



pennsylvania
OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: Date received by the Open Records Officer (please document this date when responding)

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

REQUEST SUBMITTED TO (Agency name & address): Open Records Officer, Attn: Right to Know Law
Request, Administrative Office of Pennsylvania Courts (AOPC), P.O. Box 61260, Harrisburg, PA 17106

NAME OF REQUESTER : Simon Campbell

STREET ADDRESS: 668 Stony Hill Rd #298

CITY/STATE/COUNTY/ZIP(Required): Yardley, PA 19067 (Bucks County)

TELEPHONE (Optional): 215-642-8949 **EMAIL (optional):** parighttoknow@gmail.com

RECORDS REQUESTED: **Provide as much specific detail as possible so the agency can identify the information. Please use additional sheets if necessary*

I file this request, pro se, using the "Uniform form" developed by the Office of Open Records as referenced inside Section 505(b) of the Right to Know Law ("RTKL") re: judicial agencies. Please note this is NOT a request for records made under Pa.R.J.A. No. 509. It is a request for financial records made exclusively under the provisions of 65 P.S. § 67.101 et seq., i.e. a duly enacted statute; the RTKL. See Pa. Const. Art. II Sec. 1. Details of my RTKL request are attached.

DO YOU WANT COPIES? YES NO

DO YOU WANT TO INSPECT THE RECORDS? YES NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES NO

DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100? YES NO

**** PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES ****
**** IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL ****

FOR AGENCY USE ONLY

OPEN-RECORDS OFFICER:

I have provided notice to appropriate third parties and given them an opportunity to object to this request

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

The legislature made it clear the RTKL was to be considered a ‘minimum threshold’ for a citizen’s statutory right to access financial records of the judicial branch. Section 304(a) of the RTKL states that if the judicial branch wanted to develop a Rule that provided *equal or greater access* to financial records then it was obviously free to do so. An objective comparison of the RTKL and Rule 509 leaves no doubt that Rule 509 provides lesser access to financial records than does the RTKL. Rule 509 also has entirely different procedures and timelines than does the RTKL.

Therefore, unless or until the RTKL is declared unconstitutional¹ as it pertains to the judicial branch, I am choosing to exclusively avail myself of the RTKL’s statutory provisions. I respectfully ask AOPC to process my request in accordance with the RTKL’s provisions, and to not act in bad faith by trying to force my request into being a Rule 509 request. Such behavior would be tantamount to acting as if the legislative branch does not exist. My request has nothing to do with the administration of courts; it has to do with what financial records must be released to the citizenry in accordance with a duly enacted statute.

AOPC must respect the separation of powers doctrine. Judicial policymaking is unconstitutional. PA. CONST. Art. 2 Sec. 1.

Definition

“Legal representation of Hon. Judge Pamela Ruest in the Stacy Parks Miller matter” means the representation that Centre County Court of Common Pleas Judge Ruest has received from attorneys at the law firm, Elliott Greenleaf, P.C., in connection with the litigation initiated against Judge Ruest (and other defendants) by Stacy Parks Miller at the Centre County of Court of Common Pleas on 8-28-15 (No. 2015-3434) before being moved to, and litigated at, the United States District Court, Middle District (No. 4:15-cv-1754) and which is currently pending before the United States Court of Appeals (No. 16-3753). I attach the first seventeen (17) pages of an appeals brief filed by Elliott Greenleaf, P.C. to make it clear which litigation I am referring to.

Pursuant to Pennsylvania’s RTKL please send me copies of the following financial records:

1. A copy of the Rule 1.5.(b)² written communication from attorneys at Elliott Greenleaf, P.C and/or the initiating retention agreement/contract with Elliott Greenleaf, P.C., for its attorneys to provide legal representation of Hon. Judge Pamela Ruest in the Stacy Parks Miller matter - detailing the nature of the work to be performed and the financial terms and conditions of the agreement.
2. Copies of all invoices received between the dates of 8-25-15 and 3-24-17 for Elliott Greenleaf, P.C. for services rendered in connection with the legal representation of Hon. Judge Pamela Ruest in the Stacy Parks Miller matter.
3. Copies of all periodic pay statements issued to Judge Ruest in the months of January 2017 and February 2017.

¹ A heavy burden for AOPC to meet as statutes are presumed to be constitutionally sound.

² “Rule 1.5.(b)” refers to that rule inside 204 Pa. Code § 81.4. Rules of Professional Conduct.

Although not required to state my reasons for my requests 1 and 2 it is in the public interest to assess how much taxpayer money has been contracted to be spent and/or actually spent on defending Judge Ruest against the frivolous lawsuit filed by Centre County District Attorney Stacy Parks Miller.

As a courtesy, I copy Jared Handelman, Esq. of Elliott Greenleaf. P.C. and the Hon. Judge Ruest in the event they may believe third party rights apply to this request.

I look forward to hearing from you within the required five (5) business days. 65 P.S. § 67.901.

Sincerely

A handwritten signature in blue ink, appearing to read "SCampbell", written in a cursive style.

Simon Campbell
Right to Know Law Requester

Cc: Jared Handelman, Esq. via e-mail

Cc: Hon. Judge Pamela A. Ruest, Esq., via e-mail

No. 16-3753

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

STACY PARKS MILLER,

Plaintiff–Appellant,

v.

CENTRE COUNTY, MICHELLE SHUTT, PHILIP MASORTI, BERNARD CANTORNA,
ANDREW SHUBIN, SEAN MCGRAW, PAMELA RUEST, TIMOTHY BOYDE, LOUIS T.
GLANTZ, C. CHRIS EXARCHOS, STEVEN DERSHEM, AND MICHAEL PIPE,

Defendants–Appellees.

On Appeal from the United States District Court
for the Middle District of Pennsylvania
No. 4:15-cv-1754

BRIEF FOR APPELLEE JUDGE PAMELA RUEST

Jarad W. Handelman
Michelle L. Modery
ELLIOTT GREENLEAF, P.C.
One Market Square Plaza
17 N. Second Street
Suite 1420
Harrisburg, PA 17101
(717) 307-2600

Counsel for Appellee Judge Pamela Ruest

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	iii
STATEMENT OF THE ISSUES PRESENTED FOR REVIEW	1
STATEMENT OF RELATED CASES	1
STATEMENT OF THE CASE.....	1
A. Parks Miller Initiates This Case Against Judge Ruest and Numerous Other County and Individual Defendants.....	1
B. Parks Miller's Allegations Against Judge Ruest	2
C. The District Court Grants Judge Ruest's Motion to Dismiss the Amended Complaint on the Basis of Judge Ruest's Judicial Immunity from Suit	6
SUMMARY OF THE ARGUMENT	9
STANDARD OF REVIEW	12
ARGUMENT	13
A. The District Court Properly Found that Judge Ruest is Entitled to Judicial Immunity for All of the Acts Alleged in the Amended Complaint.....	13
1. Judicial Immunity Bars Civil Suits Against Judicial Officers Who Act in Their Judicial Capacity	13
2. The Actions Attributed to Judge Ruest in the Amended Complaint Were Judicial Acts to Which Judicial Immunity Applies	15
B. In the Alternative, All of Judge Ruest’s Alleged Statements Were Absolutely Privileged	23

C. The District Court Acted Well Within Its Discretion in Denying
Parks Miller Leave to File Amended Claims Against Judge
Ruest.....26

CONCLUSION.....28

TABLE OF AUTHORITIES

Cases

	<u>Page</u>
<i>Addlespurger v. Corbett</i> 461 Fed. App’x 82 (3d Cir. 2012)	17
<i>Algieri v. Lavelle</i> 2005 U.S. Dist. LEXIS 34256 (M.D. Pa. Nov. 29, 2005)	19, 20
<i>Arneault v. O’Toole</i> 513 Fed. App’x 195 (3d Cir. 2013)	27
<i>Ashcroft v. Iqbal</i> 556 U.S. 662 (2009).....	12
<i>Bell Atl. Corp. v. Twombly</i> 550 U.S. 544 (2007).....	12
<i>Bjorgung v. Whitetail Resort, LP</i> 550 F.3d 263 (3d Cir. 2008)	12
<i>Bradley v. Fisher</i> 80 U.S. 335 (1872).....	14
<i>Brown v. Card Serv. Ctr.</i> 464 F.3d 450 (3d Cir. 2006)	12
<i>Burtch v. Milberg Factors, Inc.</i> 662 F.3d 212 (3d Cir. 2011)	12
<i>Buschel v. Metrocorp</i> 957 F. Supp. 595 (E.D. Pa. 1996).....	24
<i>Capogrosso v. Supreme Court of N.J.</i> 588 F.3d 180 (3d Cir. 2009)	13, 15, 21
<i>Clodgo by Clodgo v. Bowman</i> 601 A.2d 342 (Pa. Super. Ct. 1992)	24

<i>Conklin v. Anthou</i> 495 Fed. App'x 257 (3d Cir. 2012)	19
<i>Figueroa v. Blackburn</i> 208 F.3d 435 (3d Cir. 2000)	13, 14, 15, 22
<i>Forrester v. White</i> 484 U.S. 219 (1988).....	14, 22
<i>Gallas v. Supreme Court</i> 211 F.3d 760 (3d Cir. 2000)	<i>passim</i>
<i>Great Western Mining & Mineral Co. v. Fox Rothschild LLP</i> 615 F.3d 159 (3d Cir. 2010)	12, 26
<i>Harvey v. Loftus</i> 505 Fed. App'x 87 (3d Cir. 2012)	20
<i>In re Fosamax (Alendronate Sodium) Prods. Liab. Litig. (No. II)</i> 751 F.3d 150 (3d Cir. 2014)	18
<i>In re Merck & Co. Sec., Derivative, & ERISA Litig.</i> 493 F.3d 393 (3d Cir. 2007)	26
<i>Kanter v. Barella</i> 489 F.3d 170 (3d Cir. 2004)	26
<i>Mireles v. Waco</i> 502 U.S. 9 (1991).....	<i>passim</i>
<i>Mitchell v. Forsyth</i> 472 U.S. 511 (1985).....	13
<i>Panitz v. Behrend</i> 632 A.2d 562 (Pa. Super. Ct. 1993)	24
<i>Pawlowski v. Smorto</i> 588 A.2d 36 (Pa. Super. Ct. 1991)	24, 25

Peebles v. Citta
501 Fed. App'x 109 (3d Cir. 2012)27

PennMont Sec. v. Frucher
586 F.3d 242 (3d Cir. 2009)12

Pierson v. Ray
386 U.S. 547 (1967)..... 13, 15, 21

S.H. v. Lower Merion Sch. Dist.
729 F.3d 248 (3d Cir. 2013)12

Shane v. Fauver
213 F.3d 113 (3d Cir. 2000)26

Stump v. Sparkman
435 U.S. 349 (1978)..... 14, 19, 22

United States v. Woods
321 F.3d 361 (3d Cir. 2003)23

Statutes

42 U.S.C. § 1983 5, 17

Rules

Federal Rule of Civil Procedure 12(b)(6) 2, 6, 12, 26

Federal Rule of Civil Procedure 15(a) 12, 26

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

1. Whether the doctrine of judicial immunity bars the claims of Appellant Stacy Parks Miller (“Parks Miller”) against the Honorable Pamela Ruest (“Judge Ruest”)?
2. In the alternative, whether all of Judge Ruest’s alleged statements were absolutely privileged?
3. Whether the District Court acted within its discretion in denying Parks Miller leave to file amended claims against Judge Ruest?

STATEMENT OF RELATED CASES

There are no related cases to which Judge Ruest is a named party. Although the purportedly related cases cited in Parks Miller’s Opening Brief are of record before the District Court and state court, respectively, Judge Ruest is not a party to any such cases, nor is the applicability of the doctrine of judicial immunity to the alleged actions of Judge Ruest a legal issue being considered or decided by the tribunals before whom such cases are pending.

STATEMENT OF THE CASE

A. Parks Miller Files Suit Against Judge Ruest and Numerous Other County and Individual Defendants.

Parks Miller initiated this case by filing a Complaint in the Court of Common Pleas of Centre County against various Defendants, including Judge

Ruest, Centre County, two Centre County Commissioners, the Centre County Solicitor, the Centre County Administrator, and several individual attorneys. Joint Appendix (“J.A.”) 207 (ECF Doc. No. 1). Judge Ruest is a commissioned judge of the Court of Common Pleas of Centre County. J.A.120; J.A.249 (Amended Complaint (“Am. Compl.”) ¶ 207). After several Defendants filed a Notice of Removal, this case was removed to the United States District Court for the Middle District of Pennsylvania and assigned to The Honorable Judge Matthew W. Brann. J.A.207 (ECF Doc. No. 1).

Judge Ruest timely filed a Motion to Dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), raising numerous meritorious grounds for dismissal of all claims against her, including on the basis of judicial immunity. J.A.209 (ECF Doc. No. 22); J.A.119-20; J.A.131. Rather than responding, Parks Miller filed an Amended Complaint against twelve separate defendants, consisting of 311 numbered paragraphs and thirteen counts for relief arising under a myriad of state and federal causes of action. J.A.119-20; J.A.217-301.

B. Parks Miller’s Allegations Against Judge Ruest.

According to the Amended Complaint, Parks Miller, the District Attorney for Centre County since 2009, received information in the summer of 2013 that a state inmate, Ryan Richard, was soliciting to hire someone to kill a Centre County Assistant District Attorney. J.A.218 (Am. Compl. ¶ 1); J.A.221 (Am. Compl. ¶

22). To expose that plot, Parks Miller set up a “sting operation” whereby a fellow inmate and confidante, Richard Albro, would arrange for a hit man to visit Mr. Richard in jail, and where their conversation would be recorded by law enforcement. J.A.223 (Am. Compl. ¶¶ 35, 39).

To facilitate the sting operation, and believing that the plan would only work if Mr. Albro was not still incarcerated in the same facility, Parks Miller claimed to have formulated the idea to draft a “pretend” bail order to release Mr. Albro. J.A.224 (Am. Compl. ¶¶ 44-45, 48). The “pretend” bail order was intended to lead Mr. Richard into believing that Mr. Albro had been released from jail, whereas in reality, Mr. Albro would only be transferred to another prison. J.A.224-25 (Am. Compl. ¶¶ 48-55). While Parks Miller referred to this order in her Amended Complaint as a “pretend” bail order, she admitted that it was “completely ‘real’” and “completely legitimate” insofar as it was in fact a valid order that did reduce Mr. Albro’s bail. J.A. 224-25 (Am. Compl. ¶ 48 n.2). In exchange for favorable treatment in his pending criminal case, Mr. Albro nonetheless agreed with law enforcement officials not to actually post the reduced bail. J.A.223 (Am. Compl. ¶¶ 35-37); J.A.224-25 (Am. Compl. ¶ 48 n.2).

Parks Miller alleged that she presented the bail order to Judge Ruest and explained the nature of the threat, the intent of the sting operation, and the purpose of the order. J.A.227 (Am. Compl. ¶ 66). According to Parks Miller, Judge Ruest

listened to her explanation of the sting operation and signed the order. J.A. 227 (Am. Compl. ¶ 67).

Parks Miller alleged that sometime thereafter, Defendant Michelle Shutt, a paralegal previously employed in the District Attorney's Office, accused Parks Miller of forging the signature of Judge Ruest on the bail order. J.A.228 (Am. Compl. ¶¶ 73, 78). Defendant Sean McGraw, an attorney, contacted Judge Ruest about the order and had an *ex parte* conversation with her about the matter and the order. J.A.229 (Am. Compl. ¶¶ 82-83). According to Parks Miller, Judge Ruest later admitted that she engaged in a conversation with Defendant McGraw about the order, and she told him that she "could not determine" whether or not it was her signature that appeared on it. J.A.229 (Am. Compl. ¶ 83). Parks Miller believes that Defendant McGraw "pressured" Judge Ruest into taking that position by suggesting that her involvement in the sting operation would have been improper. J.A.229 (Am. Compl. ¶ 84). According to Parks Miller's theory, Judge Ruest thus substantiated the other Defendants' allegations of forgery against Parks Miller. J.A.230 (Am. Compl. ¶¶ 85-86).

According to the Amended Complaint, the Bellefonte Police Department began investigating Parks Miller. J.A.231 (Am. Compl. ¶ 98). When questioned by the Bellefonte police about the bail order, Judge Ruest said that she could not positively identify the signature on the order as her own. J.A.236-37, 245-46 (Am.

Compl. ¶¶ 119, 126, 178-79). At a subsequent hearing related to a Grand Jury investigation of Parks Miller for forgery, Judge Ruest testified, consistent with her prior statement to the police, that she could not recall whether she signed the bail order. J.A.245 (Am. Compl. ¶ 178). Similarly, Judge Ruest made a statement to the Pennsylvania Office of Attorney General that she could not recall whether she signed the order. J.A.246 (Am. Compl. ¶ 179). Parks Miller, by contrast, “believes” that Judge Ruest did recognize her signature and did recall the details of Parks Miller’s investigation, but falsely testified and made statements to the contrary. J.A.227 (Am. Compl. ¶ 71); J.A.236 (Am. Compl. ¶ 121).

Parks Miller also alleged that Judge Ruest was involved in the issuance of a search warrant authorizing law enforcement personnel to search Parks Miller’s office during their investigation, and “participated in obtaining the services of an out of county common pleas judge” to do so. J.A.237 (Am. Compl. ¶ 128).

The Amended Complaint set forth the following causes of action against Judge Ruest: Count II – Defamation/False Light; Count III – Injurious Falsehood; Count IV – Malicious Prosecution; Count VIII – Intentional and/or Negligent Infliction of Emotional Distress; Count IX – Concerted Tortious Conduct; Count X – Conspiracy; and Count XI – Due Process and Equal Protection Claim Pursuant to 42 U.S.C. § 1983. J.A.124; J.A.251-54; J.A.257-62. Parks Miller requested relief

in the form of compensatory and punitive damages against Judge Ruest. *E.g.* J.A.253.

C. The District Court Grants Judge Ruest’s Motion to Dismiss the Amended Complaint on the Basis of Judge Ruest’s Judicial Immunity from Suit.

Because each of Parks Miller’s claims against Judge Ruest was based on her signature on the bail order—an action she took in her judicial capacity—Judge Ruest filed a Motion to Dismiss all claims against her in the Amended Complaint pursuant to Rule 12(b)(6), based on the doctrine of judicial immunity, among other defenses. J.A.209 (ECF Doc. No. 29); J.A.119-32. Parks Miller filed a Response on December 18, 2015, and Judge Ruest filed a Reply Brief on January 11, 2016. J.A.211 (ECF Doc. Nos. 46, 58). The District Court held oral argument on all pending motions to dismiss (including those filed by the other Defendants) on March 3, 2016. J.A.120; J.A.212 (ECF Doc. No. 71).

On May 11, 2016, the District Court issued a Memorandum Opinion and Order granting Judge Ruest’s Motion to Dismiss all claims asserted against her in the Amended Complaint. J.A.119-33. The District Court found that all of the acts alleged in the Amended Complaint fell well within the scope of Judge Ruest’s judicial immunity from suit. In particular, the District Court applied the two-step inquiry articulated by the United States Supreme Court to determine whether a judicial officer is entitled to judicial immunity for any particular act: (1) whether

the act in question was taken in the judge's judicial capacity, and (2) whether the act in question was taken in the complete absence of all jurisdiction. J.A.126-29.

The District Court determined that “[a]ll of the actions alleged by Parks Miller in her amended complaint, namely signing a bail order, discussing that bail order with an attorney, discussing that bail order with an officer investigating it, and asking an out of county judge to sign a search warrant are functions normally performed by a judge.” J.A.128. In so ruling, the District Court rejected Parks Miller's argument that Judge Ruest's statements to Defendant McGraw and the Bellefonte police were “non-judicial” because they were made in her capacity as a fact witness, not a judge. J.A.128-29. The District Court explained that Judge Ruest's discussions about the bail order were “quintessentially judicial” acts, and that judges may act *ex parte* without surrendering their judicial immunity. J.A.129. The District Court also rejected Parks Miller's arguments that Judge Ruest acted in a non-judicial capacity because, according to Parks Miller, Judge Ruest lied about her memory of signing the bail order. J.A.129. The District Court found that Parks Miller's suspicions about Judge Ruest's motives and her alleged bad faith were simply insufficient as a matter of law to overcome judicial immunity. J.A.129.

Accordingly, the District Court granted Judge Ruest's Motion to Dismiss in its entirety, and did not reach the alternative bases for dismissal raised in her

Motion.¹ J.A.126-29. Further, the District Court denied Parks Miller's request for leave to file a second amended complaint, finding that Parks Miller had already amended her Complaint once as a matter of right after having been presented with Judge Ruest's arguments regarding judicial immunity in her original Motion to Dismiss. J.A.130-32. In addition, the District Court found that the delay associated with another amendment would unduly prejudice Judge Ruest, a public figure and commissioned judge, with the burden of continuing to defend against "deficient" claims and, in any event, further amendment would be futile because Judge Ruest was immune as a matter of law from Parks Miller's claims. J.A.130-32.

On May 11, 2016, the District Court entered an Order granting Judge Ruest's Motion to Dismiss and entering final judgement in favor of Judge Ruest. J.A.133. On September 1, 2016, the District Court entered an order for final

¹ Because the District Court dismissed all claims against Judge Ruest based on the doctrine of judicial immunity, it did not reach Judge Ruest's alternative grounds for dismissal (*e.g.*, absolute privilege, failure to plead the required elements of her claims, and failure to allege a basis for attorney's fees). Because several of Judge Ruest's alternative grounds for affirmance are not presented herein, were this Honorable Court to reverse Judge Ruest's dismissal based on the doctrine of judicial immunity, Judge Ruest expressly reserves the alternative grounds for dismissal raised, but not reached before the District Court, and requests that any remand to the District Court be without prejudice to Judge Ruest renewing her Motion to Dismiss based on the undecided alternative grounds for dismissal.

judgment in favor of all Defendants and against Parks Miller.² J.A.4-5. This appeal followed. J.A.1-3.

SUMMARY OF THE ARGUMENT

Parks Miller's appeal of the District Court's dismissal of the claims against Judge Ruest presents a single question to the Court: whether the doctrine of judicial immunity applies to bar Parks Miller's claims against Judge Ruest, a commissioned judge of the Court of Common Pleas of Centre County. The doctrine of judicial immunity is well-established and of great importance. It operates to prevent judges from being sued based on the actions they take in their judicial capacity, and in service of the public. There are only two narrowly-defined exceptions to judicial immunity. First, judicial immunity does not apply where a judge performs non-judicial acts. Second, judicial immunity does not apply where a judge acts in the complete absence of all jurisdiction.

² On May 11, 2016, the District Court granted each Defendant's motion to dismiss in separate opinions, but nonetheless granted Parks Miller leave to amend, but only as to the Fourth Amendment search and seizure claim against Defendants Centre County, Timothy Boyde, Louis T. Glantz, C. Chris Exarchos, and Steven Dershem. J.A.183-84. Parks Miller filed her second Amended Complaint, and the involved Defendants filed a subsequent motion to dismiss. J.A.184. The District Court granted that motion on September 1, 2016, and dismissed the case in its entirety. J.A.184.

Neither exception applies here. All of Parks Miller's allegations regarding Judge Ruest arise from her alleged signature of a valid bail order during a pending criminal investigation. Parks Miller concedes that the bail order was legitimate and Judge Ruest signed the bail order in her capacity as a Centre County Court of Common Pleas judge. Parks Miller's only arguments on appeal are that judicial immunity should not apply to the allegations that Judge Ruest spoke to another attorney and to law enforcement personnel about the bail order in response to their questions about it, and further that Judge Ruest lied as to her recollection of the bail order or its execution. However, the alleged actions undoubtedly relate to Judge Ruest's judicial conduct in signing the bail order, and Parks Miller's credibility plea is of no legal consequence to the applicability of judicial immunity. None of Parks Miller's allegations as to Judge Ruest's conduct, even if accepted as true, supports an exception to the doctrine of judicial immunity.

The District Court properly applied the test for judicial immunity as recognized by the Supreme Court and the Third Circuit, and correctly found that none of Parks Miller's allegations were sufficient to overcome Judge Ruest's judicial immunity. In the alternative, this Court should affirm the dismissal of Parks Miller's claims against Judge Ruest because all of the alleged actionable statements were made by Judge Ruest in the course of and pertinent to judicial proceedings and, therefore, are absolutely privileged. In addition, the District

Court acted well within its discretion in denying Parks Miller leave to amend, since Parks Miller's claims against Judge Ruest were barred as a matter of law and any further amendment would have been futile.