

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-5066

September Term 2008

1:08-cv-00369-UNA

Filed On: October 10, 2008

Courtney Anthony Bailey,

Appellant

v.

Alan Kay,

Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Sentelle, Chief Judge, and Ginsburg and Tatel, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief and appendix filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's order filed February 29, 2008, dismissing appellant's complaint, be affirmed. Appellant's claim for damages against a federal magistrate judge is barred by the doctrine of judicial immunity. See Forrester v. White, 484 U.S. 219, 225 (1988) (a judge is absolutely immune from a damages suit for actions taken in his or her judicial capacity). A judge will be deprived of immunity only if he or she acted in the clear absence of all jurisdiction. See Stump v. Sparkman, 435 U.S. 349, 356-57 (1978). Because the record contains no evidence, other than appellant's unsubstantiated assertions, that appellee "acted in the clear absence of all jurisdiction," there was no error by the district court in dismissing appellant's complaint pursuant to 28 U.S.C. § 1915A.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam