[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 11-11520
Non-Argument Calendar

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
DECEMBER 22, 2011
JOHN LEY
CLERK

D. C. Docket No. 3:10-cv-00712-HES-TEM

DANIEL BLANCHARD,
JACQUELYN BLANCHARD,
LYNN WRIGHT,
DANIEL WRIGHT,
LEONARD J. ZIMMER, et al.,

Plaintiffs-Appellees,

versus

THE HONORABLE JIM OVERTON,
in his Capacity as Property Appraiser,
Duval County, Florida,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

(December 22, 2011)

Before DUBINA, Chief Judge, HULL and BLACK, Circuit Judges.

PER CURIAM:

This is an appeal from the district court's order denying defendant Jim Overton's ("Overton") motion to dismiss based on judicial immunity.[1] We review *de novo* the district court's denial of a motion to dismiss. *See Muldrow v. Davis*, 433 F. App'x 888, 890 (11th Cir. 2011) (qualified immunity content).

Plaintiffs in this case are all owners of real property in Duval County, Florida. In their complaint, plaintiffs sought declaratory, injunctive, and supplemental relief due to Overton's placement of a public notation on their property records that their properties had or might contain hazardous substances. According to Overton, he was sued in this action because he complied with the requirements of a consent decree;[2] therefore, he contends he is entitled to judicial immunity. The district court found that this assertion was misplaced. While non-judicial officers are entitled to "absolute immunity when their official duties 'have an integral relationship with the judicial process,'" *Roland v. Phillips*, 19 F.3d

[1]A panel of our court determined that the district court's March 2, 2011, order denying Overton's motion to dismiss based on CERCLA and sovereign immunity was not an immediately appealable order. *See* order filed on September 27, 2011. In that same order, our court held that the district court's order denying Overton's motion to dismiss based on judicial immunity was an appealable order. *Id.*; *see also Roland v. Phillips*, 19 F.3d 552, 555 (11th Cir. 1994).

[2]The consent decree referenced by the parties in their briefs was entered into by the City of Jacksonville with the Environmental Protection Agency in the matter of *United States of America v. City of Jacksonville*, in the United States District Court for the Middle District of Florida, Civil Action No. 3:08-cv-257 (the "consent decree"). R. 2, ¶ 13 and Exh. B.

552, 555 (11th Cir. 1994) (quoting *Ashbrook v. Hoffman*, 617 F.2d 474, 476 (7th Cir. 1980)), that immunity only attaches when the officials are acting "within the scope of their authority." *Id.* In this matter, plaintiffs allege that Overton acted outside and beyond the bounds of the consent decree when he placed the notation on the plaintiffs' property records. The district court agreed with that argument and so do we.

The consent decree does not require Overton to take any action. The only parties bound by the consent decree are the United States and the settling defendant, the consolidated City of Jacksonville as a county and political subdivision of the State of Florida, its successors and assigns. The pertinent language of the consent decree states that *the City of Jacksonville* "shall satisfy this requirement through ordinances (1) directing the Duval County property appraiser to annotate the property record cards of all properties located within the site boundaries that there are or may be hazardous substances on the property; . . ." R2, Exh. B at p. 16, ¶ 27(1). There is no enacted ordinance authorizing the property appraiser (Overton) to place a notation on the information for the affected properties. R.2, ¶ 17. Because the consent decree did not order Overton to take any action, he was not charged with its enforcement. Moreover, we conclude that the act of tagging the plaintiffs' properties with the notation was not integral to the

judicial process. *See Roland*, 19 F.3d at 555. Accordingly, we agree with the district court's finding that Overton was not entitled to absolute quasi-judicial immunity and therefore affirm its order denying Overton's motion to dismiss.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

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December 22, 2011

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 11-11520-DD
Case Style: Daniel Blanchard, et al v. Jim Overton
District Court Docket No: 3:10-cv-00712-HES-TEM

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the CRIMINAL JUSTICE ACT must file a CJA voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for a writ of certiorari (whichever is later).

Pursuant to Fed.R.App.P. 39, costs taxed against appellant.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Tonya L. Richardson, DD at (404) 335-6176.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404-335-6161

OPIN-1A Issuance of Opinion With Costs