



THE SHIELD OF JUDICIAL IMMUNITY PROTECTS RECEIVERS

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The United States Supreme Court declined to second-guess whether court-appointed receivers are shielded from liability for their actions due to derived judicial immunity, leaving intact a recent decision from the Court of Appeals for the 3rd Circuit that granted a receiver broad protection. The Supreme Court in *Trinh v. Fineman*¹ denied plaintiff's petition for review, which urged the rejection of the principle of absolute immunity for receivers. The 3rd Circuit determined that court-appointed receivers are entitled to quasi-judicial immunity when they act within the court's authority and, therefore, are not subject to suit under the common law.²

Background

A receiver manages and disposes of corporate assets that are part of the receivership under court supervision pursuant to a legal proceeding typically instituted by a creditor.³ A receiver therefore functions as an "arm of the court" concerning the property of the receivership. In other words, a receiver is an officer of the court subject only to the court's direction and control and is a custodian whose functions are generally limited to the care, management, protection, operation and, potentially, the disposition of the property committed to its charge.

The receiver owes its allegiance to the court that appointed the receiver. A receiver is therefore accorded immunity from claims for its actions or omissions,⁴ with the rationale being that the receiver is exercising judicially authorized functions

and therefore should be entitled to immunity of the same degree typically accorded to judges under the doctrine of judicial immunity.⁵ However, the extent and scope of a receiver's immunity is frequently challenged.

Facts

The plaintiff in *Trinh v. Fineman* was an owner of a beauty school business in dissolution. The plaintiff filed a complaint in the United States District Court for the Eastern District of Pennsylvania against a receiver appointed by the Court of Common Pleas of Philadelphia County in a matter relating to acts and omissions with respect to the dissolution of the plaintiff's business. The plaintiff alleged that the receiver was abusing his court-appointed power, failed to provide a proper accounting and committed theft, and asserted claims for deprivation of rights under 42 U.S.C. §1983, which allows individuals to sue government employees "under color of state law" for violations.

The plaintiff argued that receivers should not qualify for absolute immunity as their functions (which traditionally include investigating property ownership, running businesses, and selling assets) are not activities normally performed by judges. And none are constrained by the protections of the judicial process for which immunity is extended. The plaintiff urged the courts to limit the scope of judicial immunity to those matters related to core decision-making functions. These arguments were viewed as too narrow and rejected.

Rulings

The district court dismissed the suit and held that court-appointed receivers should be afforded quasi-judicial immunity. The 3rd Circuit affirmed the district court's decision, noting the Supreme Court has recognized certain common law immunities afforded to officials, and opined that when the nature of an official's function is akin to that of a judge, such as hearing examiners, administrative law judges, prosecutors and grand jurors, quasi-judicial immunity should apply to that role.

Since a court-appointed receiver functions as an "arm of the court," the policies underlying judicial immunity are equally applicable. The court found that "a receiver 'has no powers except such as are conferred upon him by the order of his appointment and the course and practice of that court.'"⁶ Accordingly, the 3rd Circuit joined the 1st, 2nd, 5th, 6th, 9th, 10th and 11th Circuits in holding that court-appointed receivers are entitled to immunity *when acting within the authority provided by the court*.⁷ Judicial immunity is intended to "protect the independence of judicial decision-making and to ensure that important decisions are made without fear of personal liability or harassment by vexatious actions" asserted by disappointed litigants.⁸ Because a receiver is an officer of the appointing court, it is similarly clothed with immunity when carrying out the duties of its office.⁹ Any other result could prevent the proper functioning of the judicial system.

Implications

The ruling of the Court of the Appeals for 3rd Circuit in *Trinh v. Fineman* is consistent with the developed law in Minnesota with respect to judicial immunity. In *Mike v. Perfetti*,¹⁰ it was clear that the court-appointed receiver did not carry out his responsibilities. The receiver failed to take control of certain monetary accounts from which withdrawals were made by a spouse who was a chronic gambler during the course of the receivership and the receiver was unable to account for certain funds. The receiver was sued for breach of fiduciary duty, but the court dismissed the case based on derivative judicial immunity. The determination can be made by examining the act itself, the capacity under which the act was performed, and whether it was a judicial act.

The Minnesota Court of Appeals affirmed. While acknowledging that a receiver's judicial immunity would not extend to theft (which would be outside the scope of the receiver's duties), the court noted that the facts of the complaint related only to the receiver's mismanagement of assets and other facts that related to his duties as receiver. The court concluded that "[w]hile we do not condone [the receiver's] conduct and violation of his fiduciary duty here, we must conclude that he is entitled to judicial immunity from suit for all conduct within the scope of his appointment as a receiver."¹¹

The granting of judicial immunity has been extended by courts to others, such as receivers, who perform functions closely associated with the judicial process. That immunity is derivative and applies to both federal and state law claims. Immunity can be overcome only in limited circumstances when the receiver is not acting within the judicial role and authority conferred upon the receiver by the court. A premium is therefore placed on drafting the order appointing the receiver broadly at the outset of the receivership proceeding and obtaining judicial approval for actions undertaken during the course of the receivership in order to avoid claims and, perhaps more importantly, liability. ▲

NOTES

¹ ___ U.S. ___, Case No. 21-981, *cert. denied* (3/21/2022).

² *Trinh v. Fineman*, 9 F.4th 235 (3d Cir. 2021).

³ *See generally*, MINN. STAT. §§576.21-576.53.

⁴ *See* MINN. STAT. §576.28 (providing that a receiver is entitled to all defenses and immunities provided at common law for acts or omissions within the scope of the receiver's appointment). The Minnesota statute appears to be a conscious determination by the drafters to leave the scope of a receiver's immunity to the resolution of the court with the determination to be made on a case-by-case basis. *See* Wilson Freyermuth (Reporter) & John Freese, Reporter's Background Memorandum on Receiver's Immunity to Drafting Committee (3/3/2014), Draft Model Act on the Appointment and Powers of Real Estate Receivers, at 6.

⁵ *Mike v. Perfetti*, 1996 WL 33102 (Minn. Ct. App. 1996) (unpublished).

⁶ *Trinh v. Fineman*, 9 F.4th 235 (3d Cir. 2021) (quoting *Atlantic Trading Co. v. Chapman*, 208 U.S. 360, 371 (1908)).

⁷ *Id.* (citing *Kermit Constr. Corp. v. Banco Credito Y Ahorro Ponceno*, 547 F.2d 1, 2-3 (1st Cir. 1976); *Bradford Audio Corp. v. Pious*, 392 F.2d 67, 72-73 (2d Cir. 1968); *Davis v. Bayless*, 70 F.3d 367, 373 (5th Cir. 1995); *Smith v. Martin*, 542 F.2d 688, 690-91 (6th Cir. 1976); *New Alaska Dev. Corp. v. Guetschow*, 869 F.2d 1298, 1303 (9th Cir. 1989); *T & W Inv. Co. v. Kurtz*, 588 F.2d 801, 802 (10th Cir. 1978); *Prop. Mgmt. & Invs., Inc. v. Lewis*, 752 599, 603-04 (11th Cir. 1985)).

⁸ *Capital Terrace, Inc. v. Shannon & Luchs, Inc.*, 564 A.2d 49, 51 (D.C. Ct. App. 1989). *Accord Butz v. Economou*, 438 U.S. 478, 512 (1978) ("immunity is thus necessary to assure that judges, advocates, and witnesses can perform their respective functions without harassment or intimidation"); *Pierson v. Ray*, 386 U.S. 547, 553-54 (1967) ("Few doctrines were more solidly established at common law than the immunity of judges from liability for acts committed within their judicial jurisdiction").

⁹ *See generally*, *Barton v. Barbour*, 104 U.S. 126 (1881).

¹⁰ 1996 WL 33102 (Minn. Ct. App. 1996) (unpublished).

¹¹ *Id.* *Accord Gior G.P., Inc. v. Waterfront Square Reef, LLC*, 202 A.3d 845, 856 (Pa. Commw. Ct. 2019) (noting that "[a] receiver is considered an officer and agent of the court that appoints the receiver"); *Perry Center, Inc. v. Heitkamp*, 576 N.W.2d 505 (N.D. 1998).