

No. 24-6432

In the
Supreme Court of the United States

Zemirah Melody Carol Ruth El, Trustee,
Petitioner

v.

BERNARD MOORE, doing business as ADMINISTRATIVE CLERK
Respondent

On Petition For Writ Of Certiorari
To The PETITION FOR REHEARING

AFFIDAVIT OF TRUTH

RULE 44.1 REHEARING OF ORDER DENYING CERTIORARI

Zemirah Melody Carol Ruth El, Trustee Petitioner
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1. INTRODUCTION

This petition for Rehearing of the Writ of Certiorari presents substantial grounds not previously presented by way of unfairness by the Pennsylvania Eastern District Court (hereafter referred to as The District Court) and its use of prejudicial language in its Memorandum by Judge Perez. The District Court asserted its bias by alleging Petitioner to be "sovereign citizen," a status Petitioner has denied in Affidavit on the record, for the record, and as a result, Petitioner has been, and continues to be denied due process in violation of her U. S. Constitution Fifth and Fourteenth Amendment rights and asserts that this is grounds for Rehearing of the Writ of Certiorari.

DEFINITIONS

AMERICAN. Pertaining to the western hemisphere or in a more restricted sense to the United States. See *Beardsley v. Selectmen of Bridgeport*, 53 Conn. 493, 3 A. 557, 55 Am.Rep. 152. (Black's Law Dictionary, 4th Edition)

CITIZEN. A member of a free city or jural society, (civitas,) possessing all the rights and privileges which can be enjoyed by any person under its constitution and government, and subject to the corresponding duties. "Citizens" are members of community inspired to common goal, who, in associated relations, submit themselves to rules of conduct for the promotion of general welfare and conservation of individual as well as collective rights. In re *McIntosh*, D.C.Wash., 12 F. Supp. 177. (Black's Law Dictionary, 4th Edition)

PEOPLE. A state; as the people of the state of New York. A nation in its collective and political capacity. *Nesbitt v. Lushington*, 4 Term R. 783; *U. S. v. Quincy*, 6 Pet. 467, 8 L.Ed. 458; *U. S. v. Trumbull*, D.C.Cal., 48 F. 99. The aggregate or mass of the individuals who constitute the state. *Solon v. State*, 54 Tex.Cr.R. 261, 114 S.W. 349; *Loi Hoa v. Nagle*, C.C.A.Cal., 13 F.2d 80, 81. (Black's Law Dictionary, 4th Edition)

NATIONAL. Pertaining or relating to a nation as a whole; commonly applied in American law to institutions, laws, or affairs of the United States or its government, as opposed to those of the several states. The term "national" as used in the phrase "national of the United States" is broader than the term "citizen". *Brassert v. Biddle*, D.C.Conn., 59 F.Supp. 457, 462. (Black's Law Dictionary, 4th Edition)

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69 **Natural Man or Woman.** Means any flesh and blood, living, breathing Man or Woman, created by God, who
70 notifies any Representative of the “government of the United States” or the “UNITED STATES Corporation”,
71 verbally or in writing, that he is not a Strawman, Vessel in Commerce, Corporate Fiction, Legal Entity, ens legis, or
72 Transmitting Utility, of, for, by, to the “united States of America”, the “government of the United States”, the “State
73 of Pennsylvania”, i.e., “Commonwealth of Pennsylvania” “Republic of Pennsylvania”, or to the ‘UNITED STATES
74 Corporation”. This is not to be confused with the Fictitious Legal Entity that was created by the
75 Government/Parents and is represented by MELODY CAROL RICHARDSON©.

76

77 **SOVEREIGN.** A person, body, or state in which independent and supreme authority is vested; a chief ruler with
78 supreme power; a king or other ruler with limited power. (Black’s Law Dictionary, 4th Edition)

79

80 **SOVEREIGN CITIZEN.** “Sovereign citizen” is a catchall phrase referring to a variety of anti-government
81 individuals and groups who share some common beliefs and behaviors. The organizations to which many
82 sovereign citizens belong have a variety of names: Moorish Nation, The Aware Group, Washitaw Nation, the
83 North Carolina American Republic, Republic of United States of America, etc. The same views may be embraced
84 by Freeman, Freemen on the Land, Sons of Liberty, and Aryan Nation. (A QUICK GUIDE TO SOVEREIGN
85 CITIZENS UNC, School of Government, March 2013)

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3. BASIS OF JURISDICTION

The time limit for filing a Rehearing of the Writ of Certiorari petition to The U. S. Supreme Court is twenty-five (25) days after the Supreme Court has rendered its denial order pursuant to Rule 44.1 of the Supreme Court Rules.

4. Authorities involved in the case

U.S. Constitutional Provisions

U.S. Constitution for the united States of America 14th Amendment, Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property,

without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Constitution for the united States of America 5th Amendment

*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without just compensation.*

Cases

Arizona v. Washington, 434 U.S. 497 (1978)

Key Holding: The Supreme Court upheld a trial judge's decision to declare a mistrial due to prejudicial statements made during opening arguments, which could have unfairly influenced the jury.

The Supreme Court affirmed that prejudicial language or conduct can justify a mistrial.

United States v. Bess, 593 F.2d 749 (6th Cir. 1979)

Facts: The prosecutor called the defendant a "liar" and implied guilt based on his silence.

Holding: The conviction was reversed due to prejudicial prosecutorial misconduct violating the defendant's Fifth Amendment rights.

United States v. Polizzi, 801 F.2d 1543 (9th Cir. 1986)

Facts: Prosecutor made repeated references to organized crime and the defendant's alleged mafia ties without admissible evidence.

Holding: The Ninth Circuit reversed the conviction, holding that the prosecutor's language created an atmosphere of unfairness.

Key point: Prejudicial statements can be enough to justify reversal or mistrial.

United States v. McMahan, 548 F.2d 1382 (9th Cir. 1977)

Facts: During trial, a law enforcement witness made inflammatory and irrelevant statements about the defendant's character.

Holding: The Ninth Circuit ruled the prejudicial nature of the testimony required mistrial and reversed the conviction.

5. Statement Of The Case

Concise Summary of Relevant Facts and Procedural History

1. Petitioner filed Summons with Complaint, and mailed to Respondent via certified mail return receipt, pursuant to 45 CFR § 1149.16 (a)(1)-(2), and the return receipt was signed in wet signature by

Respondent on November 28, 2022. The signed Summons and Complaint return receipt along with Affidavit Certification of Service signed by Petitioner.

2. Respondent failed to serve a responsive pleading within the 21 days of receipt of the Summons and Complaint in violation of FRCP Title III, Rule 12(a)(1)(A)(i).
3. Petitioner filed Motion for Default Judgment 12/20/2022 and HONORABLE JOEL H. SLOMSKY Ordered Default Judgment Referral to Clerk of Court on 1/11/2023 pursuant to FRCP 55(b)(1).
4. Respondent filed Motion to Dismiss [Petitioner's] Complaint 1/18/2023
5. Petitioner filed Rebuttal to Respondents Motion to Dismiss [Petitioner's] Complaint 1/31/2023.
6. District Court Dismissed [Petitioner's] Claim with Prejudice on 12/14/2023 using prejudicial language to falsely allege Petitioner is a "sovereign citizen" in its Memorandum document.
7. Petitioner Filed an Appeal with Third Circuit Appellate Court pursuant to FRAP Title II, Rule 3(c)(1)(B) on December 28, 2023.
8. The Appellate Court filed a Judgment affirming District court's decision on September 26, 2024 upholding judicial immunity and reviewed Default Judgment.
9. Petitioner filed for rehearing pursuant to Fed. R. App. P. 35(b)(3) on October 10, 2024
10. The Appellate Court filed a Judgment denying Petition for Rehearing on October 28, 2024.
11. Petitioner filed Case with the U. S. Supreme Court on January 27, 2025 and the case was placed on the docket January 30, 2025 as No. 24-6432.
12. The U. S. Supreme Court denied Petitioner's Writ of Certiorari petition on April 7, 2025.
13. Petitioner now files Petition for Rehearing of the Writ of Certiorari pursuant to Rule 44.1.

Focus on what the Court Decided or Denied and why a rehearing is justified

The U.S. Supreme Court denied Petitioner's Writ of Certiorari petition on April 7, 2025. A rehearing is justified because District Court Dismissed [Petitioner's] Claim with Prejudice on 12/14/2023 using prejudicial language to falsely allege Petitioner as a "sovereign citizen" and deny Petitioner due process in violation of U. S. Constitution Fifth and Fourteenth Amendment rights.

6. Grounds for Rehearing Writ of Certiorari

In the Memorandum by Judge Perez of Defendant in District Court Case El, Tr. vs. MOORE (No. 22-cv-4062), Judge Perez falsely asserts that “Plaintiff El grounds her case in her claimed ‘sovereign citizen’ status” despite Petitioner’s Affidavit below in response to District Court’s Judge Perez’s false assertion on the record for the record:

“I, Zemirah Melody Carol Ruth El, American National, hereby attest that I am not, nor ever have been a “Sovereign Citizen” contrary to the District Court’s false allegations and biased implications, and I categorically deny any such wrongful and offensive allegations by the District Court in this Affidavit.”
(23-3255 Zemirah Melody Carol Ruth El, Tr vs. BERARD MOORE Affidavit of Truth - Informal Brief page #23, lines #654 - 657) see Appendix B.

Judge Perez uses prejudicial language in its Memorandum to falsely and wrongly label Petitioner “sovereign citizen” stating that Sovereign Citizen claims are facially frivolous and citing El Ameen Bey v. Stumpf, 825 F. Supp. 2d 537, 558 (D.N.J. 2011).

“Sovereign citizen” is a catchall phrase referring to a variety of anti-government individuals and groups who share some common beliefs and behaviors. The organizations to which many sovereign citizens belong have a variety of names: Moorish Nation, The Aware Group, Washitaw Nation, the North Carolina American Republic, Republic of United States of America, etc. The same views may be embraced by Freeman, Freemen on the Land, Sons of Liberty, and Aryan Nation. (A QUICK GUIDE TO SOVEREIGN CITIZENS UNC, School of Government, March 2013).

The Third Circuit Court Judge Perez called Petitioner a “sovereign citizen” in its Memorandum and implied facially frivolous status. (See Appendix A). The use of prejudicial language by The Court stands in violation of [Petitioner’s] Fifth Amendment rights. **United States v. Bess**, 593 F.2d 749 (6th Cir. 1979)

Petitioner asserts that this use of prejudicial language by Judge Perez has unfairly influenced The Third Circuit Court and The U. S. Supreme Court. Prejudicial language or conduct can justify a mistrial due to prejudicial statements made during opening arguments. **Arizona v. Washington**, 434 U.S. 497 (1978).

The Third Circuit Court, by Judge Perez, made references to “sovereign citizen” and Petitioner’s alleged membership without admissible evidence and in doing so, the judge’s prejudicial language created an atmosphere of unfairness which is enough to justify a rehearing, reversal, or mistrial. **United States v. Polizzi**, 801 F.2d 1543 (9th Cir. 1986)

The Third Circuit Court memorandum by Judge Perez, Judge Perez made inflammatory and irrelevant statements about

the Petitioner's status. Inflammatory and irrelevant statements of a prejudicial nature requires mistrial or, in this case, Rehearing of the Order. **United States v. McMahan**, 548 F.2d 1382 (9th Cir. 1977)

Judge Perez's assertion that Petitioner is a "sovereign citizen" violates Petitioner's protections under U. S. Constitution Fifth and Fourteenth Amendment. Further, the Supreme Court's denial of Petitioner's Petition for Writ of Certiorari is a continuation of the violation of due process. Petitioner heretofore asserts that these Constitutional violations are grounds for Reversal of Appellate Court's affirmation of Pennsylvania Eastern District Court Case El, Tr. vs. MOORE (No. 22-cv-4062) and requires Rehearing of the Writ of Certiorari by The U. S. Supreme Court.

7. APPENDIX

Appendix A Third Circuit Court Memorandum by Judge Perez wherein prejudicial language is used to assert Petitioner a "sovereign citizen"

Appendix B AFFIDAVIT OF TRUTH Informal Brief Third Circuit of Appeals case No. 23-3255

8. CONCLUSION

For the foregoing reasons and good faith, Petitioner respectfully requests that this Court reverse its decision to deny the petition for writ of certiorari and to review the judgment of the Third Circuit Appellate Court Dated this 30th, day of April, 2025.

I, Zemirah Melody Carol Ruth El, Tr, declare under penalty of perjury that the foregoing is true and correct.

Signed this 31 day of April, 2025.

Autograph of Petitioner


Noble Zemirah Melody Carol Ruth El, Tr
UCC 1-103, UCC 1-308, All Rights Reserved

Appendix A

Pennsylvania Eastern District Court Memorandum by Judge Perez

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ZEMIRAH MELODY CAROL
RUTH EL TR,**

v.

BERNARD MOORE

CIVIL ACTION

No. 22-cv-4062

MEMORANDUM

Perez, J

December 14, 2023

Pro se Plaintiff, Zemirah Melody Carol Ruth El, Tr, (“Plaintiff El”) brings this suit against Defendant Senior Judge Bernard Moore (“Judge Moore”) of the Montgomery County Court of Common Pleas under numerous constitutional provisions and federal statutes.¹ This matter comes before the Court on Defendant’s Motion to Dismiss. (Doc. No. 18). Having reviewed Plaintiff’s Response in Opposition (Doc. No. 21), Plaintiff’s multiple Motions for Default Judgment and subsequent support motions (Doc. Nos. 19, 25, 28), and Defendant’s Reply (Doc. No. 27), for the reasons set forth below the Defendant’s Motion is GRANTED.

I. BACKGROUND

This case appears to arise out of a civil ejectment proceeding in the Montgomery County Court of Common Pleas presided over by Judge Moore in December of 2021 and February of 2022. (Compl. at 2). The Complaint is somewhat difficult to understand, as Plaintiff El uses

¹ Plaintiff El lists the following as her rights at issue: 18 U.S.C. § 242; Article IV of the Constitution; 5th Amendment of the Constitution; UCC Article 9 (Secured Transactions); USC Title 17 (Copyright Law); 25 C.F.R. § 163.29 (Trespassing – Native American Forest Land); Articles 22 and 25 of the “Treaty of Peace and Friendship” between the U.S. and Morocco from 1836.

language common to suits filed by those who identify as sovereign citizens and Moorish Americans. Plaintiff El appears to claim that Judge Moore did not have jurisdiction to hear her matter on diversity grounds due to her claimed citizenship of “Aboriginal Indigenous Foreign National of Al Maghrib Al Aqsa, Northwest Amexum.”² (Compl. at 2, 4-5). This alleged lack of jurisdiction and subsequent ejectment order deprived Plaintiff El of her “[c]onstitutional right to own and possess property.” (Compl. at 2). It is unclear whether Plaintiff El is suing Judge Moore in his official or individual capacity, as she makes reference to both. (See Doc. No. 21 at 4 (“Bernard Moore is being sued in his personal capacity . . .”); ECF 23-2960 Doc. No. 1 at 2 (Plaintiff El filed a Writ of Mandamus with the Third Circuit and referenced suing Moore “in his official and personal capacity.”)).

As relief, Plaintiff El has requested monetary damages contained in a “Trust Fee Schedule” which includes over a quintillion dollars in gold, forceful ejection of the current owners of the property, adjustment of property records, immediate housing and board, and a public apology. (Compl. at 5-7). Judge Moore is the only named Defendant in the Complaint; however, her requested relief concerns many other parties such as the Montgomery County Sheriff and the current owners of the property in question. (*Id.*).

Plaintiff El filed her Complaint on October 7, 2022. (Doc. No. 1). Plaintiff El then filed a Motion for Service by U.S. Marshals on October 27, 2022 (Doc. No. 9), which was denied on November 22, 2022. (Doc. No. 15). Plaintiff El sent summons to Judge Moore via certified mail

² To the extent that Plaintiff El grounds her case in her claimed sovereign citizen or Moorish American status, the Court notes that such reliance is facially frivolous. *See El Ameen Bey v. Stumpf*, 825 F. Supp. 2d 537, 558 (D.N.J. 2011) (noting that Treaties with Morocco have no relevance for civil suits “raising claims based on the events that occurred within what is the United States’ geographical territory” including claims related to foreclosure or eviction proceedings); *Owens v. City of Philadelphia*, No. 18-CV-4522, 2018 WL 5281779, at *1 n.3 (E.D. Pa. Oct. 23, 2018).

on November 17, 2022, and provided receipts for such in a Motion for Declaratory Judgment filed on December 20, 2022. (Doc. No. 16). This Motion for Declaratory Judgment was denied on January 11, 2023. (Doc. No. 17). Judge Moore then filed a Motion to Dismiss on January 18, 2023 on grounds of improper service, judicial immunity, and failure to state a claim. Plaintiff El has since filed several other motions, primarily for Default Judgment and Expedition. (Docs. 19, 25, 30, 31, 32, 33).

II. LEGAL DISCUSSION

A. Dismissal Pursuant to Federal Rule of Civil Procedure 12(b)(5) – Insufficient Service of Process

Pursuant to Federal Rule of Civil Procedure 12(b)(5), an action may be dismissed on the basis of insufficient service of process. “Service of process, under longstanding tradition in our system of justice, is fundamental to any procedural imposition on a named defendant.” *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999). A court generally does not have jurisdiction over a defendant if there has been insufficient process or service of process. *Id.* “A district court’s power to assert *in personam* authority over parties defendant is dependent not only on compliance with due process but also on compliance with the technicalities of Rule 4.” *Grand Entm’t Group, Ltd.*, 988 F.2d 476, 492 (3d Cir. 1993) (“Proper service is still a prerequisite to personal jurisdiction.”).

In resolving a motion under Rule 12(b)(5), the party making service has the burden of demonstrating its validity when an objection to service is made. *Reed v. Weeks Marine, Inc.*, 166 F. Supp. 2d 1052, 1054 (E.D. Pa. 2001) (citing *Grand Entm’t*, 988 F.2d at 488-89). A plaintiff “is responsible for having the summons and complaint served within the time allowed by Rule 4(m).” Fed. R. Civ. P. 4(c)(1). Rule 4(m) requires that service be completed within 90 days after the complaint is filed or the court must dismiss the case without prejudice. Fed. R. Civ. P. 4(m).

In addition to the time limits for service of process, Rule 4 sets forth the specific requirements for the manner of service which differ depending on the entity sued.

Here, a number of service rules are implicated based on how Plaintiff El has framed her Complaint. Rule 4(j) requires that state and local government entities be served by delivering a copy of the complaint and summons to the entity's chief executive or by complying with applicable state laws for service. Fed. R. Civ. P. 4(j)(2)(A)-(B). The applicable state service rule is Pennsylvania Rule of Civil Procedure 422. Rule 422 requires that service of suits against officers of the Commonwealth be served personally to the defendant and to the office of the Attorney General. Penn. R. Civ. P. 422(a).

Alternatively, Rule 4(e)(2) requires individuals to be served by delivering the summons to the individual, or by leaving a copy at the individual's home with an adult who lives there, or delivering the copy to the individual's agent authorized to receive service of process. Fed. R. Civ. P. 4(e)(2)(A)-(C). Individuals may also be served by following applicable state rules of civil procedure for the "state where the district court is located or where service is made." Fed. R. Civ. P. 4(e)(1). The applicable state rule is Pennsylvania Rule of Civil Procedure 402. Rule 402 requires that individuals be served by hand delivering a copy to the defendant, an adult family member at the defendant's residence, a clerk or hotel manager at a boarding house which the defendant resides at, or to the defendant's agent at their usual place of business. Penn. R. Civ. P. 402(a)(1)-(2)(iii).

The Court finds that dismissal is proper under Rule 12(b)(5). The Montgomery County Court of Common Pleas is considered a state agency. *See Callahan v. City of Philadelphia*, 207 F.3d 668, 672 (3d Cir. 2000) ("All courts and agencies of the unified judicial system, including the Philadelphia Municipal Court, are part of 'Commonwealth government' and thus are state

rather than local agencies.”). Therefore, if Judge Moore is being sued in his official capacity as a judicial officer, proper service must comply with either Federal Rule 4(j) or Pennsylvania Rule 422. Alternatively, if Plaintiff El is suing Judge Moore in his individual capacity, proper service must comply with either Federal Rule (e)(2)(A)-(C) or Pennsylvania Rule 402. Service by certified mail, the only service attempted in this case, is not appropriate under any of these rules.

While service via certified mail is appropriate under a single federal rule and a few state rules,³ none of these apply to this case. Moreover, even though Judge Moore has notice of the lawsuit against him, actual notice to the defendant is not the equivalent of proper service of process. *Ayres v. Jacobs & Crumplar, P.A.*, 99 F.3d 565, 569 (3d Cir. 1996) (“Notice of a claim is not sufficient.”).

If proper service of a summons and Complaint is not made within 90 days of filing the complaint, the action is subject to dismissal, without prejudice, or the court may “direct that service be effected within a specified time” Fed. R. Civ. P. 4(m). When dismissing a case under Rule 4(m), courts ordinarily should determine whether good cause exists for granting an extension of time to effectuate proper service. *Id.*; see also *Petrucelli v. Bohringer & Ratzinger*, 46 F.3d 1298, 1305–06 (3d Cir. 1995). However, as Plaintiff El’s case ultimately fails on subject matter jurisdiction grounds under doctrines of judicial immunity that cannot be cured, the Court need not conduct a good cause analysis.

³ Under Federal Rule of Civil Procedure 4, service via certified mail only is allowed for the United States and its agencies, corporations, officers, and employees. Fed. R. Civ. P. 4(i). In Pennsylvania, service via certified mail is appropriate for: service outside the Commonwealth [Rule 404(2)]; certain real property actions [Rule 410(c)(3)]; actions for support [Rule 411]; actions for custody, divorce, and annulment [Rule 412].

B. Dismissal Pursuant to Federal Rule of Civil Procedure 12(b)(6) – Doctrines of Judicial Immunity

Federal Rule of Civil Procedure 12(b)(6) requires the court to determine whether the plaintiff's complaint contains "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) (quotations omitted). "[M]ere conclusory statements do not suffice." *Id.* When evaluating such a motion, "courts accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief." *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009) (quoting *Phillips v. Cnty. of Allegheny*, 515 F.3d 224, 233 (3d Cir. 2008)). However, "if the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3).

As Plaintiff El is proceeding pro se, the Court construes her allegations liberally. *Higgs v. Att'y Gen.*, 655 F.3d 333, 339 (3d Cir. 2011) (noting that liberal construction of pro se pleadings is "driven by the understanding that '[i]mplicit in the right of self-representation is an obligation on the part of the court to make reasonable allowances to protect pro se litigants from inadvertent forfeiture of important rights because of their lack of legal training.'" (quoting *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 475 (2d Cir.2006))).

As previously discussed, this Court is not clear on whether Judge Moore is being sued as a state official acting within the scope of his official duties, or as an individual. Plaintiff El mentions both in her various filings. In either case, Judge Moore advances two meritorious theories of judicial immunity: Eleventh Amendment Immunity and Absolute Judicial Immunity.

Under the Eleventh Amendment, states and state agencies are entitled to sovereign immunity from suit and liability. *Lombardo v. Pennsylvania*, 540 F.3d 190, 194-96 (3rd Cir.

2008) (noting that this immunity can only be waived by an appropriate act of Congress or state voluntary invocation of federal jurisdiction). “Eleventh Amendment Immunity” is considered helpful shorthand for state sovereign immunity; however, a state’s sovereign immunity from suit and liability is a fundamental element of the federal system and therefore not constrained by the text of Eleventh Amendment itself. *Id.* at 195 (citing *Alden v. Maine*, 527 U.S. 706, 713 (1999)). In Pennsylvania, “the Commonwealth enjoys sovereign immunity unless the General Assembly ‘specifically waives sovereign immunity.’” *Id.* (see 42 Pa. Cons. Stat. § 8522) (showing applicable exceptions). No such exception exists for ejectment orders.

State actors acting and sued in their official capacity are protected by this immunity unless the plaintiff is seeking “prospective relief to end an ongoing violation of federal law.” *Christ the King Manor, Inc. v. Sec. U.S. Dept. of Health and Human Services*, 730 F.3d 291, 318 (3d Cir. 2013). Accordingly, suits for damages or equitable retroactive relief are barred. *Id.*; *Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690, 697 (3d Cir. 1996) (“[R]elief that essentially serves to compensate a party injured in the past by the action of a state official, even though styled as something else, is barred by the Eleventh Amendment.”).

Courts of Common Pleas, which are a part of the Pennsylvania Unified Judicial System, are considered state agencies entitled to Eleventh Amendment Immunity. *Callahan v. City of Philadelphia*, 207 F.3d 668, 672 (3d Cir. 2000). The Montgomery County Court of Common Pleas is therefore entitled to Eleventh Amendment Immunity. Additionally, Plaintiff El is not seeking the type of prospective relief for an ongoing violation which would negate this immunity. Plaintiff El’s requested relief is extreme monetary damages and retrospective changes to the deed and status of her old home. Accordingly, Judge Moore is protected from suit in his official capacity and the Court lacks subject matter jurisdiction in that regard.

This Court also lacks jurisdiction over Judge Moore in his individual capacity under the doctrine of Absolute Judicial Immunity. Judges have absolute immunity from suit and the assessment of damages in their individual capacity. *Mireles v. Waco*, 502 U.S. 9, 11 (1991). There are only two situations where Absolute Judicial Immunity does not apply: actions not taken in their judicial capacity and/or actions taken in “complete absence of all jurisdiction.” *Id.* Actions are considered to be within a judge’s official capacity when the act itself is “a function normally performed by a judge.” *Id.* Actions taken in the absence of all jurisdiction are those where the judge clearly had no jurisdiction over the subject-matter – such as a probate judge with authority only over wills and estates presiding over a criminal case. *Bradley v. Fisher*, 80 U.S. 335, 352 (1871). Legal errors by judges are not sufficient to overcome this broad absolute immunity. *Stump v. Sparkman*, 435 U.S. 349, 359 (1978) (“A judge is absolutely immune from liability for his judicial acts even if his exercise of authority is flawed by the commission of grave procedural errors.”).

The Pennsylvania Courts of Common Pleas have “unlimited original jurisdiction of all actions and proceedings” that are not otherwise vested in a different state court by statute. 42 Pa. Cons. Stat. § 931(a). Civil ejectment actions are handled by the county court where the land in question is located. Pa. R. Civ. P. 1052. Therefore, a Court of Common Pleas judge granting a motion regarding civil ejectment actions within their county would be acting both within his jurisdiction and carrying out a function normally performed by a judge. Accordingly, Absolute Judicial Immunity applies to Judge Moore.

IV. CONCLUSION

For the foregoing reasons, Defendant's Motion to Dismiss is granted and the Plaintiff's complaint is dismissed with prejudice as she cannot cure the issues of judicial immunity. An appropriate Order to follow.

Appendix C

Third Circuit Court Opinion case No 23-3255

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-3255

ZEMIRAH EL,
Appellant

v.

BERNARD MOORE, doing business as ADMINISTRATIVE CLERK

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2:22-cv-04062)
District Judge: Honorable Mia R. Perez

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 19, 2024
Before: SHWARTZ, RESTREPO, and FREEMAN, Circuit Judges

(Opinion filed: September 26, 2024)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Zemirah El appeals pro se from an order of the United States District Court for the Eastern District of Pennsylvania granting a motion to dismiss filed by Senior Judge Bernard Moore of the Montgomery County Court of Common Pleas. We will affirm.

El filed a pro se civil rights complaint, raising claims related to a civil ejectment proceeding over which Judge Moore presided.¹ She named Judge Moore as the sole defendant, seemingly suing him in his official and individual capacities. El sought monetary damages and injunctive relief. Judge Moore filed a motion to dismiss the complaint for insufficient service of process and failure to state a claim. El filed a response in opposition to that motion. The District Court granted the motion and dismissed the complaint with prejudice. Citing Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6), the District Court held that dismissal was proper because Judge Moore was not properly served within ninety days, see Fed. R. Civ. P. 4(m), and that, in any event, El's claims failed because Judge Moore was entitled to immunity. The District Court also denied El's requests for a default judgment and her motion for an expedited ruling. El timely appealed.

We have jurisdiction under 28 U.S.C. § 1291, and we exercise de novo review over the District Court's grant of a motion to dismiss. See Newark Cab Ass'n v. City of

¹ As the District Court noted, the complaint is "somewhat difficult to understand, as . . . El uses language common to suits filed by those who identify as sovereign citizens and Moorish Americans." Cf. United States v. Sterling, 738 F.3d 228, 233 n.1 (11th Cir. 2013) (noting that so-called "sovereign citizens" are individuals who believe they are not subject to courts' jurisdiction and that courts have summarily rejected their legal theories as frivolous).

Newark, 901 F.3d 146, 151 (3d Cir. 2018). To survive dismissal, “a complaint must contain sufficient factual matter, accepted as true,” to show that its claims are facially plausible. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). We may affirm on any basis supported by the record. See Murray v. Bledsoe, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam).

The District Court properly determined that Judge Moore is entitled to immunity. To the extent that El sued Judge Moore in his individual capacity for money damages, the claims are barred by absolute immunity.² See Stump v. Sparkman, 435 U.S. 349, 355-57 (1978) (holding that a judge is immune from liability for all actions taken in her judicial capacity, unless such action is taken in the absence of all jurisdiction); Azubuko v. Royal, 443 F.3d 302, 303 (3d Cir. 2006) (per curiam). El appeared to challenge Judge Moore’s actions in presiding over the state court ejectment proceedings. Such actions plainly were “function[s] normally performed by a judge.” Gallas v. Supreme Ct. of Pa., 211 F.3d 760, 768 (3d Cir. 2000) (quotation marks omitted). Although El alleged that Judge Moore lacked jurisdiction over her because she is a sovereign citizen, that claim is not plausible. See United States v. Benabe, 654 F.3d 753, 767 (7th Cir. 2011) (explaining that a person claiming to be a “sovereign citizen” is “not beyond the jurisdiction of the

² Although “absolute judicial immunity extends only to claims for damages,” Larsen v. Senate of the Commonwealth, 152 F.3d 240, 249 (3d Cir. 1998), “in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” 28 U.S.C. § 1983. Nothing in El’s complaint suggests that this exception applies.

courts,” and that “[t]hese theories should be rejected summarily, however they are presented”). To the extent that El sought to bring official-capacity claims against Judge Moore as an employee of a judicial district, such claims are essentially against the Montgomery County Court of Common Pleas, which is entitled to Eleventh Amendment immunity because it is an entity of the state of Pennsylvania. See Benn v. First Jud. Dist. of Pa., 426 F.3d 233, 240 (3d Cir. 2005); see also Haybarger v. Lawrence Cnty. Adult Prob. & Parole, 551 F.3d 193, 195 (3d Cir. 2008) (“Pennsylvania’s judicial districts are arms of the state entitled to Eleventh Amendment immunity.”).

El also challenges the District Court’s denial of her requests for a default judgment, which we review for abuse of discretion. See Chamberlain v. Giampapa, 210 F.3d 154, 164 (3d Cir. 2000). El has not shown any prejudice from the denial of her requests and, as explained above, Judge Moore had a litigable, and, in fact, meritorious defense. See id. (discussing factors to consider in reviewing refusal to enter default judgment). Thus, the District Court did not abuse its discretion in denying the requests for a default judgment. In addition, the District Court did not abuse its discretion in denying her motion to expedite consideration of the case. See In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982) (explaining that, as a general rule, “matters of docket control” are within the discretion of the District Court).

For the foregoing reasons, we will affirm the judgment of the District Court.³

³ El’s Motion for Joinder of Parties is denied.

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

No. 24-6432

In the
Supreme Court of the United States

Zemirah Melody Carol Ruth El, Trustee,
Petitioner

v.

BERNARD MOORE, doing business as ADMINISTRATIVE CLERK
Respondent

**AFFIDAVIT OF TRUTH
PROOF OF SERVICE**

I, **Zemirah Melody Carol Ruth El, Tr**, do hereby certify that on this 31st of April, 2025, pursuant to Rule 44.1 and Rehearing and Rule 29 (5)(c), I mailed NOTICE of "On Petition For Writ of Certiorari To the PETITION FOR REHEARING" via Certified U.S. Postal Mail to the following parties **at the addresses listed below**. All parties required to be served have been served.

JACQUELINE C ROMERO
d/b/a US Attorney
U.S. Attorney's Office
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
USPS 7020 3160 0001 5322 9438

Solicitor General of the United States, Room 5616
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001
USPS 7020 2450 0000 2408 8525

BERNARD MOORE
d/b/a ADMINISTRATIVE CLERK
3877 ARBORS AVE
COLLEGEVILLE PA 19426
USPS 7020 2450 0000 2408 8518

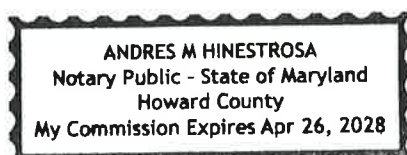
Pursuant to 28 USC 1746(2), I certify under penalty of perjury that the foregoing is true and correct executed on 31st day of April, 2025.

Autograph of Appellant

Zemirah Melody Carol Ruth El, Tr
UCC 1-103, UCC 1-308, All Rights Reserved

STATE OF MARYLAND COUNTY OF HOWARD to wit: I hereby certify, that on this 30th day of April, in the year 2025, before the subscriber, a Notary Public of the State of Maryland, in and for HOWARD COUNTY, personally appeared Zemirah El and acknowledged the foregoing Affidavit to be their act.

(Notary Seal)

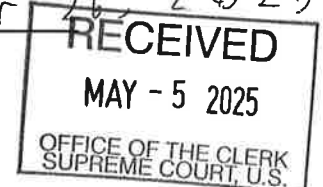


Signature of Notary

Public Notary Public

My Commission expires:

Apr 26 2028



No. 24-6432

In the
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Zemirah Melody Carol Ruth El, Trustee,
Petitioner

v.

BERNARD MOORE, doing business as ADMINISTRATIVE CLERK
Respondent

~ AFFIDAVIT OF TRUTH ~

RULE 44.1 CERTIFICATION

As required by Supreme Court Rule 44.1, I certify that the Petition is presented in good faith and not for delay.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 31st day of April, 2025.

Autograph of Appellant



Zemirah Melody Carol Ruth El, Tr
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