

United States Court of Appeals For the First Circuit

No. 23-1492

RANDALL BOCK, M.D.,

Plaintiff - Appellant,

v.

CANDACE LAPIDUS SLOANE, solely in her individual capacity; GEORGE ABRAHAM,
solely in his individual capacity,

Defendants - Appellees.

Before

Barron, Chief Judge,
Kayatta and Rikelman, Circuit Judges.

JUDGMENT

Entered: November 13, 2023

Plaintiff-Appellant Randall Bock, M.D. ("Dr. Bock"), appeals from the district court's dismissal of his Sherman Act claim against Defendants-Appellees Candace Lapidus Sloane and George Abraham in their individual capacities ("Defendants"). After careful review of the parties' briefs and the relevant portions of the record, we affirm the district court's conclusion that Defendants are entitled to absolute quasi-judicial/quasi-prosecutorial immunity. See Legal Sea Foods, LLC v. Strathmore Ins. Co., 36 F.4th 29, 33-34 (1st Cir. 2022) (describing motion to dismiss standard and standard of review); Goldstein v. Galvin, 719 F.3d 16, 24-27 (1st Cir. 2013) (describing absolute quasi-judicial/quasi-prosecutorial immunity).

We have held that members of the Massachusetts Board of Registration in Medicine ("BORIM") are entitled to absolute immunity when exercising their prosecutorial or adjudicatory functions. See Bettencourt v. Bd. of Registration in Med. of Mass., 904 F.2d 772, 782-84, 782 n.13 (1st Cir. 1990); see also Wang v. N.H. Bd. of Registration in Med., 55 F.3d 698, 701 (1st Cir. 1995) (clarifying that absolute immunity extends to a medical licensing board member's actions in "instigating and prosecuting [disciplinary] charges against" a physician). Dr. Bock advances no convincing challenge to the district court's determination that his claim seeks to hold Defendants liable for their performance of their prosecutorial and adjudicatory functions as BORIM members.

Additionally, Dr. Bock's reliance on North Carolina State Board of Dental Examiners v. FTC, 574 U.S. 494 (2015) ("Dental Examiners"), is misplaced. Dental Examiners, which concerned the distinct doctrine of state-action antitrust immunity, expressly did not address "the question whether agency officials, including [state regulatory] board members, may, under some circumstances, enjoy immunity from damages liability." Id. at 513. Nor is the reasoning of Dental Examiners or the doctrine of state-action immunity inconsistent with the notion that state regulatory board members may receive quasi-judicial/quasi-prosecutorial immunity from an antitrust claim that implicates their performance of adjudicatory or prosecutorial functions. Finally, Dr. Bock cites no case holding that judicial and prosecutorial immunity from damages suits does not apply to Sherman Act claims, and we have found none.

In light of our conclusion on absolute immunity, we take no position on whether the district court also correctly held that Dr. Bock failed to allege a plausible Sherman Act claim and that Defendants are entitled to qualified immunity.

Affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Randall Bock
Sharon Hogue

United States Court of Appeals For the First Circuit

No. 23-1492

RANDALL BOCK, M.D.,

Plaintiff - Appellant,

v.

CANDACE LAPIDUS SLOANE, solely in her individual capacity; GEORGE ABRAHAM,
solely in his individual capacity,

Defendants - Appellees.

Before

Barron, Chief Judge,
Kayatta, Gelpí,
Montecalvo and Rikelman, Circuit Judges.

ORDER OF COURT

Entered: December 14, 2023

Plaintiff-Appellant Randall Bock, M.D., has filed two substantively identical petitions for rehearing en banc, which we construe together as a single petition. Pursuant to First Circuit Internal Operating Procedure X(C), the petition for rehearing en banc has also been treated as a petition for rehearing before the original panel.

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

Randall Bock
Sharon Hogue

**Additional material
from this filing is
available in the
Clerk's Office.**