UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1321

REGINALD WRIGHT,

Plaintiff - Appellant,

v.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF CHILD SUPPORT ENFORCEMENT; VERLITA HARRIS, individually and in her official capacity as an Operations Manager; LAURA MCVAY, individually and in her capacity as a Child Support Attorney; CONSTANCE H. FROGALE, individually and in her capacity as a Judge in her respective court in the City of Alexandria, Virginia; THOMAS KEVIN CULLEN, individually and in his capacity as a Judge in his respective court in the City of Alexandria, Virginia; JAMES C. CLARK, individually and in his capacity as a Judge in his respective court in the City of Alexandria, Virginia; KATHLEEN M. USTON, individually and in her capacity as a Judge in her respective court in the City of Alexandria, Virginia,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:23-cv-01232-CMH-WEF)

Submitted: August 22, 2024 Decided: August 26, 2024

Before WILKINSON, WYNN, and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Reginald Wright, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Reginald Wright appeals the district court's order denying relief on his 42 U.S.C. § 1983 action in which he raised claims related to his child support obligation. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Wright v. Commonwealth of Virginia Dep't of Child Support Enf't*, No. 1:23-cv-01232-CMH-WEF (E.D. Va. Mar. 6, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

REGINALD WRIGHT,

Plaintiff,

v.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF CHILD SUPPORT ENFORCEMENT, *et al.*,

Defendants.

Civil Action No. 1:23-cv-1232

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendants' Motions to Dismiss.

Plaintiff Reginald Wright's complaint concerns litigation in the Alexandria Juvenile and Domestic Relations District Court ("Alexandria court"). Wright's central claim alleges that the Alexandria court compelled his child support payments without jurisdiction and wrongly denied his motions to dismiss. The complaint impleads eight defendants, the Commonwealth of Virginia Department of Child Support Enforcement ("DCSE") and seven individuals—a combination of Alexandria court judges and DCSE personnel involved with Wright's case. In counts I and II, Wright argues that, under 42 U.S.C. § 1983, all defendants violated the Fifth and Fourteenth Amendments, and municipal liability attaches to DCSE under Monell v. Department of Social Services, 436 U.S. 658 (1978). Counts III and IV contend that all defendants are liable for negligence and negligent infliction of emotional distress under Virginia common law.

For these offenses, Wright seeks declaratory relief and money damages in the form of compensatory, exemplary, and punitive awards.

Defendants seek to dismiss Wight's complaint for failing to invoke the Court's jurisdiction and for failing to state a claim. Challenges to the Court's subject-matter jurisdiction may be either facial or factual. Beck v. McDonald, 848 F.3d 262, 270 (4th Cir. 2017). A facial challenge contends that "a complaint simply fails to allege facts upon which subject matter jurisdiction can be based." Id. (quoting Kerns v. United States, 585 F.3d 187, 192 (4th Cir. 2009)). A facial challenge affords plaintiffs the same procedural protections as a Rule 12(b)(6) challenge for failing to state a claim: "'the facts alleged in the complaint are taken as true,' and the defendant's challenge 'must be denied if the complaint alleges sufficient facts to invoke subject matter jurisdiction.'" Id. (quoting Kerns, 585 F.3d at 192). By contrast, a factual challenge does not afford a plaintiff "the presumption of truthfulness normally accorded a complaint's allegations . . . ." Id. "In a factual challenge, the defendant argues that the jurisdictional allegations of the complaint are not true, providing the trial court the discretion to go beyond the allegations of the complaint and in an evidentiary hearing determine if there are facts to support the jurisdictional allegations." Id. (cleaned up). In either setting, the Court liberally construes a *pro se* plaintiff's pleadings. See Laber v. Harvey, 438 F.3d 404, 413 n.3 (4th Cir. 2006). Liberal construction, however, does not "excuse a clear failure in the pleadings to allege a federally cognizable claim." Id. (citing Weller v. Dep't of Soc. Servs., 901 F.2d 387, 390–91 (4th Cir. 1990)). Here, facial deficiencies warrant dismissal of Wright's complaint.

First, the Eleventh Amendment precludes Wright's suit against DCSE. Under the Eleventh Amendment, neither states nor state agencies may be sued by private individuals in federal court. See Bd. of Trs. of Univ. of Ala. v. Garrett, 531 U.S. 356, 361 (2001); Regents of the Univ. of Cal. v. Doe, 519 U.S. 425, 429 (1997). "Although it is frequently described as a form of immunity, the protection of the Eleventh Amendment actually is a limit on federal court jurisdiction over states and state entities." Hunter v. Va. State Bar, 786 F. Supp. 2d 1107, 1111 (E.D. Va. 2011) (citing Nivens v. Gilchrist, 444 F.3d 237, 249 (4th Cir.2006)). DCSE is such a state entity, see Va. Code §§ 63.2-200, 63.2-1901, 63.2-1902, and Wright cannot employ § 1983 to sidestep Virginia's Eleventh Amendment immunity. Wright invokes Monell to make out his § 1983 claim against DCSE, but Monell permitted § 1983 claims against *municipalities*. See 436 U.S. at 695. As the Supreme Court later clarified, states—and state agencies—enjoy Eleventh Amendment protections that municipalities do not. See Will v. Mich. Dep't of State Police, 491 U.S. 58, 66 (1989) (limiting the holding in Monell "to local government units which are not considered part of the State for Eleventh Amendment purposes"). The result here is that Eleventh Amendment immunity protects DCSE from Wright's suit by removing DCSE from the Court's jurisdiction.

Second, judicial immunity protects the three defendants Wright sued in their capacity as judges of the Alexandria court—Judges Frogale, Cullen, and Clark. "It has long been settled that a judge is absolutely immune from a claim for damages arising out of his judicial actions." Chu v. Griffith, 771 F.2d 79, 81 (4th Cir. 1985) (citing Stump v. Sparkman, 435 U.S. 349 (1978)). And this judicial immunity "was not abolished by 42 U.S.C. § 1983." King v. Myers, 973 F.2d 354, 356 (4th Cir. 1992). Two conditions

constrain judicial immunity, but Wright presents neither here. First, "the judge's action cannot have been undertaken in the . . . 'clear absence of all jurisdiction over the subject-matter' . . . ." King, 973 F.2d at 356 (quoting Stump, 435 U.S. at 356 n.6). Here, Wright alleges the judges lacked personal jurisdiction to proceed in his case, but that allegation does not trigger the first condition. Immunity is only withheld if the judge clearly lacked jurisdiction over the subject-matter, and "the want of jurisdiction is known to the judge." Stump, 435 U.S. at 356 n.6. Virginia law invests jurisdiction over child support disputes in the Alexandria court, so the judges were entitled to decide "the matter and extent in which the jurisdiction shall be exercised" like "any other questions involved in the case." Id. The second condition requires the challenged action to be a "judicial act." King, 973 F.3d at 357. Similarly, Wright's allegations do not trigger this condition: the decisions issued by the judges were functions "normally performed by a judge," and Wright dealt with the judges in their judicial capacity. Id. Because the judges did not exceed their authority, their actions are protected by judicial immunity; those actions are "subject to correction on appeal or other authorized review," but do not expose the judges "to a claim for damages in a private action." Chu, 771 F.2d at 81.

Third, Wright fails to allege any facts concerning the impleaded DCSE personnel—Jolla, Harris, McVay, and McDaniel. After naming those four among the enumerated parties, Wright never again refers to any by name. Read charitably, the complaint implies grievances with these defendants by styling Counts I, III, and IV against "all defendants." In any event, had Wright pleaded more specific facts, DCSE personnel would be entitled to qualified immunity "from personal-capacity liability for

civil damages under § 1983." Garrett v. Clarke, 74 F.4th 579, 583 (4th Cir. 2023) (quoting Davison v. Rose, 19 F.4th 626, 640 (4th Cir. 2021)). To overcome the DCSE personnel's qualified immunity, Wright would have to demonstrate that "(1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was 'clearly established at the time." Id., 583–84 (quoting District of Columbia v. Wesby, 583 U.S. 48, 62–63 (2018)). "Clearly established" means that, at the time of the official's conduct, "the law was sufficiently clear that every reasonable official would understand what he is doing is unlawful." Id. (cleaned up). Carrying out their duties pursuant to orders entered by the Alexandria court does not evidence any clearly unlawful conduct by these defendants.

Though every defendant is immune from Wright's suit, Wright's suit is also barred by the Rooker-Feldman doctrine. The Rooker-Feldman doctrine bars losing parties in state court "from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005). Instead, "review of state court decisions must be made to the state appellate courts, and eventually to the Supreme Court, not by federal district courts or courts of appeals." Jordahl v. Democratic Party of Va., 122 F.3d 192, 202 (4th Cir. 1997). Wright styles his lawsuit as seeking declaratory relief under § 1983, but Wright "may not escape the jurisdictional bar of Rooker-Feldman by merely refashioning [his] attack on the state court judgments as a § 1983 claim." Id. Because Wright's claim is "'inextricably intertwined' with the merits of a state court

decision," Wright asks the Court "to review the state court decision, a result prohibited under Rooker-Feldman." Id. (citing Leonard v. Suthard, 927 F.2d 168 (4th Cir.1991)).

For the reasons stated above, it is hereby

ORDERED that Defendants' Motions to Dismiss are **GRANTED**, and this case is **DISMISSED**. Accordingly, it is further

ORDERED that Wright's Motion for Injunctive Relief is **DENIED**.

Alexandria, Virginia
March 6, 2024

Claude M. Hilton
CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE