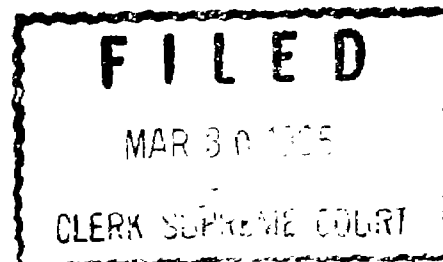


IN THE COURT OF APPEALS OF IOWA

No 4-405 / 94-0779



JOHN L. SIMONS,

Plaintiff-Appellant,

vs.

IOWA DISTRICT COURT FOR STORY COUNTY,

Defendant-Appellee.

Appeal from the Iowa District Court for Story County, Peter Keller, Judge

The plaintiff appeals from the district court's dismissal of his tort action against the district court arising out of his conviction for speeding. **AFFIRMED.**

John L. Simons, Hampton, pro se.

Thomas J. Miller, Attorney General, and Jeffrey D. Farrell, Assistant Attorney General, for appellee.

Considered by Donielson, C.J., and Sackett and Habhab, JJ.

PER CURIAM

On March 16, 1994, John L. Simons filed a tort suit against the Second Judicial District of Iowa. The petition stated Simons had received a speeding ticket in Story County on December 27, 1993. He was subsequently convicted of speeding. In the present suit, Simons claims he was unjustly convicted of speeding based on a number of grounds which include the following: (1) police captain John Cable lied to him several times while issuing the ticket and also lied during the trial, (2) the jury instructions were improper; and (3) the State failed to prove he was guilty. He sought damages of one dollar and punitive damages in an unspecified amount.

The State, on behalf of the Iowa District Court for Story County, filed a motion to dismiss pursuant to Iowa Rule of Civil Procedure 104(b), claiming Simons had failed to state a cause of action. The State claimed the petition made no reference to a cognizable statutory or common law cause of action. The State also claimed that under the facts as alleged in the petition, the district court had judicial and State immunity from liability in a tort suit.

Simons resisted the State's motion. He claimed the district court did not have jurisdiction to find him guilty of speeding, and that the court did not act within the scope of its authority.

After a hearing, the district court entered an order on May 10, 1994, dismissing the petition for failure to state a cause of action in law or equity. The court also found the doctrines of judicial immunity and State immunity were applicable to the case. Plaintiff appealed.

Under rule 104(b), a motion to dismiss is sustainable only when the pleadings make certain that the pleader has failed to state a claim on which any relief can be granted under any state of facts provable under the allegations. Brumage v. Woodsmall, 444 N.W.2d 68, 68-69 (Iowa 1989). A motion to dismiss admits the well-pleaded facts in the petition and waives

any ambiguity or uncertainty. Tate v. Denfield, 510 N.W.2d 885, 887 (Iowa 1994). We view the allegations in the petition in the light most favorable to the plaintiff Id.

We agree with the trial court that plaintiff's petition fails to state a claim on which any relief can be granted and was properly dismissed. We turn next to a discussion on judicial immunity.

Few doctrines have been more settled than the absolute immunity of judges from damages for acts committed within their judicial jurisdiction. Blanton v. Barrick, 258 N.W.2d 306, 308 (Iowa 1977). The doctrine of judicial immunity is available even though a judge exceed his or her jurisdiction, civil liability attaches only when the judge acts wholly without jurisdiction. Id. at 308-309. In other words, so long as the judge is acting within the scope of his or her authority, the judge's acts are absolutely privileged. Id. at 309.

In his response to the motion to dismiss, Simons claimed the district court lacked jurisdiction to find him guilty of speeding. However, he does not specify in what manner the court might have been lacking jurisdiction.

We conclude the district court clearly has jurisdiction to hear and make a determination of a speeding violation. Speeding violations are simple misdemeanors. Iowa Code § 321.285, 321.482 (1993). A district court has jurisdiction of simple misdemeanors. Iowa Code § 602.6202. Therefore, under the facts as alleged in the petition, the district court has absolute immunity. As a result, the petition does not state a claim on which any relief can be granted.¹ We find that each of the claims advanced by the plaintiff-appellant, whether discussed by us in this opinion or not, are without merit. Accordingly, we affirm the decision

¹ If the plaintiff-appellee is challenging his conviction of speeding on the grounds of insufficient evidence, the proper remedy would have been to appeal that conviction in those proceedings.

of the district court dismissing plaintiff's petition for failure to state a cause of action. Costs of this appeal are assessed to plaintiff

AFFIRMED.