


The Defendants brought to the Court's attention the case of Williams v. Condon, 553 S.E. 2d 496, 347 S.C. 227 (S.C. App. 2001). Factually, the Williams case involved the issue of prosecutorial immunity; however, the Court made an in-depth analysis of judicial immunity. The Williams case relied on Yaselli v. Goff, 275 U.S. 503, 48 S.Ct. 155, 72 L.Ed. 395 (1927) . The Yaselli case explained the necessity for the privilege of judicial immunity. The Court held:

“There are weighty reasons why judicial officers should be shielded in the proper discharge of their official duties from harassing litigation at the suit of those who think themselves wronged by their decisions and that injustice has been done. A defeated party to a litigation may not only think himself wronged, but may attribute wrong motives to the Judge whom he holds responsible for his defeat. He may think that the Judge has allowed passion or prejudice to control his decision. To allow a Judge to be sued in a civil action on a Complaint charging the Judge's acts were a result of partiality, or malice, or corruption, would deprive the Judges of the protection which is regarded as essential to judicial independence. It is not in the public's interest that such a suit may be maintained and it is a fundamental principle of English and American jurisdiction that such an action cannot be maintained. Id. at 399

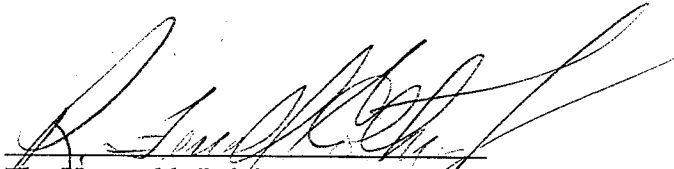
The Probate of the Estate of Fairy Lee Bartell is still pending in the Probate Court for Florence County. The Plaintiff has recourse to that Court to address any issues he may raise in the probating of the Estate of Fairy Lee Bartell.

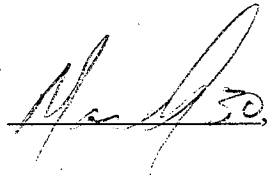
I find that the Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against any of the Defendants and should be dismissed. The Defendant, W. Kenneth Eaton, Jr. was a Judge of the Probate Court for Florence County at all times alleged in the Complaint and Defendant, Sharon Davis was a Deputy Judge for the Probate Court for Florence County. Defendant, Joe Ann McCutcheon performed all acts alleged in the Complaint in the capacity of her work as a Clerk for the Probate Court for Florence and is clothed in the same cloth of immunity as the Probate Judge and the Deputy Probate Judge.

 I therefore find that the Complaint of the Plaintiff against the Defendants is dismissed under the theory of judicial immunity and under the theory of the Plaintiff's failure to prosecute this action by failing to appear for the hearing on the Defendants' Motion to Dismiss.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's Complaint
is dismissed with prejudice; and,

IT IS SO ORDERED.


The Honorable Ralph F. Cothran, Jr.
Presiding Judge, Court of Common Pleas


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