

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

DANIEL MICHAEL DEMARTINO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. NO. N26C-03-126 DJB
	)	
SEAN P. MCCORMICK,	)	
	)	
Defendant.	)	

Date Submitted: July 7, 2026
Date Decided: October 21, 2026

OPINION

On Defendant's Motion to Dismiss – **GRANTED**

Daniel D. Martino, *pro se*

Jennifer Kate Aaronson, Esquire, Department of Justice, *for Defendant*

BRENNAN, J.

I. INTRODUCTION

This civil action follows Plaintiff's presentment to the Justice of the Peace Court (hereinafter "JP Court") on various misdemeanor criminal offenses. During his arraignment, Defendant, the presiding Magistrate, engaged in an exchange with Plaintiff regarding his mental status and ultimately ordered a mental health evaluation as a condition of his bond. As a result, Plaintiff brings suit alleging Abuse of Process (Count I), False Imprisonment (Count II), "Violation of the 14th Amendment's Due Process Clause" (Count III), "Violation of the 5th Amendment's Due Process Clause" (Count IV), "Violation of the 14th Amendment's Equal Protection Clause" (Count V), "Violations of the 14th Amendment's Prohibition against Cruel and Unusual Punishment" (Count VI), "Violations of the 8th Amendment's Prohibition against Excessive Bail" (Count VII), Violations of the Delaware Constitution articles I, §§ 7 & 11 (Counts VIII and IX), "Deprivation of Rights under 42 U.S.C. § 1983" (Count X), Gross Negligence (Count XI), "Discrimination under the [Americans with Disabilities Act]" (Count XII), and "Breach of Contract under..." the Federal and Delaware State Constitutions (Counts XIII and XIV).¹

¹ *David DiMartino v. Sean P. McCormick*, Civ. Act. No. N26C-03-126 DJB, Docket Item (hereinafter "D.I.") 1.

For the reasons fully articulated below, Defendant, as a Magistrate with the JP Court, acted in the course of his duties and within his jurisdictional purview, therefore he is immune from civil suit. Alternatively, and in addition, his remaining claims are without merit. Therefore, after careful consideration, the motion to dismiss is **GRANTED**.

II. FACTS AND PROCEDURAL HISTORY

On April 17, 2024, Plaintiff was arrested for harassment² and brought before the Defendant for his arraignment.³ At that proceeding, as he was required, Defendant set Plaintiff's bond. As a condition of bond, Defendant required Plaintiff to undergo a mental health evaluation.⁴ In conjunction with the hearing and his Order, Defendant issued an Order to Override Presumptive Bail Decision, which states that "more intensive conditions of release" would be mandated for Plaintiff's harassment charge.⁵

Plaintiff filed his Complaint on March 9, 2026.⁶ In lieu of an Answer, Defendant filed the instant Motion to Dismiss.⁷ Plaintiff filed his "Reply Brief in Opposition" on May 26, 2026.⁸ Defendant filed his Reply Brief in Support of their

² 11 *Del. C.* § 1311.

³ D.I. 8, p. 1.

⁴ D.I. 8, p. 2, Ex. A.

⁵ D.I. 8, p. 2, Ex. C.

⁶ D.I. 1.

⁷ D.I. 8.

⁸ D.I. 14.

Motion to Dismiss Plaintiff's Complaint on June 4, 2026.⁹ Oral argument was held July 7, 2026.¹⁰ The matter is now ripe for decision.

III. STANDARD OF REVIEW

Under Superior Court Civil Rule 12(b)(6) a motion to dismiss will be granted “where the plaintiff cannot recover ‘under any reasonably conceivable set of circumstances susceptible of proof.’”¹¹ Under that rule the Court will:

(1) accept all well pleaded factual allegations as true, (2) accept even vague allegations as “well pleaded” if they give the opposing party notice of the claim, (3) draw all reasonable inferences in favor of the non-moving party, and (4) [not dismiss the claims] unless the plaintiff would not be entitled to recover under any reasonably conceivable set of circumstances.¹²

Conclusory allegations, not supported by specific factual allegations, will not survive a motion to dismiss.¹³

A Court cannot consider documents outside of the pleadings on a motion to dismiss. When a party attaches documents to their filings upon such a motion, the Court must determine whether the motion must be converted into one for summary judgment.¹⁴

⁹ D.I. 20.

¹⁰ D.I. 22.

¹¹ *Khushaim v. Tullow Inc.*, 2016 WL 3594752 at *2 (Del. Super. Jun. 27, 2016) (citing Del. Super. Ct. R. 12(b)(6)).

¹² *Khushaim*, 2016 WL 3594752 at *2.

¹³ *Id.* at *2.

¹⁴ Superior Court Rule of Civil Procedure 12(b).

IV. ANALYSIS

Defendant moves to dismiss Plaintiff's Complaint based upon the immunity provided under the Delaware State Tort Claims Act, the doctrine of absolute judicial immunity, and on the merits for his claims asserting breach of contract and violations of the American with Disabilities Act (hereinafter "ADA").¹⁵ Defendant's motion attached documents outside of the pleadings, which mandates an analysis of whether the motion must be converted into one for summary judgment.

Naturally, Plaintiff opposes Defendant's motion. Plaintiff's opposition argues Defendant is not entitled to immunity as his actions violated the law and were therefore "in absence of all Jurisdiction."¹⁶ Plaintiff further asserts his breach of "social contract" claims survive.¹⁷

A. DEFENDANT'S MOTION HAS NOT BEEN CONVERTED INTO ONE FOR SUMMARY JUDGMENT

As an initial matter, the attachment of Exhibits to Defendant's Motion did not convert it into one for summary judgment. Defendants are permitted to attach extraneous documents to a motion to dismiss, not attached to a complaint, without implicating the summary judgment standard so long as the materials directly relate to the basis of Plaintiff's claims.¹⁸ Here, Defendant attached the JP Court Criminal

¹⁵ D.I. 8.

¹⁶ D.I. 13.

¹⁷ *Id.*

¹⁸ *Lagrone*, 2008 WL 4152677.

Docket and the audio recording of the April 17, 2024 JP Court hearing in the Motion to Dismiss.¹⁹ Both items are reasonably related to the scope of the pleadings because all of Plaintiff's claims are based on the circumstances and outcome of that hearing. Consequently, Defendant's Motion will remain one to dismiss and be reviewed accordingly.

B. DEFENDANT IS ENTITLED TO IMMUNITY UNDER THE STATE TORT CLAIMS ACT

With respect to Plaintiff's state law claims, Defendant contends that he enjoys complete judicial immunity under the Delaware State Tort Claims Act.²⁰ Plaintiff responds that judicial immunity does not apply, as Defendant is being sued in his official capacity. Further, Plaintiff argues that he was suffering from a severe medical emergency at that time, and Defendant acted with "deliberate indifference" by failing to recognize the need for medical attention and incarcerating him instead.²¹ This "deliberate indifference," Plaintiff argues, strips Defendant from immunity.²²

Judicial immunity is "a general principle of the highest importance to the proper administration of justice."²³ Under the doctrine, "a judicial officer, in exercising the authority vested in him, should be free to act upon his own

¹⁹ D.I. 8.

²⁰ D.I. 8, p. 4.

²¹ D.I. 14, p. 3.

²² *Id.* at p. 4.

²³ *Jepsco, Ltd. v. B.F. Rich Co.*, 2013 WL 593664, at *5 (Del. Ch. Feb. 14, 2013) (citing *Stump v. Sparkman*, 435 U.S. 349, 355 (1978)).

convictions, without apprehension of personal consequences to himself.”²⁴ Judges “have absolute judicial immunity from civil claims founded upon an act or omission arising out of the performance of an official duty.”²⁵ This principal has been reinforced by statute and under Title 10 of the Delaware Code, § 4001, which provides:

...no claim or cause of action shall arise, and no judgment, damages, penalties, costs or other money entitlement shall be awarded or assessed against the State or any public officer or employee...where... (1) the act or omission complained of arises out of and in connection with the performance of an official duty requiring ... the exercise of discretion... (2) the act or omission complained of was done in good faith and in the belief that the public interest would be best served thereby; and (3) the act or omission complained of was done without gross or wanton negligence; provided that the immunity of judges, the Attorney General and Deputy Attorneys General...as to all civil claims or causes of action founded upon an act or omission arising out of the performance of an official duty, be absolute...²⁶

Hence, judicial officers are afforded absolutely immunity from claims that stem from a transaction or occurrence where they were acting in their jurisdiction and official capacity.²⁷ This Court may not grant relief for claims asserted against an official protected by judicial immunity.²⁸ As such, claims against a judicial officer are

²⁴ *Jepsco*, 2013 WL 593664, at *5 (citing *Stump*, 435 U.S. at 355).

²⁵ *Chang v. Mayo*, 2016 WL 3640260, at *2 (Del. Super. June 28, 2016).

²⁶ 10 Del. C. § 4001.

²⁷ *Alston v. Witham*, 793 A.2d 310 (Table) (Del. 2002).

²⁸ *Id.*

deemed legally frivolous and by their very nature, fail to state a claim upon which relief may be granted.²⁹

Plaintiff's state law causes of action seek relief stemming from Defendant's actions while was presiding over Plaintiff's arraignment in his official capacity as a Magistrate in the Justice of the Peace Court. The doctrine of judicial immunity prohibits such claims against Defendant.³⁰ Thus, Plaintiff's claims are **DISMISSED**, as Defendant enjoys absolute immunity from suit without exception.

C. PLAINTIFF'S CLAIMS UNDER FEDERAL LAW ARE LIKEWISE BARRED BY JUDICIAL IMMUNITY

Regarding Plaintiff's constitutional claims against Defendant arising under federal law, Defendant similarly enjoys absolute immunity. Federal law has long recognized the doctrine of judicial immunity and, like the State counterpart, affords judicial officers absolute immunity.³¹ Judicial officers are "absolutely immune from civil suits for conduct arising from [] judicial acts except 'where there is clearly no jurisdiction over the subject matter' involved..."³² The federal claims alleged against Defendant in this suit stem from Defendant's judicial acts and alleged

²⁹ Super. Ct. Civ. R. 12(b)(6).

³⁰ *Alston*, 793 A.2d at 310.

³¹ *Vick v. Haller, Tease, & Witsil*, 514 A.2d 782, 782 (Del. 1986) (citing *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872); *Stump v. Sparkman*, 435 U.S. 349 (1978)).

³² *Vick v. Haller*, 512 A.2d 249, 252 (Del. Super. Apr. 29, 1986) (citing *Weber v. Oberly*, 571 A.2d 788 (Del. 1989)).

omission during the course of his duties as a Magistrate. Justice of the Peace Courts have “jurisdiction to deprive citizens of their freedom pending trial or satisfaction of the conditions of bail.”³³ This jurisdiction includes setting various conditions of bail.³⁴ Defendant acted within his jurisdiction and discretion when setting, as a condition of bond, Plaintiff’s requirement to undergo a mental health evaluation.³⁵ Consequently, as Defendant acted within his jurisdictional boundaries, Plaintiff’s federal constitutional claims are barred by judicial immunity and are **DISMISSED**.

D. PLAINTIFF’S COUNT XII ALTERNATIVELY FAILS BECAUSE THE ADA GOVERNS PUBLIC ENTITIES, NOT INDIVIDUALS

Despite Defendant’s immunity, he additionally moves to dismiss Plaintiff’s Count XII given that Defendant is not a public entity.³⁶ Plaintiff’s opposition addresses this argument in conjunction with his opposition to judicial immunity.³⁷ Plaintiff asserts a cause of action due to his allegation that Defendant’s action violates the ADA. Defendant is sued here as an individual, for actions taken by him under the authority of his role as a Justice of the Peace Court Magistrate.

³³ *Pagano v. Hadley*, 535 F. Supp. 92, 96 (D. Del. 1982).

³⁴ *Id.* at 96.

³⁵ *Id.* (A Justice of the Peace Court Magistrate’s authority and jurisdiction includes the authority to place “the person in the custody of a designated person or organization agreeing to supervise him” and ordering “psychiatric or medical treatment.”).

³⁶ D.I. 8, p. 11.

³⁷ D.I. 14, p. 5-6.

“The American's with Disabilities Act [] prevents discrimination by federal and state government entities against individuals with disabilities.”³⁸ The ADA further provides, “[a] public entity cannot exclude those with disabilities from their programs and services” and make “‘reasonable modifications’ to comply with Title II and provide disabled persons with meaningful access” to such services.³⁹ Because Defendant is sued in his individual capacity, no cause of action can be sustained against him under this Act. Therefore, this cause of action separately fails on this basis and is **DISMISSED**.

E. PLAINTIFF’S COUNTS XIII AND XIV ALTERNATIVELY FAIL AS THEY ARE NOT COGNIZABLE CAUSES OF ACTION

Finally, Defendant argues “Plaintiff’s allegations of breaches of social contracts are not cognizable claims, requiring dismissing Counts XIII and XIV.”⁴⁰ Plaintiff’s response consists of philosophical argument surrounding concepts interpreted from the Declaration of Independence, and cites to the United States District Court for the Eastern District of Pennsylvania case of *Wilson v. Wolf*, which Defendant relied on in its Motion to Dismiss.⁴¹

³⁸ *Young v. Red Clay Consol. Sch. Dist.*, 122 A.3d 784, 857 n.76 (Del. Ch. Oct. 7, 2015).

³⁹ *Id.*

⁴⁰ D.I. 8, pp. 12-13.

⁴¹ *Wilson v. Wolf*, 2021 WL 268642 (E.D.P.A. Jan. 27, 2021).

Nowhere in his response does Plaintiff provide any legally recognized support or decisional case law for a separate cause of action for breach of a social contract under either the Federal or Delaware constitutions. This is because he cannot. There is simply no recognized cause of action for a breach of a social contract under the Federal constitution; at best the Court of Chancery in *Tilden v. Hayward*,⁴² discussed this “social contract” theory under the Delaware constitution and in doing so stated that the Delaware constitution would be more apt to support such a theory.⁴³ No such cause of action was recognized, however, and in fact, *Tilden* specifically found that it did not exist.⁴⁴ Since *Tilden*, Delaware Courts have consistently held that there is no civil cause of action for a violation of the Delaware constitution (Count XIV).⁴⁵ Accordingly, Plaintiff’s Count XII and XIV are **DISMISSED**.

V. CONCLUSION

For the foregoing reasons Defendant’s Motion to Dismiss is **GRANTED**.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read 'DJB', with a horizontal line extending to the right.

Danielle J. Brennan, J.

⁴² *Tilden v. Hayward*, 1990 WL 161162 (Del. Ch. Sept. 10, 1990).

⁴³ *Id.* at *16.

⁴⁴ *Id.*

⁴⁵ *Rodriguez v. Cahall*, 2023 WL 569358, at *6 (Del. Super. Jan. 27, 2023), (citing *Schueller v. Cordrey*, 2017 WL 568344 (Del. Super. Feb. 13, 2017)).