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

FILED

EUGENE ROBINSON

CIVIL ACTION

v.

EDUARDO C. ROBRENO

APR 12 1995

By Michael E. Kunz, Clerk
: Dep. Clerk

NO. 95-1833

MEMORANDUM

, J.

APRIL 11, 1995

Plaintiff, an inmate, has filed a pro se 42 U.S.C. § 1983 civil rights complaint against the Honorable Eduardo C. Robreno of the United States District Court for the Eastern District of Pennsylvania. Plaintiff alleges that the defendant dismissed as frivolous a pro se civil rights action, Civil Action No. 94-3003, in which plaintiff asserted, inter alia, that he was the victim of witchcraft by prison officials. Plaintiff believes that such dismissal without an investigation, notification of the "proper authoritys" (sic), or the filing of criminal charges, amounts to a violation of his constitutional rights. He seeks damages and injunctive relief.

With his complaint, plaintiff filed a request for leave to proceed in forma pauperis. As it appears he is unable to pay the cost of commencing this action, leave to proceed in forma pauperis is granted. However, for the reasons which follow, the complaint will be dismissed as frivolous pursuant to 28 U.S.C. § 1915(d).

In order to bring suit under 42 U.S.C. § 1983, plaintiff must allege that a person acting under color of state

law deprived him of his constitutional rights. West v. Atkins, 487 U.S. 42 (1988). Plaintiff's allegations in this complaint indicate only that he disagrees with the dismissal of Civil Action No. 94-3003 as frivolous; they do not suggest a violation of his constitutional rights. Moreover, judges are immune from liability in § 1983 actions seeking money damages where, as in the instant case, their actions were taken in a judicial capacity. See Stump v. Sparkman, 435 U.S. 349 (1978). As for plaintiff's request for injunctive relief, although this may be granted in a § 1983 action against a judicial officer, since plaintiff fails to state a violation of his constitutional rights such relief is not appropriate in this case. See Pulliam v. Allen, 104 S. Ct. 1970, 1978 (1984).

An appropriate order follows.

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Dep. Clerk

NO. 95-1833

ORDER

AND NOW, this 11 day of APRIL, 1995,
since it appears plaintiff is unable to prepay the costs of
commencing this suit pursuant to 28 U.S.C. § 1915(a),

IT IS ORDERED that:

1. Leave to proceed in forma pauperis is GRANTED.
2. This complaint is DISMISSED as frivolous pursuant to
28 U.S.C. § 1915(d).

M. E. Kunz
, J.

4-12-95
copy / P.R.

MC
DISC

STATS. F/P GRANTED
(CASE CLOSED)
(comp) (termdoe
termdel)

X