

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 05-1416

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MARK E. JOHNSON,

Appellant

v.

STATE OF NEW JERSEY, DIVISION OF MOTOR VEHICLES; TOWNSHIP OF LONG HILL MUNICIPAL COURT; JUDGE JAMES D. BRIDE; BRIDGEWATER TOWNSHIP MUNICIPAL COURT; JUDGE ROBERT J. FOLEY; OFFICER PETER OCHS; SUMMIT MUNICIPAL COURT; JUDGE DONALD P. BOGOSIAN; FAR HILLS BOROUGH MUNICIPAL COURT; JUDGE ROBERT K. HORNBY; OFFICER JOSEPH DILLION; MORRIS COUNTY CORRECTIONAL FACILITY; SUPERIOR COURT OF NEW JERSEY, LAW DIVISION SPECIAL CIVIL PART; JUDGE RONALD B. GRAVES; CARMEN J. LIUZZA, JR.; DEPARTMENT OF THE TREASURY, DIVISION OF TAXATION; BEDMINSTER POLICE DEPARTMENT; OFFICER TOM FINNERTY; MICHAEL DECAROLIS, OFFICER; FAR HILLS BOROUGH POLICE DEPARTMENT; JAMES H. HUNDLEY; H & R BLOCK, INC.; BRIDGEWATER TOWNSHIP POLICE OFFICER PETER OCHS; HONORABLE ROBERT J. FOLEY, JUDGE OF BRIDGEWATER TOWNSHIP MUNICIPAL COURT; DIVISION OF MOTOR VEHICLES OF THE STATE OF NEW JERSEY;  
JAMES H. HUNDLEY

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On Appeal From the United States District Court  
For the District of New Jersey  
(D.C. Civ. No. 04-cv-2320)  
District Judge: Honorable Faith S. Hochberg

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Submitted Under 28 U.S.C. § 1915(e)(2)(B)  
APRIL 21, 2005

Before: RENDELL, FISHER and VAN ANTWERPEN, Circuit Judges

(Filed: May 19, 2005)

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OPINION

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PER CURIAM

Appellant Mark E. Johnson appeals from the dismissal of his complaint against a number of New Jersey state, municipal, and private actors. The appeal is frivolous, and we will dismiss pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

On September 21, 2004, Johnson filed an amended complaint with the District Court. The complaint lists a number of defendants, the majority of whom are involved in separate unrelated incidents. On December 15, 2004, the District Court issued an order to show cause why the complaint should not be dismissed for lack of subject matter jurisdiction. Johnson failed to respond. By order entered January 24, 2005, the District Court dismissed the action.<sup>1</sup> Johnson then brought this appeal.

We exercise plenary review over the dismissal of the complaint. See Marran v. Marran, 376 F.3d 143, 149 (3d Cir. 2004); Kilkenny v. Guy C. Long, Inc., 288 F.3d 116, 119 (3d Cir. 2002). To the extent Johnson appeals from the dismissal of his claims relating to income tax, we do not agree that Flast v. Cohen, 392 U.S. 83 (1968), is dispositive. Flast bars taxpayer standing where the plaintiff challenges a particular federal government spending program subject to extremely limited exceptions. Id. at

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<sup>1</sup>We have jurisdiction pursuant to 28 U.S.C. § 1291.

101-03. Johnson, inversely, challenges the collection of income tax generally, by both the United States and New Jersey. Even so, the appeal is completely lacking in legal merit. The collection of income tax has long been deemed constitutional and arguments to the contrary will not succeed. See U.S. Const. art. I, § 8; U.S. Const. amend XVI; see also Lawrence v. State Tax Comm'n of Mississippi, 286 U.S. 276, 279-80 (1932) (discussing the basis for state income tax).

To the extent Johnson seeks what amounts to an appeal from his motor vehicle fines and convictions, he is barred by the Rooker-Feldman doctrine. See Exxon Mobile Corp. v. Saudi Basic Indus. Corp., 544 U.S. \_\_\_, 2005 WL 711586, \* 5-7 (Mar. 30, 2005).

To the extent Johnson does not seek to appeal his convictions, but rather challenges a policy or procedure which is not an apparent appeal from the underlying judgment, he either fails to state a claim or is barred. Specifically, with respect to each judicial defendant, an appeal is frivolous because judges receive absolute judicial immunity for actions performed in or related to their judicial role. See Gallas v. Supreme Court of Pennsylvania, 211 F.3d 760, 768-69 (3d Cir. 2000).

Johnson's Fourth Amendment claims against numerous police officers suffer from a similar defect. Police are afforded qualified immunity in the performance of their jobs. See Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). Johnson fails to allege that any of the officers violated "clearly established statutory or constitutional rights of which a reasonable person would have known." Id. (citations omitted). His remaining claims are

unintelligible. Johnson did not attempt to clarify his pleadings in the District Court, nor does he present any arguments from which we can infer his intent on appeal.

For the foregoing reasons, the appeal is frivolous. Accordingly, we will dismiss.