

No.

In the Supreme Court of the United States

WALTER A. BERNARD,
Petitioner

v.

PHILIP A. IGNELZI, INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY,
Respondent.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT*

**APPENDIX TO PETITION FOR A WRIT OF
CERTIORARI**

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APPENDIX

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APPENDIX A
NOT PRECEDENTIAL
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1245

WALTER A. BERNARD; WYNTON BERNARD,
Appellants

v.

PHILIP A. IGNELZI, IN HIS OFFICIAL AND INDIVIDUAL
CAPACITY; ALLEGHENY COUNTY; ORLANDO
HARPER; JOHN DOE 1; JOHN DOE 2; JOHN DOE
3; JOHN DOE 4; JOHN DOE 5; JOHN DOE 6; JOHN
DOE 7; MARY C. MCGINLEY; JOHN DOE 8; JOHN
DOE 9; JOHN DOE 10; JOHN DOE 11; JOHN DOE
12; JOHN DOE 13; JOHN DOE 14; JOHN DOE 15;
JOHN DOE 16; JOHN DOE 17; JOHN DOE 18;
JOHN DOE 19; JOHN DOE 20; ALLEGHENY
COUNTY SHERIFF'S OFFICE; ALLEGHENY
COUNTY JAIL

On Appeal from the United States District Court for
the Western District of Pennsylvania
(District Court No. 2:23-cv-01463)
District Judge: Honorable William S. Stickman, IV
Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
December 9, 2025

Before: KRAUSE, PHIPPS, and CHUNG, Circuit
Judges

(Filed: December 31, 2025)

OPINION¹

CHUNG, Circuit Judge.

Walter A. Bernard and Wynton A. Bernard brought this action against various defendants, including the Honorable Philip Ignelzi, in both his official and individual capacities. The nineteen claims listed in the Second Amended Complaint (“Complaint”) revolve around state court proceedings against the Bernards, presided over in part by Judge Ignelzi. The District Court concluded that Judge Ignelzi had absolute judicial immunity as to the individual-capacity claims and dismissed them. The Bernards appeal. For the reasons that follow, we will affirm the judgment of the District Court.

I. BACKGROUND

In July 2020, 9795 Perry Highway Management, Inc. (“Landlord”) filed in the Allegheny County Court of Common Pleas a complaint in confession of judgment against the Bernards as guarantors for rent on a property leased by the Bernards’ business.² The Bernards unsuccessfully petitioned to open or strike the judgment by confession. The Bernards then appealed to the Pennsylvania Superior Court, and

¹ This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

² Because we write for the parties, we recite only the facts pertinent to our decision.

subsequently petitioned for allowance of appeal with the Pennsylvania Supreme Court (“First Appeal”).³ Both appellate courts denied relief and reconsideration.⁴

While the First Appeal was proceeding, Landlord served discovery requests on the Bernards in aid of executing the judgment. On March 29, 2023, Plaintiffs filed another appeal to the Superior Court (“Second Appeal”). This appeal challenged a March 21, 2023 Order which provided, among other things, that discovery proceedings would continue.⁵ On May 16, 2023, the Superior Court issued an order to show cause why the March 21, 2023 Order qualified as an appealable collateral order. On June 2, 2023, the Superior Court quashed the appeal for the Bernards’ failure to respond to the show cause order, and on June 23, 2023, the Superior Court denied reconsideration.

Meanwhile, when the Bernards did not comply with discovery requests, Landlord successfully moved multiple times to compel and for sanctions. The last of these motions was granted by Judge Ignelzi on April 27, 2023, before the Second Appeal was quashed. The April 27, 2023 Order provided that the Bernards should comply with discovery requests, and that “[f]ailure to comply ... will result in both Walter Bernard and Wynton Bernard being held in Contempt of Court and being taken into custody by the Allegheny County Sheriff’s Office and lodged at the

³ No. 926 WDA 2021 (Pa. Super. Ct.).

⁴ No. 179 WAL 2022 (Pa.).

⁵ No. 352 WDA 2023 (Pa. Super. Ct.).

Allegheny County Jail until such time as they purge themselves of Contempt.” *9795 Perry Highway Management, LLC v. Bernard*, No. GD-20-007843 (Ct. C.P. Allegheny Cnty. Apr. 27, 2023).

Plaintiffs failed to comply with the April 27, 2023 Order, and on May 3, 2023, Walter Bernard was taken into custody (“First Arrest”) and brought immediately before Judge Ignelzi for a hearing. After the hearing, Walter Bernard was released and given one more chance to comply with the discovery requests. He did not, and on May 16, 2023, Judge Ignelzi held Bernard in contempt of court and issued a warrant for his arrest. Bernard appealed the May 16 contempt order to the Superior Court on June 15, 2023 (“Third Appeal”). On August 9, 2023, Walter Bernard was arrested for a second time (“Second Arrest”). Thereafter, Walter Bernard settled with Landlord and also purged himself of contempt. The Third Appeal was ultimately dismissed as moot. *9795 Perry Highway Mgmt., LLC v. Bernard*, No. 754 WDA 2023, 2024 WL 2050263, at *1 (Pa. Super. Ct. May 8, 2024), reargument denied (July 18, 2024).⁶

On August 12, 2023, the Bernards brought the instant action in federal court. The Complaint alleges numerous state law torts and constitutional violations under 42 U.S.C. §§ 1983, 1985, and 1986, and seeks various forms of relief against Judge Ignelzi and others. The District Court dismissed the claims against Judge Ignelzi because he had sovereign immunity with respect to the claims in his official capacity, and absolute judicial immunity with respect

⁶ No. 754 WDA 2023.

to the claims against him in his individual capacity. *Bernard v. Ignelzi*, No. 2:23-cv-1463, 2024 WL 1704997, at *3, *6 (W.D. Pa. Apr. 19, 2024). The Bernards appealed, and now challenge only the District Court’s holding that Judge Ignelzi has absolute judicial immunity. Judge Ignelzi is the only remaining defendant-appellee.

II. DISCUSSION

As a general matter, a judge is immune from suit for money damages and is immune from suits for declaratory and injunctive relief barring an exception not raised below.⁷ *Mireles v. Waco*, 502 U.S. 9, 9 (1991) (per curiam) (money damages); *Allen v. DeBello*, 861 F.3d 433, 439 (3d Cir. 2017) (declaratory and injunctive relief). Judicial immunity from suit for money damages can be overcome “in only two sets of circumstances.” *Mireles*, 502 U.S. at 11. “First, a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge’s judicial capacity,” and “[s]econd, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction.” *Id.* at 11–12.

⁷ The District Court had jurisdiction pursuant to 28 U.S.C. § 1331. This Court has jurisdiction under 28 U.S.C. § 1291. Our review of a district court’s order granting a motion to dismiss is plenary. *Fowler v. UPMC Shadyside*, 578 F.3d 203, 206 (3d Cir. 2009). We accept the facts alleged in the light most favorable to the Bernards as plaintiffs. *Jaroslawicz v. M&T Bank Corp.*, 962 F.3d 701, 708 (3d Cir. 2020). A complaint should be dismissed only when it fails to state a claim that is “plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). We may affirm for any basis supported by the record. *Laurel Gardens, LLC v. McKenna*, 948 F.3d 105, 116 (3d Cir. 2020).

The jurisdiction of a judicial defendant “must be construed broadly” for purposes of determining judicial immunity. *Stump v. Sparkman*, 435 U.S. 349, 356 (1978). “A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the ‘clear absence of all jurisdiction.’” *Id.* at 356–57 (quoting *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 351 (1872)). A judge does not act in clear absence of jurisdiction if the judge has “the power to manage the case and dispose of any issues relating to jurisdiction,” regardless of whether the judge’s determination as to jurisdiction is ultimately incorrect. *Figueroa v. Blackburn*, 208 F.3d 435, 444 (3d Cir. 2000).

The Bernards challenge Judge Ignelzi’s jurisdiction to authorize Bernard’s First Arrest which took place on May 3, 2023, and his Second Arrest which took place on August 9, 2023.⁸ Specifically, the Bernards claim that the pendency of the Second and Third Appeals divested Judge Ignelzi of jurisdiction to issue the arrest warrants. See Pa. R.A.P. 1701(a) (providing that “after an appeal is taken ... the trial court ... may no longer proceed further in the matter”).

⁸ As noted above, Judge Ignelzi authorized the First Arrest in the April 27, 2023 Order, and issued a warrant for the Second Arrest on May 16, 2023. The Bernards appear to allege that Judge Ignelzi took additional actions on the later dates when the arrests were actually effected. For purposes of this appeal, the difference in dates does not matter, because Judge Ignelzi did not act in clear absence of jurisdiction on the dates that the arrests were authorized by order (April 27 and May 16) nor on the dates that the Bernards allege Judge Ignelzi otherwise directed the arrests (May 3 and August 9).

Two exceptions to Rule 1701 may have preserved Judge Ignelzi's jurisdiction during the pendency of the Second and Third Appeals.^{9,10} However, we need not consider whether these exceptions applied, because even if Judge Ignelzi's actions exceeded his authority, he would not be deprived of absolute judicial immunity.

The Supreme Court has illustrated the distinction between acts taken in excess of authority, and acts taken in clear absence of jurisdiction:

[I]f a probate judge, with jurisdiction over only wills and estates, should try a criminal case, he would be acting in the clear absence of jurisdiction and would not be immune from liability for his action; on the other hand, if a judge of a criminal court should convict a defendant of a nonexistent crime, he would merely be acting in excess of his jurisdiction and would be immune.

⁹ The Bernards do not appeal the District Court's rejection of their argument that the First Appeal deprived Judge Ignelzi of jurisdiction to issue the arrest warrants. The Bernards also assert that Judge Ignelzi acted as a law enforcement officer, rather than as a judge, in directing and supervising the Sheriff's Office in the First Arrest. This argument was not raised in the District Court and has therefore been forfeited. See *United States v. Dowdell*, 70 F.4th 134, 140 (3d Cir. 2023).

¹⁰ Rule 1701(b)(2) provides that a trial court may "[e]nforce any order entered in the matter, unless the effect of the order has been superseded as prescribed in [Chapter 17 of the Rules]." Rule 1701(b)(6) provides that a trial court may "[p]roceed further in any matter in which a non-appealable interlocutory order has been entered, notwithstanding the filing of a notice of appeal or a petition for review of the order."

Stump, 435 U.S. at 357 n.7 (citation omitted). As long as a judge has “the power to manage the case and dispose of any issues relating to jurisdiction,” it is “simply irrelevant,” for purposes of judicial immunity, whether the judge’s specific jurisdictional determination was right or wrong. *Figueroa*, 208 F.3d at 444. Here, Judge Ignelzi generally had the power to manage the underlying landlord-tenant matter, 42 Pa. Cons. Stat. § 931(a); *Domus, Inc. v. Signature Bldg. Sys. of PA, LLC*, 252 A.3d 628, 636 (Pa. 2021), and the contempt proceedings that followed, *County of Fulton v. Sec’y of Commonwealth*, 292 A.3d 974, 1003 (Pa. 2023). Accordingly, even if no exception applied under Rule 1701, Judge Ignelzi did not act in the clear absence of jurisdiction, and the District Court correctly concluded that judicial immunity protected him from suit. *See Figueroa*, 208 F.3d at 445.

III. CONCLUSION

For the reasons stated above, Judge Ignelzi did not act in clear absence of jurisdiction and therefore is shielded from suit by judicial immunity. Accordingly, the order of the District Court will be affirmed.¹¹

¹¹ Judge Ignelzi also argues that Younger abstention would have precluded the District Court’s review of the Bernards’ claims. Because we agree with the District Court that the suit was barred by judicial immunity, we need not address this issue.

APPENDIX B
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

WALTER A. BERNARD AND WYNTON BERNARD,
Plaintiffs,
v.
PHILLIP A. IGNELZI, ET AL.,
Defendants.

Civil Action No. 2:23-cv-1463
Hon. William S. Stickman IV

MEMORANDUM OPINION
(Filed April 19, 2024)

WILLIAM S. STICKMAN IV, *United States District Judge.*

Plaintiffs Walter A. Bernard and Wynton A. Bernard (collectively, “Plaintiffs”) filed this action for monetary damages as well as injunctive and declaratory relief alleging violations of their constitutional rights stemming from a case in the Allegheny County Court of Common Pleas, Pennsylvania – *9795 Perry Highway Management, LLC v. Walter Bernard, et al.*, No. GD-20-007843 – that Defendants, Judges Philip A. Ignelzi (“Judge Ignelzi”) and Mary C. McGinley (“Judge McGinley”) (collectively, “Judicial Defendants”) presided over in

part. (ECF No. 1). Pending before the Court is the Judicial Defendants’ Motion to Dismiss Plaintiffs’ Second Amended Complaint. (ECF No. 50). The Court holds that the Judicial Defendants are protected by absolute judicial immunity. The claims against them will, therefore, be dismissed.

I. FACTUAL BACKGROUND

Wynton A. Bernard is a professional baseball player. Walter A. Bernard is an attorney who maintains law offices in the Eastern and Western Districts of Pennsylvania. (ECF No. 43, p. 4). Together, they own a family entertainment escape room business, Amaze Me LLC, that was rendered inoperable due to COVID-19 governmental restrictions. (Id. at 5). Their landlord, 9795 Perry Highway Management, LLC (“Landlord”), initiated legal proceedings against them as a result of their failure to pay rent. Specifically, on July 22, 2020, Landlord filed a Complaint in Confession of Judgment and Notice of Entry of Judgment by Confession against Plaintiffs.¹²

Plaintiffs unsuccessfully sought to open or strike the judgment and then unsuccessfully appealed to the

¹² The Court may consider matters of which it may take judicial notice including matters of public record, like public docket sheets, and it has done so in this case. It has reviewed the docket for No. GD-20-00784. Pennsylvania’s Unified Judicial System provides online access to appellate court docket sheets, and the Court has taken notice of Plaintiffs’ appellate proceedings related to No. GD-20-00784 docketed at No. 926 WDA 2021, No. 179 WAL 2022, No. 352 WDA 2023, and No. 754 WDA 2023. The Court has relied upon the docketed information in the cases in recounting pertinent facts throughout this opinion.

Pennsylvania Superior and Supreme Courts. A review of the docket does not indicate that Plaintiffs posted a supersedeas bond at the initiation of the appeal. During the pendency of Plaintiffs' appeal, Landlord served post-judgment discovery in the aid of execution. Plaintiffs repeatedly ignored written discovery requests from Landlord and refused to participate in the discovery process. As a result, Landlord filed numerous motions to compel responses and for sanctions, which were granted on July 6, 2022, February 21, 2023 and April 27, 2023. In the April 27, 2023 Order, Judge Ignelzi stated, "[f]ailure to comply with this Order will result in both Walter Bernard and Wynton Bernard being held in Contempt of Court and being taken into custody by the Allegheny County Sheriff's Office and lodged at the Allegheny County Jail until such time as they purge themselves of Contempt." See Allegheny County Civil Docket No. GD-20-00784.¹³

After Plaintiffs failed to respond to the discovery deadline, Walter A. Bernard was taken into custody on May 3, 2023 by Allegheny County sheriffs. Instead of being taken to the Allegheny County Jail, he was brought directly before Judge Ignelzi. A hearing was held during which Walter A. Bernard was given the option to either answer Landlord's discovery requests or pay the outstanding judgment. Judge Ignelzi

¹³ On March 29, 2023, Plaintiffs appealed from a March 21, 2023 order setting a hearing date to determine the amount of credit. The appeal was docketed in the Pennsylvania Superior Court at No. 352 WDA 2023. It was quashed on June 2, 2023, and on June 23, 2023, the Pennsylvania Superior Court denied Plaintiffs' application for reconsideration.

ordered Walter A. Bernard released, and gave Plaintiffs one final chance to provide the requested discovery or pay the outstanding judgment before a warrant was issued for their arrest. (ECF No. 43, pp. 16–20).

Plaintiffs again failed to respond to the discovery requests and Landlord again sought sanctions. Judge Ignelzi issued a warrant for Plaintiffs’ arrest on May 16, 2023. On August 9, 2023, Walter A. Bernard was arrested, and a contempt hearing was scheduled for August 21, 2023. On August 18, 2023, an emergency petition (filed on August 15, 2023) was presented to Judge McGinley seeking Walter A. Bernard’s release from imprisonment. Judge McGinley denied the motion. On August 21, 2023, a contempt hearing occurred before Judge Ignelzi. Plaintiffs ultimately agreed to settle the case by paying Landlord a portion of the judgment. Judge Ignelzi purged the contempt, and Walter A. Bernard was released from custody.

II. STANDARD OF REVIEW

A motion to dismiss filed under Federal Rule of Civil Procedure (“Rule”) 12(b)(6) tests the legal sufficiency of the complaint. *Kost v. Kozakiewicz*, 1 F.3d 176, 183 (3d Cir. 1993). A plaintiff must allege sufficient facts that, if accepted as true, state a claim for relief plausible on its face. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A court must accept all well-pleaded factual allegations as true and view them in the light most favorable to a plaintiff. Although a court must accept the allegations in the complaint as true, it is “not compelled to accept

unsupported conclusions and unwarranted inferences, or a legal conclusion couched as a factual allegation.” *Baraka v. McGreevey*, 481 F.3d 187, 195 (3d Cir. 2007).

III. ANALYSIS

Counts I, II, IV, V, VI, VII, IX, X, XI, XIV, XV, XVII, XVIII, and XIX in the second amended complaint contain claims against Judge Ignelzi. Counts I, V, VI, VII, XV and XIX contain claims against Judge McGinley. (ECF No. 43). Except for Count XIV (which is brought under 42 U.S.C. § 1985(2)) and Count XV (which is brought under 42 U.S.C. § 1986), Plaintiffs’ claims are brought under 42 U.S.C. § 1983. Plaintiffs have misconstrued the reach of §§ 1983, 1985 and 1986 as to the Judicial Defendants. For the reasons explained below, all claims against them will be dismissed.

A. The official capacity claims will be dismissed.

Plaintiffs consent to the dismissal of their claims against the Judicial Defendants in their official capacity. The Court notes that these claims are, in fact, claims against the Allegheny County Court of Common Pleas, a state entity. The judges are considered arms of the state. Because state entities are entitled to Eleventh Amendment immunity on such claims, the judges are as well. *See Benn v. First Judicial Dist. of Pa.*, 426 F.3d 233, 241 (3d Cir. 2005). Therefore, the Court will dismiss all claims against the Judicial Defendants in their official capacity.

B. The individual capacity claims will be dismissed as they are barred by the doctrine of absolute judicial immunity.

There are two kinds of immunity under § 1983: qualified immunity and absolute immunity. *Yarris v. Cty. of Delaware*, 465 F.3d 129, 134–35 (3d Cir. 2006). Although most public officials are entitled to only qualified immunity, public officials who perform “special functions” are entitled to absolute immunity. *Id.* (quoting *Butz v. Economou*, 438 U.S. 478, 508 (1978)). “[A]bsolute immunity attaches to those who perform functions integral to the judicial process.” *Williams v. Consovoy*, 453 F.3d 173, 178 (3d Cir. 2006). “This immunity was and still is considered necessary ‘to assure that judges, advocates, and witnesses can perform their respective functions without harassment or intimidation.’” *McArdle v. Tronetti*, 961 F.2d 1083, 1084 (3d Cir. 1992) (quoting *Butz*, 438 U.S. at 512).

Absolute judicial immunity shields the Judicial Defendants from any suit for monetary damages arising from their judicial acts. Judges are entitled to absolute immunity from claims that are based on acts or omissions taken in their judicial capacity, so long as they do not act in the complete absence of all jurisdiction. *See Stump v. Sparkman*, 435 U.S. 349, 355–56 (1978). An act is taken in a judge’s judicial capacity if it is “a function normally performed by a judge.” *Gallas v. Supreme Ct. of Pa.*, 211 F.3d 760, 768 (3d Cir. 2000). This is a low threshold. “Generally ... ‘where a court has some subject matter jurisdiction, there is sufficient jurisdiction for immunity purposes.’” *Figueroa v. Blackburn*, 208 F.3d 435, 443–

44 (3d Cir. 2000). Thus, judicial immunity shields a judge from liability for judicial acts even if those acts were taken in error, if they were done maliciously, if they were in excess of the judge's authority, if the judge committed grave procedural errors, or if the judge's actions were unfair or controversial. *Gallas*, 211 F.3d at 769. A judge will be subject to liability only when he or she has acted in the clear absence of all jurisdiction. *Id.*

The Court's analysis must focus on the "general nature of the challenged action, without inquiry into such 'specifics' as the judge's motive or the correctness of his or her decision." *Id.* All of Plaintiffs' allegations in the second amended complaint pertain to conduct or rulings that the Judicial Defendants undertook in their judicial capacity. Holding hearings and issuing warrants for failure to respond, are judicial acts. *See Figueroa v. Blackburn*, 208 F.3d 435, 444 (3d Cir. 2000) (reasoning that presiding over cases, finding a party in contempt, and ordering a party to jail are judicial acts, regardless of whether the judge's determinations are right or wrong). Civil contempt orders in Pennsylvania are judicial acts as well. The purpose of a civil contempt order is to coerce the contemnor to comply with a court order. *See Gunther v. Bolus*, 853 A.2d 1014, 1016 (Pa. Super. 2004). Thus, the arrest and imprisonment orders issued for Plaintiffs after their noncompliance with court orders were judicial acts.

Plaintiffs do not dispute that all acts taken by the Judicial Defendants were done in their judicial capacity. Instead, they contend that the Judicial Defendants lacked jurisdiction. Plaintiffs argue that

the judges were divested of jurisdiction due to the filing of Plaintiffs' interlocutory appeal of discovery matters to the Pennsylvania Superior Court. The Court disagrees. The Court holds that the Judicial Defendants had jurisdiction, and that it is impossible to construe any of their actions as taken in the clear absence of jurisdiction.

The procedural history of this case is important to the Court's immunity analysis. Judgment was entered by confession against Plaintiffs in the Allegheny County Court of Common Pleas on July 24, 2020. Plaintiffs filed an appeal at No. 926 WDA 2021 in the Pennsylvania Superior Court from the order denying their petition to strike or open the confessed judgment for \$100,882.37 entered against them and in favor of Landlord. There is nothing in the record of the state court proceedings that shows that Plaintiffs posted a bond or other security at or after the filing of the appeal. *See* Pa. R.A.P. 1731. As such, there was nothing preventing Landlord from initiating execution proceedings. *See* Pa. R.A.P. 1735. Discovery in aid of execution is an ordinary part of the execution process. The docket from the state court action shows that Landlord served interrogatories and requests for production of documents in aid of execution, that Plaintiffs did not respond, that Landlord filed a motion to compel, which Judge Patrick Connelly granted on October 14, 2021—giving Plaintiffs twenty days to respond. (ECF No. 50-2, p. 5).

On March 29, 2022, the Pennsylvania Superior Court affirmed the Allegheny County Court of Common Pleas' order denying Plaintiffs' motion to open or strike the judgment. Plaintiffs then filed a

Petition for Allowance of Appeal with the Pennsylvania Supreme Court on July 1, 2022 at No. 179 WAL 2022. Notably, in November 2022, over a year after their appeal was filed, Plaintiffs filed a Petition to Set Amount of Bond in the Allegheny County Court of Common Pleas. (ECF No. 50-2, p. 5). However, the bond that they sought was not a supersedeas bond governed by the Pennsylvania Rules of Appellate Procedure (which would effectuate a stay of proceedings pending the ongoing appeal), but a bond to release property from a levy pursuant to Pa. R.C.P. 3119. Plaintiffs' petition acknowledged that there had been no levy but believed it may be imminent. In any event, a bond issued under Pa. R.C.P. 3119 does not effectuate a general supersedeas during the pendency of an appeal. By December 1, 2022 Order, a hearing on the bond request was set in the Allegheny County Court of Common Pleas for January 12, 2023. At some point, the parties agreed to indefinitely postpone the hearing on the bond petition.

On December 22, 2022, the Pennsylvania Supreme Court denied review at No. 179 WAL 2022. Plaintiffs asked the Supreme Court for reconsideration. On February 23, 2023, the Court denied Plaintiffs' reconsideration petition, thus terminating the appeal and finalizing the judgment order against Plaintiffs.

As explained above, the dockets for the state court proceedings show that Landlord continued to pursue discovery in aid of execution during the pendency of the appeal. Plaintiffs continued in their refusal to participate and Landlords continued to seek judicial redress. On February 21, 2023, Judge Ignelzi issued an Order mandating that Plaintiffs respond to the

discovery in aid of execution or face sanctions. Plaintiffs then filed a Petition to Determine a Credit Amount to Satisfy Judgment. (ECF No. 52-2, p. 5). Again, this petition asserted a claim for relief under Pa. R.C.P. 3119 (governing relief from a levy) even though no property had been levied. Judge McGinley set a hearing on the petition by March 21, 2023 Order, but held that discovery in aid of execution would continue (rejecting Plaintiffs' request for a stay). Plaintiffs filed an appeal to the Superior Court of Pennsylvania ("the Second Appeal") from Judge McGinley's Order. In their Concise Statement of Issues Complained of on Appeal pursuant to Pa. R.C.P. 1925(b), Plaintiffs explained that they were appealing the portion of Judge McGinley's order that permitted discovery in aid of execution to proceed. (ECF No. 50-2, p. 4). Plaintiffs filed an Amended Notice of Appeal that highlighted that the Second Appeal was lodged under the collateral order doctrine. Significantly, by its very nature, a collateral order appeal does not divest a trial court of jurisdiction.

On May 16, 2023, the Pennsylvania Superior Court issued a show cause order directing Plaintiffs to show cause as to how the March 21, 2023 Order satisfied the three-prong test of Pa. R.A.P. 313(b). Then, on June 2, 2023, the Second Appeal was quashed for Plaintiffs' failure to respond to the show cause order. And on June 23, 2023, the Pennsylvania Superior Court denied Plaintiffs' application for reconsideration.

The Court engaged in an in-depth examination of the state court case's procedural history, including the two appeals, because it is relevant to the critical

question controlling this Court’s immunity analysis—did the Judicial Defendants lack all jurisdiction when they engaged in the conduct forming the basis of Plaintiffs’ claims? They clearly did not. Rather, the state court record shows that, notwithstanding the appeals, the Allegheny County Court of Common Pleas, and the Judicial Defendants, retained jurisdiction over the proceedings relating to discovery in aid of execution and Plaintiffs’ contemptuous conduct therein. Plaintiffs never posted security during the first appeal or otherwise obtained a supersedeas bond. The second appeal was purportedly filed under the collateral order doctrine which did not divest jurisdiction from the trial court. Because the Judicial Defendants had jurisdiction, they are immune from Plaintiffs’ action against them in this Court.

Moreover, even if the Judicial Defendants were wrong about their ongoing jurisdiction over the execution process, immunity still protects them. It is firmly established that “[a] judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the ‘clear absence of all jurisdiction.’” *Stump*, 435 U.S. at 356–57 (citation omitted); *see also Cleavinger v. Saxner*, 474 U.S. 193, 200 (1985). Here, the facts and procedural history dispel any reasonable contention that the Judicial Defendants would have perceived a “clear absence of all jurisdiction.” The Court holds that the Judicial Defendants are protected by judicial immunity, and

all claims against them in their individual capacity will be dismissed.

IV. CONCLUSION

For these reasons, the Court will grant the Judicial Defendants' motion to dismiss and terminate them as parties to this action. An Order of Court will follow.

BY THE COURT:

/s/ William S. Stickman IV

WILLIAM S. STICKMAN IV

UNITED STATES DISTRICT JUDGE

Date: April 19, 2024

APPENDIX C

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 25-1245

WALTER A. BERNARD; WYNTON BERNARD,
Appellants

v.

PHILIP A. IGNELZI, IN HIS OFFICIAL AND INDIVIDUAL
CAPACITY, ET AL.

(District Court No. 2:23-cv-01463)

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, HARDIMAN,
SHWARTZ, KRAUSE, RESTREPO, BIBAS,
PORTER, MATEY, PHIPPS, FREEMAN,
MONTGOMERY-REEVES, CHUNG, BOVE, and
MASCOTT, *Circuit Judges*.

The petition for rehearing filed by the Appellant Walter Bernard in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,
/s/ Cindy K. Chung
Circuit Judge
Date: January 27, 2026

APPENDIX D

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. amend. IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

28 U.S.C. § 1254 (in relevant part)

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

28 U.S.C. § 1331

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

42 U.S.C. § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any

State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that 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. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Pa. R.A.P. 1701(a)

Except as otherwise prescribed by these rules, after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may no longer proceed further in the matter.

APPENDIX E

EXCERPTS FROM SECOND AMENDED COMPLAINT

*(Filed in the United States District Court for the
Western District of Pennsylvania, Civil Action No.
2:23-cv-01463, ECF No. 43, Feb. 2, 2024)*

The following paragraphs are reproduced verbatim from the Second Amended Complaint and bear directly on the question presented. Each was before the District Court at the time of dismissal.

¶ 17 (*Common allegations — directing the conduct*):

Defendant, Judge Ignelzi, while acting under color of state law in the absence of jurisdiction has caused Plaintiff Walter Bernard to be: a) forcibly removed from his residence in the midst of physical threats; b) wrongfully arrested on two separate occasions; c) imprisoned for a total 20 days without probable cause; d) caused him to write a personal check for \$80,000 after being incarcerated for 12 days without a hearing; e) requiring proof of that check being cleared as a condition of his freedom and f) causing Walter Bernard to be incarcerated for 20 days relating to a civil matter.

¶ 25 (*"The Judge just wanted to see" you*):

Bernard was arrested without law enforcement providing a copy of a warrant and the only explanation that was given to him by law enforcement as to his arrest was; "the Judge just wanted to see you." Bernard, without having breakfast nor taking his

necessary medication pursuant to his medical needs was immediately transported, jailed and placed in a cell with approximately five (5) other individuals for a substantial part of the morning.

¶ 29 (*Direction of arrest*):

Although Bernard was wrongfully arrested as a result of Ignelzi acting in absence of his jurisdiction, Ignelzi continued to direct law enforcement to arrest and incarcerate Plaintiffs Wynton Bernard and Walter Bernard causing them a deprivation of their Civil Rights.

¶ 86 (*Direction of arrest*):

Based on information and belief, County unlawfully followed Ignelzi's direction to arrest Plaintiff Bernard.

¶ 90 (*"The situation was going to get much worse"*):

Bernard called County back immediately and County indicated that Ignelzi just wanted to "see him." County, by and through the power and color of law asserted by Defendant Harper also threatened that if Bernard didn't come out, "the situation was going to get much worse."

¶ 91 (*"Break-in order from Ignelzi"*):

Under the threat of County's peace officers, breaking into Plaintiffs' residence using a break-in order from Ignelzi, while being concerned for his family's safety, Bernard came outside of his front door.

¶ 97 (*Shackled before Judge Ignelzi*):

While still in shackles, Bernard was brought before Ignelzi and was ridiculed for not opening his residential door quickly enough for the numerous deputies as they knocked outside. Additionally, Ignelzi scorned and blamed Bernard for almost getting himself hurt. He also scorned and reprimanded Bernard for potentially causing harm to the peace deputies.

¶ 98 (*The break-in order*):

Ignelzi confirmed that there were discussions with the Peace's Office that an approval of a break in order into Plaintiffs' residence almost occurred.

¶ 99 (*15-minute ultimatum*):

While Bernard remained shackled in the courtroom, Ignelzi gave Bernard an ultimatum consisting of two options to be decided within 15 minutes in order to be free from incarceration: 1) Bernard needed to settle the case that was currently on appeal before the Appellate Court in an amount that the opposing counsel had pre-determined with no ability to negotiate without his client being present; or 2) that Bernard was required to disclose the confidential information from both his and his client Wynton Bernard's private information.

¶ 106 (*Not a judicial act*):

Requiring an Attorney to settle a case on behalf of his client within 15 minutes while under the stress and duress of wearing handcuffs is not a judicial act normally performed by a judicial officer in civil court. Additionally, the Pennsylvania Appellate Courts have

exclusive jurisdiction and divest all jurisdiction from the trial court in Pennsylvania over collateral and final orders.

¶ 201 (*May 3 conduct*):

On or about May 3, 2023, while Bernard was shackled, County, Ignelzi and through the use of verbal threats and in the absence of jurisdiction, caused Bernard to answer confidential questions while remaining shackled after being pulled from his residence without a warrant.

¶ 215 (*August 9 second arrest*):

On August 9, 2023 Ignelzi conspired with County causing Bernard to be deprived of his liberty rights without the due process of law.

¶ 222 (*Concerted conduct — absence of warrant*):

Defendants' concerted actions in the clear absence of a warrant, continued to coerce and threaten Bernard for the purposes of unlawfully removing Bernard from his residence.

¶ 223 (*Threat to break in*):

Upon information and belief, County acted in concert with its peace officers to aggressively threaten to break into Plaintiffs' residence for the purposes of intimidat[i]on when they both knew or should have known that there was no authority to do so.