A3

Judge Mary Margaret Rowland (erred) on the lease agreement of GMS Management Co., Inc. states on page 3 the common pleas court has all these documents mailed certified and the stamp by the court not to refuse rent money from the tenant which Atty. James R. Ogden for GMS Management Instructor. Mrs. Grace why to do whom works in that Dept. on June 6, 2019 on June 3, 2019 filed the eviction in Barberton Municipal Court with Judge David E. Fish also said I defendant James W. Hall moved out of the apartment the same day of a so call trail on July 29, 2019 which there was no trial I was not mail any notice.

The Judge Mary Margaret Rowland defused to answer to January 7, 2021 time Stamper by the court 8:48 for the Barberton Municipal Court from deputy clerk Mrs. Ashley for copies of this hearing on July 29, 2019 and copies of any complaint filed by GMS Management Co., Inc. saying defendant James W. Hall moved out the same day to close this case to be (Moot). There was no documents came back on January 13, 2021 with the (subpoena).

The ninth district court of appeals (error) in their (decision) also the court had no documents to support their claim defendant move out on August 3, 2019.

A6

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Appendix A-1

Civil Appeal from the
United States District Court
Northern District of Ohio

Journal Entry and Opinion
No. 10221 CVI 564

James W. Hall

Plaintiff - Appellant

vs.

GMS Management Co., Inc.

Defendant - Appellees

Judgement
Affirmed

January, 2021

Appendix A-2

Cite as Hall Vs. GMS Management Co., Inc.

Cout of Appeals of Ohio

United States Cout of Appeals

For the Sixth Circuit

Journal Entry and Opinion

No. 21-4210

James W. Hall

Plaintiff - Appellant

vs.

GMS Management Co., Inc.

Defendant - Appellees

Judgement

Affirmed

August 11, 2021

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

James William Hall,	)	**CASE NO. 1: 21 CV 1564**
Plaintiff,	)	**JUDGE PATRICIA A. GAUGHAN**
	)	
v.	)	**Memorandum of Opinion and Order**
	)	
G.M.S. Management	)	
Co., Inc., et al.,	)	
Defendants.	)	

Introduction

Pro se Plaintiff James William filed this action under 42 U.S.C. § 1983 seeking damages against his former landlord, G.M.S. Management Co., Inc. (GMS), and twelve other Defendants. (Doc. No. 1.) He sues: GMS; James R. Ogden; the Barberton Municipal Court, Judges David Fish and Todd McKenney, and Magistrate Andrew Peck; Ohio Ninth District Court of Appeals and Judges Julie Schafer, Lynne Callahan, Donna Carr, Jennifer Hensal, and Thomas Teodosio; Summit County Court of Common Pleas Judge Mary Margaret Rowland; and the Ohio Court of Claims. *(Id. at 2-5.)*

Defendants have all filed Motions to Dismiss Plaintiffs Complaint pursuant to Federal Rules 12(b)(l) and 12(b)(6) of the Federal Rules of Civil Procedure. (Doc. Nos. 9, 11, 13, 14.) Plaintiff has responded to these Motions, and filed his own Motions "to deny" and "not to dismiss" his complaint. (Doc. Nos. 15, 23, 24.) Plaintiff has also filed a Motion to Subpoena Documents from the Barberton Municipal Court. (Doc. No. 30). For the reasons that follow, Defendants' motions to dismiss are granted, Plaintiffs motions are all denied, and this action is dismissed as against all Defendants.

Background

In 2019, GMS, represented by attorney James Ogden, brought an eviction action against Plaintiff in Barberton Municipal Court. *GMS Management Co., Inc. v. James Hall* in Case No. CVG 1901059. The Barberton Municipal Court rendered judgment against Plaintiff. After Plaintiff appealed the decision, the Ohio Court of Appeals affirmed the Municipal Court's judgment. *Hall v. GMS Mgt. Co.,* No. CA 29726, 2020-Ohio-5601, ¶ 1, 2020 WL 7238530 (Ohio App. 9 Dist., Dec. 9, 2020).

While Plaintiffs appeal of the eviction proceeding was pending, Plaintiff filed a new action in the Summit County Court of Common Pleas ("Hall 2"). He sued twelve defendants, including GMS; Mr. Ogden; the Barberton Municipal Court and Judges Fish, McKenney, and Magistrate Peck; and the Ohio Ninth District Court of Appeals and Judges Schafer, Callahan, Carr, Hensal, and Teodosio. *James Hall v. GMS Management, Co. Inc.*, No. CV-2020-09-2502 (Summit Cty. Ct. of Comm. Pis.) ("Hall 2"). Plaintiff contended he was wrongfully evicted and wrongfully assessed damages in Hall 2, and that the judges and magistrate of the Barberton Municipal Court and Ohio Ninth District Court of Appeals engaged in misconduct and violated his rights in adjudicating the case. Hall 2 was assigned to Summit County Court of Common Pleas Judge Mary Margaret Rowland, who issued a decision in January 2021, granting motions by the Defendants to dismiss the case on the bases of immunity and failure to state a claim. Judge Rowland ruled:

> On review, when Plaintiffs amended complaint is viewed in the light most favorable to Plaintiff, accepting all factual allegations as true, it appears

> beyond doubt from the amended complaint that the Plaintiff can prove no set of facts entitling him to recovery due to the application of judicial immunity, attorney immunity, immunity of parties and witnesses during judicial proceedings, and lack of a cause of action asserted against GMS, therefore, the 9th District, Barberton Court, and Landlord's motions to dismiss are well taken and GRANTED.

(Slip op., Doc. 11-2 at 7.)

The Ninth District Court of Appeals affirmed Judge Rowland's decision. *Hall v. GMS Management Co., Inc.*, No. CA29920, 2021-Ohio-2392, ¶ 1, 2021 WL 2948448, at *1 (Ohio App. 9 Dist., July 14, 2021).

Now, in this case, Plaintiff again sues all of the Defendants he sued in Hall 2 (except the Ohio Court of Appeals), as well as Judge Rowland and the Ohio Court of Claims. (Doc. No. 1 at 2-5.) Although his complaint is unclear, he seeks damages under§ 1983, contending he was wrongly evicted and assessed damages in the Barberton Municipal Court eviction case and/or that his rights were violated in connection with the adjudication of the case and in Hall 2.

Standard of Review and Discussion

A complaint is subject to dismissal under Fed. R. Civ. P. 12(b)(6) if it fails to state claim upon which relief may be granted. To survive a dismissal for failure to state a claim, a "complaint must present 'enough facts to state claim to relief that is plausible on its face.'" *Total Benefits Planning Agency, Inc. v. Anthem Blue Cross and Blue Shield*, 552 F .3d 430, 434 (6th Cir. 2008), citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). Although pleadings and documents filed by pro se litigants are generally "liberally construed" and held to less stringent standards than formal pleadings drafted by lawyers, *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), even a pro se complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face to survive dismissal for failure to state a claim. *See Barnett v. Luttrell*, 414 F. App'x. 784, 786 (6th Cir. 2011). In determining a motion to dismiss for failure to state a claim, a court must presume that all factual allegations in the complaint are true and draw all reasonable inferences in favor of the non-moving party. *Total Benefits*, 552 F .3d at 434.

Upon review of Plaintiffs complaint and the pending motions, the Court agrees with Defendants that Plaintiffs complaint fails to allege any plausible

claim against them upon which he may be granted relief.

First, "[i]t is well established that judges and other court officers enjoy absolute immunity from suit on claims arising out of the performance of judicial or quasi-judicial functions." *Foster v. Walsh*, 864 F.2d 416,417 (6th Cir. 1988), citing Pierson v. Ray, 386 U.S. 547, 553 (1967). Absolute judicial immunity shields judicial officers from damages suits arising out of the performance of their judicial functions even when they act erroneously or in bad faith. *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991); *Barnes v. Winchell*, 105 F.3d 1111, 1115 (6th Cir. 1997). There are only two sets of circumstances in which a judicial officer is not entitled to immunity. A judge is not immune from liability for "non-judicial actions, *i.e.*, actions not taken in the judge's judicial capacity," or for actions "taken in the complete absence of all jurisdiction." *Mireles*, 502 U.S. at 11-12.

Plaintiff purports to sue Defendants Fish, McKenney, Peck, Schafer, Callahan, Carr, Hensal, Teodosio, and Rowland on the basis of rulings they made, or conduct in which they engaged, during the performance of their official judicial functions in the Barberton Municipal Court eviction action or in Hall 2, and as to which they are all absolutely immune from a damages suit. Plaintiff does not allege cogent

facts in his complaint, or in his opposition briefs, plausibly suggesting that any of these judicial Defendants took any action falling outside of the scope of their absolute judicial immunity. Accordingly, Plaintiffs complaint fails to state a plausible claim and must be dismissed as against these Defendants on the basis of judicial immunity.

Second, Plaintiffs complaint is devoid of merit and fails to state any plausible claim to the extent it is brought as against any of the Defendants he already sued in Hall 2.

Res judicata bars a party from re-litigating claims that he already raised, or could have raised, in a prior lawsuit arising out of the transaction or occurrence that was the subject matter of the prior action. Hapgood v. City of Warren, 127 F .3d 490, 493 (6th Cir. 1997). Res judicata has four elements: (1) a prior final, valid decision on the merits by a court of competent jurisdiction; (2) a second action involving the same parties, or their privies, as the first; (3) a second action raising claims that were or could have been litigated in the first action; and (4) a second action arising out of the transaction or occurrence that was the subject matter of the previous action. *Id.*

All of these elements are present with respect to any claim Plaintiff purports to assert in this case

against the Defendants he sued in Hall 2. As set out above, Judge Rowland of the Summit County Court of Common Pleas issued a final judgment on the merits in Hall 2, resolving Plaintiffs claims and complaints of wrongdoing in connection with the adjudication of the Municipal Court eviction action against him. This judgment bars Plaintiff from bringing any claims against the same Defendants arising out of the same transaction or occurrence, as Plaintiff purports to do in this case. Any claim Plaintiff purports to allege in this case against the Defendants he sued in Hall 2 is barred by *res judicata*.

Finally, Plaintiffs complaint is devoid of merit and fails to state any plausible claim against the Ohio Court of Claims (as well as the Barberton Municipal Court) on the basis that, "absent express statutory authority," courts are not sui Juris and lack capacity to sue or be sued in their own right in federal court. *Lawson v. City of Youngstown*, 912 F. Supp.2d 527, 529 (N.D. Ohio 2012). Plaintiff has not identified any "express statutory authority" allowing the Ohio Court of Claims or Barberton Municipal Court to be sued under § 1983.

Conclusion

For all of the foregoing reasons, Plaintiff's complaint fails to state any plausible claim upon which he may be granted relief against any Defendant in the case. Accordingly, Defendants' Motions to Dismiss (Doc. Nos. 9, 11, 13, 14) are all granted, Plaintiff's motions (Doc. Nos. 15, 23, 24, and 30) are all denied, and this action is dismissed. The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan

PATRICIA A. GAUGHAN
United States District Court
Chief Judge

Dated: 12/7/21

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

James William Hall,	)	**CASE NO. 1: 21 CV 1564**
Plaintiff,	)	**JUDGE PATRICIA A. GAUGHAN**
	)	
v.	)	
	)	**Judgment Entry**
G.M.S. Management	)	
Co., Inc., et al.,	)	
Defendants.	)	

In accordance with the Court's accompanying Memorandum of Opinion and Order granting Defendants' Motions to Dismiss, judgment is hereby entered in this matter in favor of Defendants. The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Court
Chief Judge

Dated: 12/7/21

NOT RECOMMENDED FOR PUBLICATION

No. 21-4210

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Appendix

G.M.S. Management Co., Inc., et al.,	)	**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO**
Defendants-Appellees.	)	

ORDER

Before: McKEAGUE, WHITE, and READLER, Circuit Judges.

James William Hall, an Ohio resident proceeding pro se, appeals 'the district court's judgment dismissing his 42 U.S.C. § 1983 complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). This case has been referred to a panel of the, court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In June 2019, G.M.S. Management Company, Inc. ("GMS"), acting through attorney James Ogden, filed an eviction action against Hall in the Barberton (Ohio) Municipal Court. The Barberton Municipal Court rendered a judgment against Hall, and the Ohio Court of Appeals affirmed. *Hall v. GMS Mgmt. Co.*, No. CA 29726, 2020 WL 7238530 (Ohio Ct. App. Dec. 9, 2020), *perm. app. denied*, 165 N.E.3d 341 (Ohio 2021).

While his appeal of the eviction proceeding was pending, Hall filed a lawsuit in the Summit County (Ohio) Court of Common Pleas against GMS, Ogden, the Barberton Municipal Court, and the eight judicial officers constituting Ohio's Ninth District Court of Appeals and the Barberton Municipal Court. Hall alleged that he was wrongfully evicted and that the magistrate and the trial and appellate judges involved in his eviction proceeding engaged in misconduct and violated his rights when adjudicating that case. On the defendants' motions, the common pleas court dismissed Hall's complaint for failure to state a claim upon which relief may be granted. *Hall v. G.M.S. Mgmt., Co.*, No. CV-2020-09-2502, 2021 WL 5277894, at *2-4 (Ohio Ct. Com. Pl. Jan. 27, 2021). To that end, the court concluded that Hall could "prove no set of facts entitling him to recovery due to the application of judicial immunity, attorney

immunity, immunity of parties and witnesses during judicial proceedings, and lack of a cause of action asserted against GMS;" *Id.* at *3. The Ohio Court .of Appeals affirmed. *Hall v. GMS Mgmt. Co.,* No. CA 29920, 2021 WL 2948448 (Ohio Ct. App. July 14, 2021).

In August 2021, Hall filed this § 1983 lawsuit against the same defendants; that he had sued in the common pleas court as well as the Ohio Court of Claims and the common pleas judge from his state lawsuit. Hall alleges that the magistrate and the judges involved in his eviction proceeding engaged· in. misconduct and violated his rights, namely by engaging in ex-parte communications with Ogden; depriving him of a hearing, discriminating against him, and wrongly evicting him and assessing him damaging. He sought compensatory and punitive damages, as well as legal costs and interest.

The defendants filed separate motions to dismiss Hall's, complaint for failure to state a claim upon which relief may be granted. *See* Fed. R. Civ. P. l 2(b)(6). The district court granted the defendants' motions; concluding that Hall's claims against the various judges were barred by the doctrine of absolute judicial immunity and that his claims against any defendant that he had already sued in state court were barred by the doctrine of res

judicata. The district court also concluded that the Barberton Municipal Court and the Ohio Court of Claims lacked an independent legal existence and were therefore incapable of being sued.

On appeal, Hall challenges the district court's dismissal of his complaint.

We review de novo a district court's order granting a Rule 12(b)(6) motion to dismiss for failure to state a claim. *Solo v. United Parcel Serv. Co.,* 819 F.3d 788, 793 (6th Cir. 2016). A complaint survives a motion to dismiss if it "contain[s] sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570 (2007)). In scrutinizing a complaint under Rule 12(b)(6), we must "accept all well-pleaded factual allegations of the complaint as true and construe the complaint in the light most favorable to the plaintiff." *Dubay v. Wells,* 506 F 3d 422, 426 (6th Cir. 2007)(quoting *Inge v. Rock Fin. Corp.,* 281 F.3d 613, 619 (6th Cir. 2002)). However, this court may take judicial notice of public records, and we are not required to accept as true factual allegations that are contradicted by those records. *Bailty v. City of Ann Arbor,* 860 F.3d 382, 386-87 (6th Cir. 2017).

To state, a claim under § 1983, a plaintiff must allege that (1) a right secured by the Constitution or a federal statute has been violated and (2) the violation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). As a pro se litigant, Hall is entitled to a liberal construction of his pleadings. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (per curiam).

As a preliminary matter, Hall argues that the district court should have allowed him discovery before dismissing his complaint, But "there is no general right to discovery upon filing of complaint." *Yuhasz v. Brush Wellman, Inc.*, 341 F.3d 559; 566 (6th Cir. 2003) Indeed, [t]he very purpose of Fed. R. Civ. P. 12(b)(6) 'is to enable defendants to challenge the legal sufficiency of complaints without subjecting themselves to discovery.'" *Id.* (quoting *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d. 729, 738 (9th. Cir. 1987)). To the extent that Hall argues that the district court's dismissal of his complaint violated his constitutional right to a trial, his argument lacks merit. A litigant has no right to a trial if his pleadings, fail to state a triable claim. *See Jones v. Potter*, 488 F.3d 397, 403 (6th Cir. 2007); *Robberts v. Northville Township*, 22 F. App'x 527, 528 (6th Cir. 2001).

Turning to the merits, the district court properly determined that Hall failed to state a claim against the judicial defendants named in his complaint. "It is a well-entrenched principle in our system of jurisprudence that judges are generally absolutely immune from civil suits for money damages." *Barnes v. Winchell,* 105 F.3d 1111, 1115 (6th Cir. 1997). "Immunity from a § 1983 suit for money damages is no exception." *Id.* (citing *Pierson v. Ray,* 386 U.S. 547, 554 (1967)). The Supreme Court has held that judicial immunity is overcome in only two circumstances: (1) "non-judicial actions, i.e., actions not taken in the judge's judicial capacity" and (2) "actions, though judicial in nature, taken in the complete absence of all jurisdiction." *Mireles v. Waco,* 502 U.S. 9, 11-12 (1991) (per curiam). Because Hall did not allege, and the record does not otherwise show, that any of the judicial defendants acted in a non-judicial capacity or in the complete absence of all jurisdiction, they are entitled to absolute judicial immunity.

Moreover, the district court properly determined that Hall's claims are barred by res judicata to the extent that he brought them against any defendant that he previously sued in state court. The doctrine of res judicata, which is also referred to as "claim preclusion," provides that "a final judgment on the

merits bars further claims by parties or their privies based on the same cause of action." *United States ex rel. Sheldon v. Kettering Health Network*, 816 F.3d 399, 414 (6th Cir. 2016) (quoting *Montana v. United States*, 440 U.S. 147, 153 (1979)). As a federal appellate court, we give prior state proceedings—here proceedings from Ohio—the same res judicata effect they would have in the Ohio courts. *Anderson v. City of Blue Ash*, 798 F.3d 338, 350 (6th Cir. 2015) (citing, *Ohio ex rel. Boggs v. City of Cleveland*; 655 F.3d, 516, 519 (6th Cir. 2011)). Under Ohio law, a subsequent action barred by the doctrine of res judicata when there is

> (1) a prior final, valid decision on the merits by a court of competent jurisdiction; (2) a second action involving the same parties, or their privies, as the first; (3) a second action raising claims that were or could have been litigated in the first action; and (4) a second action arising out of the transaction or occurrence that was the subject matter of the previous action.

Kettering Health Network, 816 F.3d at 415 (citation omitted).

All four elements of res judicata are satisfied in this case. As mentioned above, Hall previously filed a lawsuit in the Summit County Court of Common Pleas against most of the defendants to

this lawsuit—namely, GMS, Ogden, the Barberton Municipal Court, and the eight judicial officers constituting the Barberton Municipal Court and Ohio's Ninth District Court of Appeals. The record in that case reflects that the common pleas court dismissed Hall's complaint pursuant to Ohio Rule of Civil Procedure 12(b)(6). *Hall,* 2021 WL 5277894, at *2-4. Under Ohio law, a dismissal for failure to state a claim under Rule 12(6)(6) is an "adjudication on the merits" for preclusive purposes. *State ex rel. Arcadia Acres v. Ohio Dep't of Job & Fam. Servs.*, 914 N.E.2d 170, 174 (Ohio 2009) (per curiam). And in his state-court case, Hall made many of the same allegations that he makes here, including that he was wrongly evicted and assessed damages and that the various judges involved in that case engaged in misconduct and violated his rights. *See Hall*, 2021 WL 5277894, at *1. Resolution of Hall's prior lawsuit thus resolves his claims in the present case, either because they were raised and rejected or because they arose from the same transaction and thus could have been raised. *See Kettering Health Network,* 816 F.3d at 415-16.

Finally, as the district court correctly pointed out, the Ohio Supreme Court has recognized that "[a] court is... a place in which justice is judicially administered." *State ex rel. Cleveland Mun. Ct. v.*

Cleveland City Council, 296 N.E.2d 544, 546 (Ohio 1973) (quoting *Todd v. United States*, 158 U.S. 278, 284 (1895)). It "is not sui juris," so "[a]bsent express statutory authority, a court can neither sue nor be sued in its own right." *Id.* Because Hall failed to cite any statute allowing him to sue the Barberton Municipal Court or the Ohio Court of Claims, the district court properly dismissed Hall's claims against those courts. *See Cooper v. Rapp*, 702 F. App'x 328, 334-35 (6th Cir. 2017). In any event, Hall's claims against these two courts were subject to dismissal because Ohio state courts, including municipal courts, are entitled to sovereign immunity. *See Mumford v. Basinski*, 105 F.3d 264, 268-70, (6th Cir. 1997).

For these reasons, we **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk