UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JACOB TEITELBAUM, Plaintiff, -against- JUDA KATZ; CHAYA KATZ; JOEL TENNENBAUM; BLUMA TENNENBAUM; DAVID RUBENSTEIN; KIRYAS JOEL COMM AMBULANCE CRP; DISTRICT FAMILY COURT OF ORANGE COUNTY 9TH JUDICIAL DISTRICT; HON. ANDREW P. BIVONA; ATTY. MARIA PETRIZIO; CHILDREN'S RIGHTS SOCIETY OF ORANGE COUNTY; ATTY. KIM PAVLOVIC; ATTY JOHN FRANCIS X. BURKE; CHILD PROTECTIVE SERVICES OF ORANGE COUNTY; CHRISTINE BRUNET; ATTY. STEPHANIE BAZILEOR; JOHN DOES 1 THROUGH 95; JANE DOES 1-20, Defendants.	ORDER OF SERVICE 12 CV 2858 (VB)

Briccetti, J.:

Plaintiff Jacob Teitelbaum brings this action pro se, pursuant to 42 U.S.C. §§ 1983, 1985 and state law, alleging defendants conspired to remove his children in retaliation for his participation in a religious campaign. Plaintiff sues the Orange County Child Protective Services, Department of Social Services and Family Court, as well as many attorneys and private parties, including his relatives.

STANDARD OF REVIEW

The Court has the authority to screen sua sponte an in forma pauperis complaint at any time and must dismiss the complaint, or portion thereof, that states a frivolous or malicious

claim, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); see Livingston v. Adirondack Beverage Co., 141 F.3d 434, 437 (2d Cir. 1998). While the law authorizes dismissal on any of these grounds, district courts "remain obligated to construe a pro se complaint liberally." Harris v. Mills, 572 F.3d 66, 72 (2d Cir. 2009). Thus, pro se complaints should be read with "special solicitude" and should be interpreted to raise the "strongest [claims] that they suggest." Triestman v. Fed. Bureau of Prisons, 470 F.3d 471, 474-75 (2d Cir. 2006) (citations omitted).

BACKGROUND

Plaintiff resides in an Hasidic, ultra-orthodox community and alleges he was involved in a religious campaign against "forced divorce." (Compl. at 2, 7). On April 28, 2010, plaintiff's two children were forcibly removed from the home, allegedly without proper investigation, even though there was no imminent danger to them. (Id. at 9). The children were returned to plaintiff and his wife on September 7, 2010, but were removed again on or about September 16, 2010. (Id. at 11). Plaintiff and his wife currently have limited visitation with the children. (Id. at Ex. A).

DISCUSSION

A. Judicial Immunity

Plaintiff brings claims against the Honorable Andrew P. Bivona, a judge of the Family Court of Orange County, because "the Defendant Family Court had . . . made up its mind not to return the children to Plaintiff." (Compl. at 1, 22). Judge Bivona also rejected plaintiff's two motions as frivolous, (see id. at 23-4), denied his request for an interpreter, (see id. at 24, 27), and required he and his wife to each undergo a mental evaluation, (see id. at 26).

Judges generally have absolute immunity for their judicial actions. See Mireles v. Waco, 502 U.S. 9, 11 (1991); Bliven v. Hunt, 579 F.3d 204 (2d Cir. 2009). Plaintiff's allegations regarding Judge Bivona's decisions in the Family Court matter pending before him constitute judicial actions for which Judge Bivona is immune. Plaintiff's claims against Judge Bivona are therefore dismissed. See 28 U.S.C. § 1915(e)(2)(B)(iii).

B. Orange County Family Court

Plaintiff's claims against the Orange County Family Court also must be dismissed. "[A]s a general rule, state governments may not be sued in federal court unless they have waived their Eleventh Amendment immunity, or unless Congress has abrogated the states' Eleventh Amendment immunity . . . ." Gollomp v. Spitzer, 568 F.3d 355, 366 (2d Cir. 2009) (citation omitted). "The immunity recognized by the Eleventh Amendment extends beyond the states themselves to state agents and state instrumentalities that are, effectively, arms of a state." Id. The Orange County Family Court is part of the New York State Unified Court System, see N.Y. Const. Art. VI, § 29(a), and is thus an "arm of the state" entitled to Eleventh Amendment immunity. See Gollomp, 568 at 366 ("[T]he New York State Unified Court System is unquestionably an arm of the state and is entitled to Eleventh Amendment sovereign immunity").

New York State has not waived its sovereign immunity. Nor has Congress, through § 1983, abrogated the state's immunity. See Santiago v. New York State Dept. of Corr. Servs., 945 F.2d 25, 31 (2d Cir. 1991). Plaintiff's claims against the Orange County Family Court are therefore barred by Eleventh Amendment sovereign immunity and must be dismissed. See 28 U.S.C. § 1915(e)(2)(B)(iii).

CONCLUSION

The Court dismisses plaintiff's claims against Judge Bivona and the Orange County Family Court on immunity grounds. See 28 U.S.C. § 1915(e)(2)(B)(iii).

The Clerk of Court is directed to issue a Summons as to the remaining Defendants, and plaintiff is directed to serve the Summons and Complaint on defendants within 120 days of the issuance of the Summons. If service has not been made within the 120 days, and plaintiff has not requested an extension of time to serve within that 120 days, the Complaint may be dismissed for failure to prosecute, pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Dated: May 11, 2012
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge