IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Linquista White, Emily Bellamy, and Janice Carter, Plaintiffs, vs. Kevin Shwedo, in his official capacity as the Executive Director of the South Carolina Department of Motor Vehicles; and Ralph K. Anderson III, in his official capacity as the Chief Judge of the South Carolina Administrative Law Court and Director of the South Carolina Office of Motor Vehicle Hearings, Defendants.	)	C.A. No. 2:19-3083-RMG **ORDER**

This matter comes before the Court on Defendant Ralph K. Anderson III's (hereafter, "Judge Anderson") motion to dismiss pursuant to Fed Rule of Civil Procedure 12(b)(6). (Dkt. No. 45). Plaintiffs filed a memorandum in opposition and Judge Anderson filed a reply. (Dkt. Nos. 55, 61). For reasons set forth below, the motion to dismiss is granted.

Factual Background

Plaintiffs, on behalf of a putative class, challenge South Carolina's statutory scheme allowing for the indefinite suspension of a person's driver's license for failure to timely pay traffic fines without the opportunity in a pre-deprivation hearing to assert an inability to pay and requiring the payment of a $200.00 filing fee before a hearing will be set challenging the license suspension before the Office of Motor Vehicle Hearings ("OMVH"). (Dkt. No. 1). Judge Anderson, the Chief Judge of the South Carolina Administrative Law Court and Director of

OMVH, has moved to be dismissed from this action arguing, *inter alia*, that any acts or omissions alleged by Plaintiffs fall within the scope of judicial immunity and that he is entitled to judgment as a matter of law regarding the enforcement of the statutorily imposed filing fee for any appeals to the OMVH. (Dkt. No. 45).

Plaintiffs, all of whom have had their driver's licenses suspended after being tried in abstentia for certain traffic violations and failing to pay the imposed fines and court costs, assert that their failure to pay their legal obligations arose from a financial inability to pay rather than from any willful refusal to pay. In regard to the claims asserted against Judge Anderson, Plaintiffs argue that the requirement of a $200.00 filing fee, with no exception for indigency, violates their right to access the courts as guaranteed by the Equal Protection and Due Process Clauses of the Fourteenth Amendment. They further contend that Judge Anderson's enforcement of the $200.00 filing fee constitutes administrative enforcement actions outside his judicial duties and, thus, are not within the scope of his judicial immunity. (Dkt. No. 55 at 1.)

Any appeal from a driver's license revocation for non-payment of traffic fines comes to the OMVH. S.C. Code § 1-23-660(A). A request for a hearing before the OMVH must be accompanied by a $200.00 filing fee before a hearing officer will be assigned. RULES OF PROCEDURE FOR THE OFFICE OF MOTOR VEHICLE HEARINGS, ¶¶ 4, 9, 21. The $200.00 filing fee is set by statute with no exception provided for indigency. S.C. Code § 56-5-2952. The South Carolina Supreme Court has ruled that state judges have no authority to waive filing fees unless "specifically authorized by statute or required by constitutional provisions." *Ex Parte Martin*, 471 S.E. 2d 134, 135 (S.C. 1995). *See also McFadden v. Dunlap*, C.A. No. 2:15-4674-JMC, 2016 WL 4993406 at *3 (D.S.C. Sept. 19, 2016); *Sullivan v. S.C. Dep't Corr.*, 586 S.E. 2d 124, 128 (S.C. 2004).

Legal Standard

A Rule 12(b)(6) motion to dismiss permits the dismissal of an action if the complaint fails "to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). A motion to dismiss tests the legal sufficiency of the complaint and "does not resolve contests surrounding the facts, the merits of the claims, or the applicability of defenses . . . Our inquiry then is limited to whether the allegations constitute a short and plain statement of the claim showing that the pleader is entitled to relief." *Republican Party of N.C. v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992). On a Rule 12(b)(6) motion, the Court is obligated to "assume the truth of all facts alleged in the complaint and the existence of any fact that can be proved, consistent with the complaint's allegations. *E. Shore Mkts., Inc. v. J.D. Assocs. Ltd. P'ship*, 213 F.3d 175, 180 (4th Cir. 2000). Although the Court must accept the facts in a light most favorable to the Plaintiff, the Court "need not accept as true unwarranted inferences, unreasonable conclusions, or arguments." *Id.* To survive a motion to dismiss, the complaint must provide enough facts to "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). Although the requirement of plausibility does not impose a probability requirement at this stage, the complaint must show more than a "sheer possibility that a defendant has acted unlawfully." *Id.* at 678. A complaint has "facial plausibility" where the pleading "allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

Discussion

A. Judicial Immunity

Plaintiffs seek declaratory and injunctive relief against Judge Anderson, challenging his enforcement of the $200.00 filing fee for appeals to the OMVH. They assert that the "policy and practice of categorically denying requests for waiver of the $200 filing fee and refusing to assign

cases to hearing officers until the filing fee is paid in full" violates Plaintiffs' rights to equal protection and due process. (Dkt. No. 1 at 77-79, 85-89). Judge Anderson asserts that his actions, as the Chief Judge of the Administrative Law Court and Director of OMVH, to enforce the $200.00 filing fee fall within the scope of his judicial duties and are subject to judicial immunity. (Dkt. No. 45-1 at 19.)

Judges "have long enjoyed a comparatively sweeping form of immunity" with certain limited exceptions. *Forrester v. White*, 484 U.S. 219, 225 (1988). So long as the judge is acting in his or her judicial capacity, immunity will generally be recognized. In adjudicating a claim of judicial immunity, the reviewing court must look to the "function performed, not the identity of the actor." *Id.* at 229. Judges are not immune for "non-judicial actions, *i.e.,* actions not taken in a judge's judicial capacity." *Mireles v. Waco*, 502 U.S. 9, 11 (1991). Judges are not immune from actions taken "in complete absence of jurisdiction." *Id.* at 12. Further, judges are not immune from actions seeking prospective declaratory relief or injunctive relief where a declaratory decree has been violated. *Justice Network, Inc. v. Craighead Cty.*, 931 F. 3d 753, 763 (8th Cir. 2019).

Plaintiffs argue that Judge Anderson's actions in requiring the $200.00 filing fee and refusing to assign cases to hearing officers until the filing fee has been paid are administrative and not judicial in nature. The actions of a chief or presiding judge in assigning cases or enforcing standards established by statutory law or higher court rulings are considered judicial in nature and are protected by judicial immunity. *See Coleman v. Governor of Michigan*, 413 Fed. Appx. 866, 873 (6th Cir. 2011); *Sirbaugh v. Young*, 25 Fed. Appx. 266, 268 (6th Cir. 2001); *Martinez v. Winner*, 771 F. 2d 424, 434 (10th Cir. 1985); *Parent v. New York*, 786 F. Supp. 2d 516, 531-32 (N.D.N.Y. 2011). Judges' "judicial acts [are] not transformed into administrative

acts because the judges held a status as presiding judge." *McCullough v. Finley*, 907 F. 3d 1324, 1332 (11th Cir. 2018).

Plaintiffs argue that Judge Anderson possesses the implied discretionary authority to waive (or at least recommend the waiver) of the $200.00 filing fee, pointing to the statutory language that the filing fee is $200.00 "or as otherwise prescribed by the rules of procedure for the Office of Motor Vehicle Hearings." S.C. Code § 56-5-2952. Judge Anderson asserts that he has no discretion to waive filing fees for indigents, noting the consistent rulings of the South Carolina Supreme Court that filing fees can be waived for indigency only where such authority is "specifically authorized by statute or required by constitutional provisions." *See Ex Parte Martin*, 471 S.E. 2d at 135. It is also well recognized that indigency is not a suspect class and possessing a driver's license is not a fundamental right. *See Dixon v. Love*, 431 U.S. 105 (1977); *San Antonio Independent Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973); *Fowler v. Benson*, 924 F. 3d 247, 257-58 (6th Cir. 2019).

South Carolina Supreme Court rulings make it clear that Judge Anderson lacks the legal authority to waive filing fees on the basis of indigency or any other reason not specifically authorized by statute. However, even if Plaintiffs were correct and Judge Anderson had such discretionary authority, the exercise of that discretion would be judicial in nature, interpreting legal standards and maintaining them in his supervisory capacity as the Chief Judge and Director of the OMVH. Judge Anderson's refusal to act inconsistently with the rulings of the highest court of his state is also judicial in nature, reflecting obedience to the judicial hierarchy and the rule of law. In the final analysis, the recognition and enforcement by Judge Anderson of the statutorily mandated filing fee and assigning hearing officers only where the fee has been paid are judicial acts protected by judicial immunity.

Having determined that Judge Anderson's actions under challenge are subject to judicial immunity, the Court must still resolve the scope of that immunity. Plaintiffs do not seek money damages, which would clearly be barred by judicial immunity. Instead, Plaintiffs seek injunctive relief, prohibiting the OMVH from requiring payment of a filing fee. (Dkt. No. 1 at 93-94). Because there has not been any alleged violation of a declaratory decree by Judge Anderson, injunctive relief sought by Plaintiffs against Judge Anderson is barred by judicial immunity. *Justice Network, Inc. v. Craighead County*, 931 F. 3d at 763. Judicial immunity does not, however, bar prospective seeking declaratory relief, which the Court will now addresses.

B. Declaratory Relief

Plaintiffs seek a declaration that the enforcement of the $200.00 filing fee for an appeal to the OMVH for persons seeking to contest the suspension of their driver's license violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment. (Dkt. No. 1 at 93). Plaintiffs' claim is premised on the principle that filing fees that may bar indigent people from having access to the courts are unconstitutional generally or at least in the circumstances present in this litigation. While state and federal court systems often provide exceptions for filing fees in some circumstances due to indigency, there is no "free-floating right" to access to the courts which would render filing fees unconstitutional. *Roller v. Gunn*, 107 F. 3d 227, 231-32 (4th Cir. 1997). Indeed, with some well-defined exceptions, there is no "unlimited rule that an indigent at all times and in all cases has the right to relief without payment of [filing] fees." *United States v. Kras*, 409 U.S. 434, 450 (1973). *See also Lumbert v. Illinois Dep't of Corr.*, 827 F. 2d 257, 259 (7th Cir. 1987).

Plaintiffs do not claim that possessing and maintaining a driver's license is a fundamental right, which would bring seriously into question the requirement of a filing fee for access to the

courts. *See Boddie v. Connecticut*, 401 U.S. 371, 382-83 (1971). The State of South Carolina has permitted by statute a broad range of indigency exceptions for filing proceedings within the state court system. *See Ex Parte Martin*, 471 S.E. 2d at 135. South Carolina, perhaps unwisely, has not extended the indigency exception to driver's license revocation proceedings. But as a matter of constitutional jurisprudence, there simply is no right for any person, absent statutory authority or the assertion of a fundamental right at stake in the court proceeding, to demand access to the courts without payment of a filing fee.

The State's requirement for the payment of a filing fee to initiate a challenge to a license revocation proceeding, with no exception for indigency, does not violate Plaintiffs' constitutional rights under these circumstances. Consequently, Judge Anderson's motion to dismiss Plaintiffs' claim regarding the imposition of a filing fee for OMVH proceedings with no indigency exception is granted.

Conclusion

Based on the foregoing, the Court finds that Plaintiffs' prayer for injunctive relief against Judge Anderson is barred by judicial immunity. The Court further grants Judge Anderson's motion to dismiss regarding Plaintiffs' claim that the maintenance and enforcement of a $200.00 filing fee for initiating appeals in OMVH proceedings without an indigency exception violates the United States Constitution. (Dkt. No. 45). Consequently, Judge Anderson is **DISMISSED** as a party to this action.

AND IT IS SO ORDERED.

Richard Mark Gergel
United States District Judge

February 27, 2020
Charleston, South Carolina