

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-3928  
Conference Calendar

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WILLIAM H. FORMAN, JR.,

Plaintiff-Appellant,

versus

G. FRED OURS ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CA 92 904 K

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June 23, 1993

Before POLITZ, Chief Judge, and DeMOSS, Circuit Judge. [This matter is being decided by a quorum. 28 U.S.C. § 46(d).]

PER CURIAM:\*

William H. Forman, Jr., argues that the district court erred by dismissing his suit because G. Fred Ours is not entitled to absolute immunity. He is incorrect.

A state official may be entitled to absolute immunity if: "(a) the official's functions share the characteristics of the judicial process; (b) the official's activities are likely to result in recriminatory lawsuits by disappointed parties; and (c)

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

sufficient safeguards exist in the regulatory framework to control unconstitutional conduct." Austin Municipal Secur., Inc. v. Nat. Asso. of Secur. Dealers, Inc., 757 F.2d 676, 688 (5th Cir. 1985), citing Butz v. Economou, 438 U.S. 478, 510-513, 98 S.Ct. 2894, 57 L.Ed.2d 895 (1978). The district court found Ours was entitled to absolute immunity because: (1) his actions were akin to that of a prosecutor pursuing charges in a criminal case, (2) Ours's activities were likely to result in recriminatory lawsuits by disgruntled attorneys responding to disciplinary action, and (3) Forman was protected from unconstitutional conduct by the availability of appeals to the Louisiana Supreme Court.

In Austin Municipal Securities, this Court restated the validity of earlier cases finding that bar grievance committees are entitled to absolute immunity. Austin, 757 F.2d 690. "[B]ar committee members act[ ] as surrogates for judges, and merely serve[ ] for the convenience and efficiency of the judicial system . . . . Thus, members of the committees receive[ ] the same immunity as judges would possess if they had acted directly." Id. (citations omitted).

Forman emphasizes Ours's role as an investigator of the claims against Forman by the Board. Forman argues that Ours was removed from the judicial functions because he required the permission of the Board to file formal charges against Forman. Forman is incorrect.

Prosecutors have absolute immunity for "`quasi-judicial conduct,' including the decision whether to file criminal

charges." Chrissy F. v. Mississippi Dept. of Public Welfare, 925 F.2d 844, 850 (5th Cir. 1991) (citations omitted). Prosecutors are immune from suit for damages under § 1983 when they are initiating a prosecution or presenting the State's case. Imbler v. Pachtman, 424 U.S. 409, 431, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976).

In several circumstances, this Court has determined that prosecutors have stepped outside their quasi-judicial role and thereby lost immunity. See Chrissy F., 925 F.2d at 850-51 (prosecutor not immune from suit for extra-prosecutorial acts including alleged failure to report sexual abuse of child, failure to investigate allegations of abuse, and allowing victim's father to have physical contact with her in violation of court order); Marrero v. Hialeah, 625 F.2d 499, 505-06 (5th Cir. 1980) (prosecutor's participation in allegedly illegal search and seizure outside the scope of quasi-judicial function), cert. denied, 450 U.S. 913 (1981). There is no allegation that Ours engaged in any extra-judicial activities.

AFFIRMED.