

Commonwealth of Kentucky

Court of Appeals

NO. 2006-CA-001346-MR

DONALD RAY VIOLETT

APPELLANT

v.

APPEAL FROM WARREN CIRCUIT COURT
HONORABLE JOHN GRISE, JUDGE
ACTION NO. 06-CI-00497

CLINT WATSON;
A.B. CHANDLER, II;
AND GREG STUMBO

APPELLEES

OPINION AFFIRMING

** ** * ** * ** *

BEFORE: NICKELL AND TAYLOR, JUDGES; PAISLEY,¹ SENIOR JUDGE

PAISLEY, SENIOR JUDGE: Donald Ray Violettt appeals from the trial court's grant of summary judgment. This appeal is another in a long line of cases that litter the judicial system with Violettt's claims and arguments. A brief, partial history is appropriate.

Violettt was found guilty by a jury of five counts of first degree rape and 140 counts of first degree sexual abuse all committed against two underage female family members.

¹ Senior Judge Lewis G. Paisley sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

He was sentenced to serve a total of 754 years in the state prison. Violettt previously argued that he was in fact only convicted of 123 counts of first degree sexual abuse and was sentenced to 669 years. The convictions were affirmed in *Violettt v. Commonwealth*, 907 S.W.2d 773 (Ky. 1995), cert denied, 522 U.S. 1151, 118 S.Ct. 1172, 140 L.Ed.2d 181 (1998).

At least four appeals have come to our Court where Violettt has made collateral attacks on the judgment. We have previously characterized his *pro se* presentations as “neither procedurally proper nor meritorious.” *Violettt v. Commonwealth*, 1995-CA-3306-MR. (unpublished opinion rendered January 30, 1998). We denied review of his second successive RCr 11.42 appeal. *Violettt v. Commonwealth*, 2003-CA-466-MR. (unpublished opinion rendered May 14, 2004). The Sixth Circuit Court of Appeals affirmed a dismissal of Violettt's federal civil rights violation complaint finding his “allegations of conspiracy are simply too conclusory and speculative to state a claim.” *Violettt v. Pearson*, No. 97-6142, 1998 WL 381640 (6th Cir. June 23, 1998) (unpublished), cert denied, 526 U.S. 1074, 119 S.Ct. 1473, 143 L.Ed.2d 557 (1999). Violettt also sought a writ, summarily denied by our Court. That decision was affirmed by the Kentucky Supreme Court that found “(a)gain, Appellant has advanced no compelling arguments. . . .” *Violettt v. Peckler*, 2003 WL 1193797 (Ky.) (unpublished opinion rendered February 20, 2003, reh'g denied).

Violettt has now filed a *pro se* civil rights action against the current Attorney General, the former Attorney General and two assistants. The trial court dismissed on

motion of the defendant for summary judgment. That dismissal was appropriate where a civil action brought by a prisoner is “legally without merit or factually frivolous.” KRS 454.405(1). Our review of the record convinces us that indeed, Violett's civil claims are without merit and frivolous.

Violett sought monetary damages from prosecutors involved in his criminal cases. As the trial court painstakingly pointed out in the order of dismissal, the actions of the prosecutors are protected by absolute immunity. *Eldridge v. Gibson*, 332 F.3d 1019 (6th Cir. 2003). Prosecutors are provided absolute immunity revolving around their conduct as representatives of the state. *Imbler v. Pachtman*, 424 U.S. 409, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). Violett's analysis of other Supreme Court cases where he professes prosecutorial immunity does not exist is strained at best and his reliance on other cases is misplaced.

Finding the dismissal was proper, we decline to address the other issues brought by Violett because they are moot. The judgment of the Warren Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Donald Ray Violett, *pro se*
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo
Attorney General

D. Brent Irvin
Assistant Attorney General
Frankfort, Kentucky

