dismissing it as frivolous because Plaintiff's allegations rest solely

[2] On June 4, 2020, Judge Bruce recused from the case and referred it to Chief United States District Judge Sara Darrow for reassignment. June 4, 2020 Order, ECF No. 344. Judge Darrow reassigned the case to United States District Judge Sue E. Myerscough on June 8, 2020. June 8, 2020 Text Order. Judge Myerscough recused on November 30, 2020 and referred it to Judge Darrow for reassignment and Judge Darrow retained the case. Nov. 30, 2020 Text Order; Dec. 1, 2020 Text Order.

on Judge Bruce's legal decisions. R&R 2–4. Plaintiff objects to the R&R by arguing that Judge Bruce knowingly substituted false statements for facts in her prior cases. She concludes such conduct is not protected by judicial immunity because "blatant false statements are not functions normally performed by a judge nor are they expectations of the parties." Objections 2–4.

DISCUSSION

I. Merit Review

A. Legal Standard

Because Plaintiff filed an IFP Application, the Court reviews the complaint for merit under 28 U.S.C. § 1915(e)(2). In reviewing a pro se complaint for merit, a court takes all factual allegations as true, liberally construing them in the plaintiff's favor. *Turley v. Rednour*, 729 F.3d 645, 649, 651–52 (7th Cir. 2013). However, conclusory statements and labels are insufficient. *See id.* at 651–52. The factual allegations must "state a claim to relief that is plausible on its face," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007), and a court may dismiss any claim that "is frivolous or malicious," 28 U.S.C. § 1915(e)(2)(B)(i), or "seeks monetary relief [from] a defendant who is immune from such relief," *id.* § 1915(e)(2)(B)(iii).

When a magistrate judge considers a pretrial matter dispositive of a party's claim or defense, he must enter a recommended disposition. Fed. R. Civ. P. 72(b)(1). Parties may object within fourteen days of being served with a copy of the recommended disposition. *Id.* 72(b)(2). The district judge considers de novo the portions of the recommended disposition that were properly objected to and may accept, reject, or modify the recommended disposition or return it to the magistrate judge for further proceedings. *Id.* 72(b)(3). Plaintiff's Objections were timely.

B. Analysis

A judge is absolutely immune from a civil suit for damages under 28 U.S.C. § 1331 when the judge acts in his judicial capacity and within his jurisdiction. "[Judicial immunity] confers complete immunity from suit, not just a mere defense to liability." *Dawson v. Newman*, 419 F.3d 656, 660 (7th Cir. 2005).[3] Three factors govern whether a particular act or omission is entitled to judicial immunity:

> (1) whether the act or decision involves the exercise of discretion or judgment, or is rather a ministerial act which might as well have been committed to a private person as to a judge; (2) whether the act is normally performed by a judge; and (3) the expectations of the parties, i.e., whether the parties dealt with the judge as judge.

Id. at 661 (quotation marks omitted). "[I]mmunity is overcome in only two sets of circumstances. First, . . . [when] actions [are] not taken in the judge's judicial capacity. Second, . . . [when] actions, though judicial in nature, [are] taken in the complete absence of all jurisdiction." *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991) (citations omitted); *see Lowe v. Letsinger*, 772 F.2d 308, 311 (7th Cir. 1985) ("The doctrine is designed to give a judge the freedom to act upon his convictions, without fear of personal consequences.").

Plaintiff's claims against Judge Bruce are based solely on the orders he issued while presiding over Plaintiff's federal civil rights suits. These decisions involved the exercise of discretion and were the kinds of acts regularly performed by judges and expected by the parties. *See Dawson*, 419 F.3d at 661. They were judicial in nature and within Judge Bruce's jurisdiction. The Court need not consider whether they were correct because accuracy is not an

[3] "For purposes of immunity, we have not distinguished actions brought under 42 U.S.C. § 1983 against state officials from *Bivens* actions brought against federal officials." *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 433 n.5 (1993).

element of the analysis. Judge Bruce is absolutely immune from this suit for damages. Plaintiff's complaint is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii).

II. Assorted Motions

Judge Long recommends denying Plaintiff's IFP Application, presumably because he finds her case frivolous. The Court REJECTS that recommendation and grants the IFP Application because it sufficiently demonstrates that Plaintiff is unable to pay the costs of these proceedings. The Court ADOPTS Judge Long's recommendation to deny Plaintiff's Motion for ECF Registration and motion to assign the case to Judges Colin S. Bruce and Eric I. Long. The Court REJECTS Judge Long's recommendation to deny Plaintiff's motion to supplement and instead STRIKES it pursuant to Plaintiff's motion, Objections 6–7.

Plaintiff's offered amended complaint spends additional pages arguing Judge Bruce's "non-judicial acts (replacing facts with false statements) led to rulings favoring University officials over [Plaintiff's] Federal Antidiscrimination claims associated with sex, race, and national origin." Am. Compl. 3, ECF No. 14. In other words, the amended complaint relies on the same acts—judicial rulings—as the original complaint. *Compare id.* at 11–30 *with* Compl. 8–28. Although a court must "construe *pro se* complaints liberally and . . . allow ample opportunity for amending the complaint when it appears that by so doing the *pro se* litigant would be able to state a meritorious claim," *Kiebala v. Boris*, 928 F.3d 680, 684 (7th Cir. 2019) (quotation marks omitted), a court does not have to permit amendment when doing so would be futile, *see Tate v. SCR Med. Transp.*, 809 F.3d 343, 346 (7th Cir. 2015). Plaintiff's motion for leave to file an amended complaint is DENIED.

CONCLUSION

Accordingly, Judge Long's Report and Recommendation, ECF No. 12, is ADOPTED IN PART and REJECTED IN PART. The Court dismisses Plaintiff's complaint as frivolous; Plaintiff's objections, ECF No. 13, are OVERRULED IN PART. The Court GRANTS the IFP Application, ECF No. 2, DENIES Plaintiff's Motion for ECF Registration, ECF No. 3, and motion to assign the case to Judges Colin S. Bruce and Eric I. Long, ECF No. 5. The Court STRIKES the motion to supplement, ECF No. 7, and DENIES the motion for leave to file an amended complaint, ECF No. 14. The Clerk is directed to enter judgment and close the case.

Entered this 25th day of March 2021.

s/ Sara Darrow
SARA DARROW
CHIEF UNITED STATES DISTRICT JUDGE

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Clerk, U.S. District Court, ILCD

Appendix D

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
Urbana Division

HYE-YOUNG PARK,

Plaintiff,

v.

COLIN STIRLING BRUCE,

Defendant.

Case No. 20-2150

REPORT & RECOMMENDDATION

On May 29, 2020, Plaintiff filed her Complaint (#1) against Defendant Colin Stirling Bruce. With her Complaint, Plaintiff filed a Motion for leave to proceed in forma pauperis (#2). Plaintiff also filed a Motion for Leave to Become E-Filer (#3), Motion to Assign Case (#5), and Motion to Change Cause of Action (#7). For the reasons discussed below, the Court recommends that Plaintiff's Complaint be dismissed as frivolous under 28 U.S.C. § 1915(e)(2).

I. Background

Plaintiff's Complaint names District Judge Colin S. Bruce as the only Defendant. Judge Bruce presided over Plaintiff's previous three cases filed in this Court: *Park v. Hudson, et al.*, 15-cv-2136 ("2015 Case"), *Park v. Board of Trustees of the University of Illinois, et al.*, 18-cv-2090 ("2018 Case"), and *Park v. Abdullah-Span, et al.*, 19-cv-2107 ("2019 Case").[1] Plaintiff's Complaint alleges that Judge Bruce violated her constitutional rights by "manufactur[ing] nonfactual facts or misleading statements." Plaintiff's Complaint then goes on to describe the factual allegations underlying her prior cases when she alleged that University of Illinois ("University") employees Robert Stake and

[1] The same day Plaintiff filed this case, she also filed two other cases against the Board of Trustees of the University of Illinois and individual University Defendants: *Park v. Stake, et al.*, 20-cv-2149 and *Park v. Board of Trustees of University of Illinois, et al.*, 20-cv-2148.

Charles Secolsky engaged in sexual misconduct toward Plaintiff. Plaintiff's other cases argued that the University Defendants violated her civil rights by failing to follow the University of Illinois' ("University") Policy and Procedures for Addressing Discrimination and Harassment at the University of Illinois, Urbana-Champaign and by retaliating against Park after she filed a complaint about Secolsky's sexual harassment. Plaintiff emphasizes that this case "focuses only on the Judge's unconstitutional and ultra vires acts in Cases 15-2136, 18-2090, and 19-2107."

II. Legal Standard

The "privilege to proceed without posting security for costs and fees is reserved to the many truly impoverished litigants who, within the District Court's sound discretion, would remain without legal remedy if such privilege were not afforded to them." *Brewster v. North Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). A court must dismiss cases proceeding in forma pauperis at any time if the court determines that the action is frivolous, malicious, or fails to state a claim. 28 U.S.C. § 1915(e)(2). Accordingly, this Court grants leave to proceed in forma pauperis only if the complaint states a federal claim. The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

The doctrine of absolute judicial immunity has been embraced for centuries and confers complete immunity from suit for acts performed by the judge in the judge's judicial capacity. *Dawson v. Newman*, 419 F.3d 656, 660-61 (7th Cir. 2005); *see also Loubser v. Thacker*, 440 F.3d 439, 442 (7th Cir. 2006) ("Of course her claims against the judges are barred; she is complaining about their judicial conduct, and they have absolute immunity from such damages claims.") "A judge is immune from liability—even if the action taken was done in error, maliciously, or in the excess of authority—unless the judge acted in the clear absence of jurisdiction." *Cohee v. Brady*, 2018 WL 8803756, at *2 (C.D. Ill. July 30, 2018).

Judicial immunity "is overcome in only two sets of circumstances. First, a judge is not immune from liability for nonjudicial actions, *i.e.*, actions not taken in the judge's

judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction." *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991) (internal citations omitted).

III. Analysis

Judge Bruce is immune from liability for acts performed in his judicial capacity in Plaintiff's prior cases. Plaintiff's Complaint argues that Judge Bruce violated her constitutional rights by fabricating facts in his motion for summary judgment order, post-trial motion rulings, and orders dismissing Plaintiff's other cases as frivolous. Nearly all of Plaintiff's Complaint consists of regurgitated factual allegations Plaintiff made against the University Defendants. Plaintiff asks for $10,000,000.00 in compensatory damages and $10,000,000.00 in punitive damages to be awarded against Judge Bruce.

Plaintiff's case is clearly barred by judicial immunity. Judge Bruce's rulings on the motions for summary judgment, post-trial motions, and dismissal of other cases were all done in his official capacity as judge. *Mireles v. Waco*, 502 U.S. 9, 12 (1991) (An act is judicial if "is a function normally performed by a judge, and to the expectations of the parties, *i.e.*, whether they dealt with the judge in his judicial capacity."). There is no argument to be made that Judge Bruce's rulings were done "in the clear absence of jurisdiction." *Redmond v. Schockweiler*, 45 F.3d 432 (7th Cir. 1994) ("Redmond alleged . . . that Judge Corboy knowingly elicited false testimony against him, denied him the right to call witnesses in the order he desired, prevented him from locating witnesses and altered transcripts in furtherance of the conspiracy. It is clear that Judge Corboy was sued in her capacity as a judge for decisions made while presiding over Redmond's criminal proceeding. Nothing indicates that she was acting in the clear absence of jurisdiction."); *Skolnick v. Campbell*, 454 F.2d 531, 533 (7th Cir. 1971) ("If a judge is viewed as acting 'in excess' of his jurisdiction, he still will be immune from suit. It is only when he has acted in the 'clear absence of all jurisdiction over the subject-matter' that he may be sued for damages.').

As Judge Bruce's actions were done in his official capacity as judge, this case is frivolous, and Plaintiff should be denied the opportunity to proceed in forma pauperis.

As a final note, on June 3, 2020, Plaintiff filed a "Motion to Change Cause of Action" (#6). Her Motion is difficult to understand, but it appears she may be asking the Court to add her Complaints from 20-2148 and 20-2149 to this case. She also seems to be bartering with the Court, stating: "Park is willing to withdraw if the Judge rules over her new complaints filed with this Court on May 29, 2020, against Defendant Robert E. Stake and against Defendants (the Board of Trustees of the University of Illinois, Kaamilyah Abdullah Span, Menah Pratt-Clarke, Michal T. Hudson, and Heidi Johnson) based on facts and law." If Plaintiff is proposing to dismiss her claim against the district judge in exchange for favorable rulings in her other cases, such a suggestion is wholly improper and should not be tried again.

IV. Conclusion

For these reasons, the Court recommends that:

(1) Plaintiff's Motion for Leave to Proceed in Forma Pauperis (#2) be DENIED,

(2) Plaintiff's Motion for Leave to Become E-Filer (#3), Motion to Assign Case (#5), and Motion to Change Cause of Action (#7) be DENIED,

(3) Plaintiff's pro se Complaint (#1) be dismissed under 28 U.S.C. § 1915(e)(2)(B), and

(4) This case be terminated.

The parties are advised that any objection to this recommendation must be filed in writing with the clerk within fourteen (14) days after being served with a copy of this Report and Recommendation. *See* 28 U.S.C. § 636(b)(1). Failure to object will constitute a waiver of objections on appeal. *Video Views, Inc. v. Studio 21, Ltd.*, 797 F.2d 538, 539 (7th Cir. 1986).

ENTERED this ___ day of January, 2021.

s/ ERIC I. LONG
UNITED STATES MAGISTRATE JUDGE

Appendix E

(District Court Text Order *after* the Seventh Circuit final Order)

Thursday, October 28, 2021

(Case 20-2150)

TEXT ORDER entered by Chief Judge Sara Darrow on October 28, 2021. Plaintiff's37 39 motions to correct or modify the record under Seventh Circuit Rule 10(b) and Federal Rule of Appellate Procedure 10(e)(2)(B) are MOOT in light of the Seventh Circuit's41 summary affirmance of the Court's15 25 orders in this case. Plaintiff's40 motion to forward her37 39 motions to correct or modify the record and the Court's ruling on those motions is GRANTED IN PART and DENIED IN PART. The Court reads Seventh Circuit Rule 10(b) to require only that the Court give the Seventh Circuit notice of its ruling on the motions to correct or modify the record. Thus, the Court DIRECTS the Clerk to send the Seventh Circuit a copy of this order. (AK)