

RECORD IMPOUNDED

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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1579-20**

LOUIS WATLEY,

Plaintiff-Appellant,

v.

NEW JERSEY SUPREME
COURT ETHICS COMMITTEE
and CHARLES CENTINARO,

Defendants-Respondents.

Argued April 17, 2023 – Decided May 12, 2023

Before Judges Gooden Brown and DeAlmeida.

On appeal from the Superior Court of New Jersey, Law
Division, Mercer County, Docket No. L-1174-20.

Louis Watley, appellant, argued the cause pro se.

Phoenix N. Meyers, Deputy Attorney General, argued
the cause for respondents (Matthew J. Platkin, Attorney
General, attorney; Melissa H. Raksa, Assistant
Attorney General, of counsel; Phoenix N. Meyers, on
the brief).

PER CURIAM

Plaintiff Louis Watley appeals from the November 18, 2020 order of the Law Division dismissing his complaint pursuant to Rule 4:6-2(e) for want of jurisdiction. We affirm.

I.

In November 2018, Watley filed grievances with defendant New Jersey Office of Attorney Ethics (OAE)¹ against two attorneys who, as assistant prosecutors, represented the State in relation to Watley's 2000 conviction of kidnapping, aggravated sexual assault, terroristic threats, and criminal sexual contact. He alleged that the attorneys violated several Rules of Professional Conduct (RPCs) that contributed to "one of the most vile, malicious and brutal attacks on individual liberty in American history." Watley alleged that one of the attorneys framed him by arranging for the production of fabricated DNA and serologic evidence as well as concealing the victim's exculpatory statements and the other attorney covered up those transgressions while representing the State on the appeal of Watley's convictions.

¹ OAE is incorrectly designated in the complaint as the New Jersey Supreme Court Ethics Committee.

The OAE forwarded the grievances to the Secretary of the District VIII Ethics Committee (DEC) for review and, if appropriate, docketing for investigation. See R. 1:20-3(g).

In May 2019, Watley filed a complaint in the Law Division against OAE and its then-Director defendant Charles Centinaro. He alleged that OAE and Centinaro: (1) failed to decide whether to docket his grievances within the forty-five-day period set forth in Rule 1:20-3(e); (2) gave him false information with respect to the status of his grievances; and (3) failed to issue a "final report" to the DEC Chair regarding his grievances.

Watley sought a declaratory judgment that defendants: (1) violated his First and Fourteenth Amendment rights; and (2) "demonstrate[d] a measurable bias in favor of the State's attorneys" in the handling of his grievances. In addition, Watley sought an order directing defendants to immediately docket the grievances for investigation.

On July 26, 2019, the trial court entered an order dismissing his complaint with prejudice pursuant to Rule 4:6-2(e). The court held that it did not have jurisdiction to interfere with the attorney disciplinary process, over which the Supreme Court has sole authority. Watley appealed the July 26, 2019 order.

On August 30, 2019, the OAE informed Watley in writing that his grievances had been docketed by the DEC for investigation and that he would be notified by the DEC "in the normal course as the investigation proceeds." As a result, Watley withdrew his appeal of the July 26, 2019 order.

On October 21, 2019, the OAE informed Watley that an attorney member of the DEC, Allan Marain, had been assigned to investigate his grievances. On June 19, 2020, the DEC issued a notice that its investigation of Watley's grievances had been reassigned to two new attorney member investigators.

On July 1, 2020, Watley filed a second complaint in the Law Division against the same defendants. He alleged that they violated his First and Fourteenth Amendment rights during the investigation "to conceal the malfeasance of State actors," presumably the two attorneys who were the subjects of his grievances. In essence, Watley alleges that defendants replaced Marain as the investigator to prevent the release of an investigative report Watley believes Marain had completed, or was about to complete, supporting his allegations against the two attorneys.

Watley sought a declaratory judgment that defendants: (1) violated his First and Fourteenth Amendment rights; and (2) "demonstrate[d] a measurable bias in favor of the State's attorneys" in the handling of his grievances. In

addition, Watley sought an order directing defendants to immediately provide him with a copy of the investigative report written by Marain or, if no such report exists, to issue a final report with respect to his grievances.

On November 18, 2020, the trial court issued an order dismissing the complaint with prejudice pursuant to Rule 4:6-2(e). In an oral opinion, the court again held that it lacks jurisdiction to interfere with the attorney disciplinary process, over which the Supreme Court has sole authority. This appeal follows.²

II.

We apply a de novo standard of review to a trial court order dismissing a complaint under Rule 4:6-2(e). See Stop & Shop Supermarkets Co. v. Cty. of Bergen, 450 N.J. Super. 286, 290 (App. Div. 2017) (quoting Teamsters Loc. 97 v. State, 434 N.J. Super. 393, 413 (App. Div. 2014)). Under the rule, we owe no deference to the motion judge's conclusions. Rezem Fam. Assocs., LP v. Borough of Millstone, 423 N.J. Super. 103, 114 (App. Div. 2011). "[O]ur inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint." Printing Mart-Morristown v. Sharp Elecs. Corp., 116

² On December 23, 2020, the investigators submitted their findings to the Secretary of the DEC. They found that neither of the attorneys violated the RPCs and recommended dismissal of Watley's grievances. The DEC subsequently dismissed the grievances. Watley appealed the dismissal of his grievances to the Disciplinary Review Board (DRB).

N.J. 739, 746 (1989). "A pleading should be dismissed if it states no basis for relief and discovery would not provide one." Rezem Fam. Assocs., 423 N.J. Super. at 113.

Subject matter jurisdiction involves "a threshold determination as to whether [a court] is legally authorized to decide the question presented." Gilbert v. Gladden, 87 N.J. 275, 280-81 (1981). When a court lacks subject matter jurisdiction, its authority to consider the case is "wholly and immediately foreclosed." Id. at 281 (quoting Baker v. Carr, 369 U.S. 186, 198 (1962)).

We have carefully reviewed the record and conclude that the trial court correctly determined that it lacks jurisdiction to grant the relief sought by Watley. We are guided in our analysis by the unequivocal holding in Robertelli v. N.J. Off. of Atty. Ethics, 224 N.J. 470 (2016). There, a DEC Secretary reviewed a grievance filed against two attorneys alleging they violated RPCs by contacting a represented adversary without first contacting his attorney. Id. at 473-74. The DEC Secretary determined that the allegations, if proven, would not constitute unethical conduct and declined to docket the grievance. Id. at 474.

The OAE Director subsequently filed a grievance against the same attorneys with a different DEC alleging violations of the RPCs based on the

same conduct underlying the grievance not docketed by the DEC Secretary. Id. at 475. The attorneys filed suit in the Superior Court, alleging that the OAE and its Director did not have the authority to, in effect, review a DEC Secretary's decision not to docket a grievance and file their own grievance based on the same conduct. Id. at 475. They asked the trial court to enjoin the OAE from pursuing its grievance. Ibid.

The trial court granted the OAE's motion to dismiss the complaint. Id. at 476. The court concluded that because the Supreme Court had exclusive jurisdiction over attorney disciplinary matters, the Superior Court lacked authority to review or enjoin the acts of the OAE. Ibid. We affirmed. Ibid.

The Supreme Court affirmed. As the Court explained,

[t]he State Constitution declares that "[t]he Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted." N.J. Const. art. VI, § 2, ¶ 3. This Court thus "has both the authority and obligation to oversee the discipline of attorneys." R.M. v. Supreme Court of New Jersey, 185 N.J. 208, 213 (2005). Our responsibility in this area is "exclusive." State v. Rush, 46 N.J. 399, 411 (1966).

The Court has created various entities to assist in its disciplinary role. Most pertinent to this case, they include the DEC's, the OAE, and the [DRB]. They are "arms of the [C]ourt," and a filing with them "is in effect a filing with the Supreme Court." Toft v. Ketchum, 18 N.J. 280, 284 (1955) (discussing county ethics and grievance committees); see also Middlesex

Cty. Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 433 (1982). To guide attorneys and the public, the Court has also adopted rules that outline the attorney disciplinary process. See R. 1:20.

[Id. at 476-77.]

The Court concluded that the Constitution's express vesting of exclusive authority in the Court over attorney disciplinary proceedings precludes Superior Court interference with that process except in limited circumstances. Id. at 481-82. The Court held, "[t]he Superior Court can consider challenges to the constitutionality of a disciplinary rule." Id. at 482 (citing In re Felmeister, 95 N.J. 431, 444 (1984)). "But the Superior Court lacks jurisdiction over the regulation of the Bar and matters that intrude on the disciplinary process." Ibid. (citing In re LiVolsi, 85 N.J. 576, 596-97 (1981)); see also O'Boyle v. District I Ethics Comm., 421 N.J. Super. 457, 473-74 (App. Div. 2011) (rejecting constitutional challenge to Rule 1:20-3(e)(6) and noting "[i]t would make little sense to allow the Superior Court, Law Division, to review a decision of a district ethics secretary"). Finding that the attorneys' complaint "attempts to interfere directly with the operation of the disciplinary process," the Court found that "the Superior Court lacked subject matter jurisdiction." Id. at 483.

We reach the same conclusion here. Watley's complaint seeks a Superior Court order to compel production of an investigation report he believes was

completed by a DEC attorney investigator or, if no report was completed, to compel the OAE and its Director to complete such a report. The requested relief would interfere directly with the operation of the disciplinary process and is, as a result, outside of the jurisdiction of the Superior Court.

Watley cannot overcome the jurisdictional bar by alleging that defendants' failure to produce an investigative report violates the First and Fourteenth Amendments. Nothing in the court rules requires defendants to create an investigation report or to provide a copy of any such report to a grievant. When a DEC Secretary docketes a grievance, the DEC Chair assigns an attorney member to investigate the grievance to determine if unethical conduct has occurred. R. 1:20-3(g)(1). The investigator presents a written report to the DEC Chair, with a copy to the DEC Secretary, setting forth the facts and a recommendation for action. R. 1:20-3(h). The rule does not require that a copy of the report be sent to the grievant. If the DEC Chair concludes that there is no reasonable prospect of proving unethical conduct by clear and convincing evidence, the matter shall be dismissed, and a written notice of the facts and reasons for dismissal shall be provided to the attorney who is the subject of the grievance, the OAE Director, and the grievant. Ibid. The Director or the grievant may appeal the dismissal to the DRB. Ibid. If the DEC Chair


determines that there is a reasonable prospect of proving unethical conduct, the matter proceeds before the DEC. R. 1:20-3(i).

Watley cites no authority for the proposition that he has a constitutional right to compel the production or creation of a report of the investigation of his grievances. Nor does he cite any authority for the proposition that the defendants play any role in the production or creation of investigation reports.

To the extent we have not specifically addressed any of Watley's remaining claims, we conclude they lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).³

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION

³ Because we conclude that the trial court lacked jurisdiction to grant the relief Watley requested, we do not address whether the claims he raises on appeal are moot in light of the investigators' issuance of a report during the pendency of this appeal.