

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DIANE SEBASTIAN BIMLER, :
Plaintiffs, :
v. :
MICHAEL CROUCH, : No. 3:04cv1478 (WWE)
Defendant. :

RULING ON MOTION TO DISMISS

Plaintiff Diane Sebastian Bimler alleges that defendant Michael Crouch, a retired support enforcement officer with the Support Enforcement Division of the Connecticut Superior Court, violated her rights under the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Defendant has moved to dismiss, arguing, inter alia, that he is immune from suit pursuant to the doctrines of absolute quasi-judicial immunity and qualified immunity. For the following reasons, the motion to dismiss will be granted.

Background

The following factual background is reflected in the complaint and the documents that are referenced in the complaint.

After plaintiff's former spouse, David Bimler, failed to pay full child support for his children, the Support Enforcement Unit of the Superior Court issued a wage withholding order for support dated April 26, 1994. On August 15, 1997, a family support magistrate ordered Mr. Bimler to show cause why he should not be

held in contempt for failure to pay child support due under the April 26, 1994 order. Mr. Bimler appeared in Family Support Court on September 17, 1997 and October 15, 1997 pursuant to court order.

On October 15, 1997, Family Support Magistrate Harris Lifshitz ordered Mr. Bimler to appear in court on December 3, 1997. After Mr. Bimler failed to appear as ordered, Magistrate Lifshitz issued a *capias mittimus* authorizing a sheriff to detain Mr. Bimler until such time as he could be presented in court.

On December 10, 2002, Family Support Magistrate Katherine Hutchinson vacated the outstanding *capias* order as to Mr. Bimler, along with nineteen other *capias* orders concerning other defendants. Plaintiff asserts that defendant Michael Crouch, the support enforcement officer assigned to her case, misrepresented material facts in order to persuade the Magistrate to vacate the *capias* order.

A new contempt order was issued in January, 2004.

Plaintiff claims that she lost almost two years of child support as a result of defendant's actions.

DISCUSSION

A motion to dismiss under Fed. R. Civ. P. 12(b)(6) should be granted only if "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Hishon v. King & Spalding, 467 U.S. 69, 73 (1984). The function of a motion to dismiss "is merely to assess the legal feasibility of the complaint, not to assay the weight of

the evidence which might be offered in support thereof." Geisler v. Petrocelli, 616 F. 2d 636, 639 (2d Cir. 1980). In considering a motion to dismiss, a court must presume all factual allegations of the complaint to be true and must draw any reasonable inferences in favor of the non-moving party. Cruz v. Beto, 405 U.S. 319, 322 (1972).

On a motion to dismiss, a court may address documents that are attached to or referenced in the complaint without turning the motion into one for summary judgment. Cortec Indust. Inc. v. Sum Holding, L.P., 949 F.2d 42, 47 (2d Cir. 1991).

Defendant argues that he is entitled to the protection of absolute quasi-judicial immunity since all of the allegations against him pertain to his performance of official duties integral to the judicial process.

"The entitlement of a government official to absolute immunity, protecting him from liability, from suit, and from any scrutiny of the motive for and reasonableness of his official actions, depends on the function he performs." Dorman v. Higgins, 821 F.2d 133, 136 (2d Cir. 1987). As held in Dorman, some officials such as probation officers who perform functions closely associated with the judicial process should be accorded such immunity. This immunity is not for the protection or benefit of a malicious or corrupt official, but is for the benefit of the public interest in allowing an official to exercise his or her functions without fear of consequences. Pierson v. Ray, 386 U.S. 547, 554 (1967). Many functions integral

to the judicial process are characterized by a high degree of discretion, and the adversarial process gives rise to an emotionally-charged environment where litigation would often ensue, if allowed. Dorman, 821 F.2d at 136.

Thus, absolute immunity attaches based upon the nature of the official's responsibilities. Cleavinger v. Saxner, 474 U.S. 193, 202 (1978). Two factors that inform the decision as to whether an official is entitled to absolute immunity are: 1) the need for absolute immunity in order to permit the effective performance of the function; and 2) the presence of safeguards against improper performance. Dorman, 821 F.2d at 136.

Insulation from political influence, the importance of precedent in resolving controversies, the adversary nature of the process, and the correctability of any error on appeal represent checks on an official's malicious conduct. Butz v. Economou, 438 U.S. 478, 512 (1978).

The duties of a support enforcement officer include, inter alia, supervision of child support orders, issuance of an order requiring a party to appear before the family support magistrate, bringing petitions, investigation of the financial situation of parties for report to the family support magistrate in certain circumstances, and review of child support orders to determine if modification is necessary in certain cases. Conn. Gen. Stat. § 46b-231(s)

Thus, the support enforcement officer is directly involved in the highly emotional arena of family law, specifically dealing

with child support disputes. The support enforcement officer exercises discretion in supervising payments, reviewing support orders, and presenting modifications to the family support magistrate. These functions are an integral part of the judicial process relative to the enforcement of child support obligations and the role of the family support magistrate. Accordingly, the support enforcement officer must have a reasonable degree of certainty that his or her exercise of discretion will not expose him or her to liability. Otherwise, support enforcement officers might hesitate to bring forward or act upon certain information. See Butz, 438 U.S. at 517 ("If agency attorneys were held personally liable in damages as guarantors of the quality of their evidence, they might hesitate to bring forward some witnesses or documents.")

Safeguards are in place that will protect against unconstitutional conduct. The family support magistrate reviews the support enforcement officer's act in fulfilling his or her duties. In this case, for instance, defendant prepared the order at issue for the family support magistrate who retained the final decision as to whether signing such order was appropriate. The decision of a family support magistrate is likely to be guided by case precedent or other legal authority, and is appealable to the superior court. Conn. Gen. Stat. § 46b-231(n). Further, there is no indication that a support enforcement officer is in a position subject to political influence.

In light of his integral role in the adjudicative process

and the existence of safeguards against improper conduct, defendant should be accorded absolute immunity for his role in preparing the order vacating the capias for the family support magistrate judge. See White v. Conte, 2003WL22333207 (Conn. Super. 2003) (absolute immunity applied to court enforcement officer involved in effectuating a court order); see also Sandall v. Suda, 986 F.2d 1459, 1460 (D.C. Cir. 1993) (court clerk entitled to doctrine of judicial immunity). Accordingly, the motion to dismiss will be granted.

CONCLUSION

For the foregoing reasons, the motion to dismiss (#12) is GRANTED. The clerk is instructed to close this case.

SO ORDERED this 2d day of May in Bridgeport, Connecticut.

/s/ _____
Warren W. Eginton, Senior U.S. District Judge