

SUPREME COURT OF THE STATE OF DELAWARE

Hughes v. Public Defenders Office

No. 89, 2021 · No. No. 89, 2021 · Decided October 21, 2021

SUMMARY

The Delaware Supreme Court affirmed dismissal of Antonio A. Hughes’s legal malpractice action against the Office of Defense Services and related attorneys. The Court held that the action was properly dismissed as frivolous and malicious because it attempted to relitigate a disqualification issue, was premature while Hughes’s criminal case was pending, and failed to overcome qualified immunity under the State Tort Claims Act.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Gary F. Traynor; Vaughn, Justice; Traynor, Justice; Montgomery-Reeves, Justice
JURISDICTION	Delaware
DECIDED	October 21, 2021
DOCKET	No. 89, 2021
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hughes appealed the Superior Court's dismissal under 10 Del. C. § 8803(b) of his in forma pauperis legal-malpractice complaint against his public defenders and related defendants.
STANDARD OF REVIEW	The Supreme Court reviews a Superior Court dismissal under 10 Del. C. § 8803(b) for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Antonio A. Hughes v. Public Defenders Office (Kent), John Doe, Kathleen Amalfitano, Suzanne Macpherson-Johnson

TOPICS

- motions to dismiss
- professional negligence
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- professional negligence
- constitutional law

QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion by dismissing Hughes's in forma pauperis legal-malpractice complaint under 10 Del. C. § 8803(b).
2. Whether the complaint was an impermissible attempt to relitigate the denial of Hughes's motion to disqualify his public defenders.
3. Whether the malpractice claim was premature because Hughes could not establish damages while his criminal case remained pending.
4. Whether the defendants were protected by qualified immunity under the State Tort Claims Act.

HOLDINGS

1. A Superior Court dismissal of a complaint under 10 Del. C. § 8803(b) is reviewed for abuse of discretion.
2. The Superior Court did not abuse its discretion in dismissing Hughes's complaint because it attempted to relitigate the denial of his motion to disqualify counsel, was premature while the criminal case was pending because Hughes could not establish damages, and failed to overcome the defendants' qualified immunity from legal-malpractice claims.

KEY QUOTATIONS

“Under Section 8803(b), if the Superior Court grants an application to proceed in forma pauperis, the court must review the plaintiff’s complaint and shall dismiss the complaint if the court finds that the action is factually frivolous, legally frivolous, or malicious.” (¶ 5)

“The Superior Court appropriately determined that Hughes’s complaint constituted an impermissible attempt to relitigate the motion to disqualify; was premature while his criminal case was still pending because he could not establish damages; and failed to overcome the qualified immunity from legal malpractice claims that the State Tort Claims Act afforded to the defendants.” (¶ 6)

FACTUAL BACKGROUND

Hughes was charged with murder and represented by attorneys from Delaware's Office of Defense Services. He alleged that his attorneys had conflicts, failed to communicate, delayed the case, withheld discovery, and failed to file desired pretrial motions or obtain dismissal. While the criminal case was pending, Hughes filed a legal-malpractice action seeking a declaration that the defendants violated his constitutional rights and an injunction barring them from continuing to represent him. The criminal case later ended in a jury acquittal.

PROCEDURAL HISTORY

Hughes was represented by attorneys from the Office of Defense Services in a pending murder prosecution. While that criminal case was pending, he filed a Superior Court legal-malpractice action seeking declaratory and injunctive relief. The Superior Court granted in forma pauperis status but dismissed the complaint as factually frivolous, legally frivolous, and malicious under 10 Del. C. § 8803(b). Hughes appealed, and the Delaware Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Ashley v. Stiller, 2012 WL 5818322, at *1 (Del. Nov. 15, 2012)
- Ashley v. Stiller, 2012 WL 5818322, at *2 (Del. Nov. 15, 2012)
- Biggins v. Goldstein, 2011 WL 153753, at *1 (Del. Jan. 12, 2011)
- Proctor v. Sullivan, 2001 WL 1287031, at *1 (Del. Oct. 18, 2001)
- Bartley v. Soll, 2002 WL 1472286 (Del. July 1, 2002)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE ANTONIO A. HUGHES, § § No. 89, 2021 Plaintiff Below, § Appellant, § Court Below—Superior Court § of the State of Delaware v. § § C.A. No. K21C-02-018 PUBLIC DEFENDERS OFFICE § (KENT), JOHN DOE, KATHLEEN § AMALFITANO, and SUZANNE § MACPHERSON-JOHNSON, § § Defendants Below, Appellees. § Submitted: September 24, 2021 Decided: October 21, 2021 Before VAUGHN, TRAYNOR, and MONTGOMERY-REEVES, Justices.

ORDER After consideration of the briefs and the record on appeal, it appears to the Court that: (1) The appellant, Antonio A. Hughes, appeals from a Superior Court order that granted Hughes’s application to proceed in forma pauperis and dismissed his legal malpractice claim against his public defenders as factually frivolous, legally frivolous, and malicious.

For the reasons discussed below, we affirm the Superior Court’s judgment. (2) On June 6, 2019, Hughes was charged with murder in connection with his son’s death in April 2017. Kathleen Amalfitano and Suzanne Macpherson- Johnson, attorneys at the Office of Defense Services (“ODS”), represented Hughes in connection with the charges. Amalfitano represented Hughes until early 2020, when she became a judge on the Delaware Court of Common Pleas.

Macpherson- Johnson replaced Amalfitano as Hughes’s counsel. (3) On October 28, 2020, Hughes filed a motion to disqualify counsel from ODS in his criminal case. After a hearing on that motion and others, the Superior Court denied Hughes’s disqualification motion.

The court advised Hughes that he could retain private counsel or represent himself. Hughes declined those options and chose to continue with Macpherson-Johnson’s representation. Macpherson-Johnson represented Hughes at trial, and on July 20, 2021, a Superior Court jury acquitted Hughes.

(4) Several months before the trial, on February 22, 2021, Hughes filed a malpractice action in the Superior Court against ODS, Amalfitano, Macpherson- Johnson, and an ODS supervisor identified as “John Doe.” The complaint alleged that Amalfitano had a conflict of interest because she was focused on pursuing a different job opportunity—specifically, becoming a judge.

It alleged that both counsel failed to communicate sufficiently with him; delayed his case; did not provide him with all the discovery in the case; and failed to file his desired pre-trial motions or to obtain dismissal of the charges on the basis of delay. Hughes sought (i) a declaratory judgment that the defendants’ conduct was violating his 2 constitutional rights, including the right to effective assistance of counsel and (ii) an injunction ordering the defendants to stop representing him.

In an order dated February 24, 2021, the Superior Court granted Hughes’s request to proceed in forma pauperis and dismissed the action under 10 Del. C. § 8803(b). Hughes has appealed to this Court. (5) Under Section 8803(b), if the Superior Court grants an application to proceed in forma pauperis, the court must review the plaintiff’s complaint and shall dismiss the complaint if the court finds that the action is factually frivolous, legally frivolous, or malicious.¹ We review the Superior Court’s dismissal of a complaint under 10 Del.

C. § 8803(b) for abuse of discretion.² (6) After careful consideration, we conclude that the Superior Court did not abuse its discretion. The Superior Court appropriately determined that Hughes’s complaint constituted an impermissible attempt to relitigate the motion to disqualify; was premature while his criminal case was still pending because he could not 1 10 Del.

C. § 8803(b). See also *Ashley v. Stiller*, 2012 WL 5818322, at *1 (Del. Nov. 15, 2012) (“If the complaint is found to be factually frivolous, malicious or legally frivolous such that even a pro se litigant should have found well-settled law disposing of the issues raised, the complaint shall be dismissed.”). 2 *Ashley*, 2012 WL 5818322, at *2; *Biggins v. Goldstein*, 2011 WL 153753, at *1 (Del.

Jan. 12, 2011). 3 establish damages;³ and failed to overcome the qualified immunity from legal malpractice claims that the State Tort Claims Act afforded to the defendants.⁴ NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. BY THE COURT: /s/ Gary F. Traynor Justice 3 See *Proctor v. Sullivan*, 2001 WL 1287031, at *1 (Del. Oct.

18, 2001) (affirming dismissal under Section 8803(b) of legal malpractice complaint against public defender and stating that “[b]ecause Proctor’s criminal case was still pending, there was no basis for a claim of damages, an essential element of a legal malpractice case”). 4 See 10 Del. C. § 4001 (providing immunity for acts or omissions arising out of and in connection with official duties when done in good faith and without gross or wanton negligence); *Proctor*, 2001 WL 1287031, at *1 (“[A] public defender is entitled to qualified immunity and Proctor failed to allege facts

showing that the public defender's actions either constituted gross negligence or were motivated by bad faith.").

See also Ashley, 2012 WL 5818322, at *1 (“[A]n attorney appointed by the Superior Court in [criminal] matters has qualified immunity from legal malpractice claims under the State Tort Claims Act. As such, in order to state a claim against such an attorney, the defendant must plead facts supporting gross negligence.” (citations omitted)). Cf. also Bartley v. Soll, 2002 WL 1472286 (Del.

July 1, 2002) (affirming dismissal under Section 8803(b) of complaint asserting legal malpractice and including request for declaration that the attorney had violated the claimant's rights). 4