

**IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

Ann Saunders; Sabreen Sharrief;
and Dorothy Triplett

Plaintiffs

v.

Civil Action No. G2023-421

Honorable Michael K. Randolph,
in his official capacity as Chief
Justice of the Mississippi Supreme
Court; Zack Wallace, in his official
Capacity as Circuit Clerk of the
Circuit Court of Hinds County,
Mississippi; and Greg Snowden,
in his official capacity as Director
of the Administrative Office
of Courts

Defendants

**Motion to Dismiss on behalf of
Defendant, Honorable Michael K. Randolph, in his official capacity
as Chief Justice of the Mississippi Supreme Court**

Pursuant to Rule 12(b)(6) of the Mississippi Rules of Civil Procedure,
applicable precedent and the common law, Defendant Honorable Michael K.
Randolph, in his official capacity as Chief Justice of the Mississippi Supreme Court
(the “Chief Justice”), moves the Court to dismiss the case against the Chief Justice
on the ground of judicial immunity. Accordingly, the Chancery Court of Hinds
County, Mississippi lacks jurisdiction over the Chief Justice in this proceeding.

The Chief Justice is bound by his oath of office¹ and the Code of Judicial Conduct, which prohibits him from making public comments on any pending or impending matter that might reasonably be expected to effect its outcome or impair its fairness. Miss. Const. art. 6, § 155; Miss. Code Jud. Conduct Canon 3B. This motion is limited to the applicability of judicial immunity, and nothing herein should be construed as any comment on the merit, *vel non*, of any claims or defenses in this case. The Chief Justice's ethical obligations also limit his ability to respond to the complaint and to raise substantive defenses if judicial immunity is not recognized *instanter*.²

ARGUMENT

“A motion to dismiss for failure to state a claim upon which relief can be granted challenges the legal sufficiency of the complaint, and raises a question of law.” *Vinson v. Prather*, 879 So. 2d 1053, 1055 (Miss. Ct. App. 2004) (quoting *Favre*

¹ The Mississippi Constitution prescribes the oath of office to be taken by judges of the courts of this State:

The judges of the several courts of this state shall, before they proceed to execute the duties of their respective offices, take the following oath or affirmation, to-wit: “I, _____, solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ according to the best of my ability and understanding, agreeably to the Constitution of the United States and the Constitution and laws of the State of Mississippi. So help me God.”

Miss. Const. art. 1 § 155.

² The Attorney General of the State of Mississippi has moved to intervene in this case and presumably raise substantive defenses to all of Plaintiffs' claims in her role as chief legal officer of the State. The Chief Justice reserves the right to make additional arguments if the Motion to Intervene (Doc. 11) is not granted.

Prop. Mgmt. v. Cinque Bambini, 863 So. 2d 1037, 1042 (Miss. Ct. App. 2004)). Here, Plaintiffs' claims against the Chief Justice are all barred by judicial immunity.

Mississippi has recognized the doctrine of judicial immunity for more than a century. *Weill v. Bailey*, 227 So. 3d 931, 935 (¶18) (Miss. 2017); *Wheeler v. Stewart*, 798 So. 2d 386, 392 (¶14) (Miss. 2001)). Judicial immunity serves the “best interests of the people and public order,” ensuring that a “judge should have the power to make decisions without having to worry about being held liable for his actions....” *Weill*, 227 So. 3d at 935; *Loyacono v. Ellis*, 571 So. 2d 237, 238 (Miss. 1990). Judicial immunity applies to “judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly.” *Loyacono*, 571 So. 2d at 238.

Appointment of judges is a “judicial act” entitled to judicial immunity. In *Vinson v. Prather*, 879 So. 2d 1053 (Miss. App. 2004), the Mississippi Court of Appeals addressed that specific issue and determined that appointments are “judicial acts.” In that case, the plaintiffs challenged the appointment of a special chancellor made by the Chief Justice (then, Justice Prather) under Miss. Code Ann. § 9-1-105(1). The plaintiffs argued that their claims against the Chief Justice were not protected by judicial immunity because the appointment was “non-adjudicative.” *Vinson*, 879 So. 2d at 1057. The Court held that **“an appointment pursuant to Mississippi Code Annotated Section 9-1-105 [is] a judicial act,”** and affirmed dismissal of the case on the grounds of judicial immunity. *Id.*

(emphasis added). *Vinson* answers the question of judicial immunity with respect to appointments.

CONCLUSION

The Complaint against the Chief Justice must be dismissed. The Chief Justice is prohibited by judicial ethics from commenting on pending or impending cases and from making any statement that could be construed as an advisory opinion. These prohibitions are critical for fair and just operation of the judiciary and even more critical for ensuring public trust in that system.

Respectfully submitted,

Michael K. Randolph, in his
official capacity as Chief Justice
of the Mississippi Supreme Court

/s/ Mark A. Nelson

By: _____
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Certificate of Service

I, Mark A. Nelson, hereby certify that on this the 1st day of May, 2023, I electronically filed the foregoing with Clerk of the Court using the MEC system which will provide notice to all counsel of record.

/s/ Mark A. Nelson

Mark A. Nelson

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