

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN GARRETT SMITH,

Plaintiff,

v.

SCOTT COLLIER,

Defendant.

Case No. 3:17-cv-01017-SI

ORDER TO DISMISS

SIMON, District Judge.

Plaintiff purports to bring a tort action against his criminal trial judge, claiming that Judge Lewis lacked jurisdiction over the case because no probable cause existed. He seeks a court order: (1) preventing Judge Lewis from engaging in further acts of "treason" or other legal improprieties; (2) invalidating his conviction; and (3) awarding him compensation exceeding \$42,000,000 based upon the financial losses he sustained due to the "illegal sabotage of his I.P

whose global market valuation [that] has been readily and independently assessed at \$5.1-5.1 Trillion USD." Complaint, p. 8. This is the first of six such cases plaintiff has filed against three state-court judges, the Washington Department of Corrections, a prosecuting attorney, and the Washington Attorney General.

Defendant filed a Motion to Dismiss to which plaintiff did not timely respond, and plaintiff filed a Motion for Summary Judgment. Neither of these Motions warrant discussion. It is clear that plaintiff fails to state a claim upon which relief may be granted because Judge Lewis is absolutely immune from suit, and declaratory and injunctive relief in this context are not appropriate. See *Olsen v. Idaho State Bd. of Medicine*, 363 F.3d 916, 922 (9th Cir. 2004) (state court judges are absolutely immune from suits for damages for acts undertaken in judicial capacity); 28 U.S.C. § 2283 (anti-injunction act); *Samuels v. Mackell*, 401 U.S. 66, 73 (1971) (declaratory relief). Moreover, the court finds plaintiff's Complaint to be frivolous.¹

¹ Nothing in this Order prevents plaintiff from filing a federal habeas corpus petition once he has exhausted his state court remedies, or from seeking damages from a proper defendant should he successfully invalidate his conviction in the future.

Accordingly, defendant's Motion to Dismiss is granted, and plaintiff's Motion for Summary Judgment is denied.

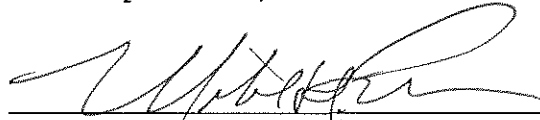
CONCLUSION

Defendant's Motion to Dismiss (#7) is granted, and plaintiff's Motion for Summary Judgment (#11) is denied. Plaintiff's Complaint (#1) is dismissed for failure to state a claim and because it is frivolous. The dismissal is without leave to amend and with prejudice. This dismissal shall constitute a "strike" for purposes of the Prison Litigation Reform Act.

Additionally, for the reasons set forth above, this court certifies that any appeal from this order would not be taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3)(A).

IT IS SO ORDERED.

DATED this 15th day of September, 2017.



Michael H. Simon
United States District Judge