

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

|                              |   |                        |
|------------------------------|---|------------------------|
| <b>ROBERT S. MORGAN, JR.</b> | ) |                        |
|                              | ) |                        |
| <b>Plaintiff,</b>            | ) |                        |
|                              | ) | <b>CIVIL ACTION</b>    |
| <b>v.</b>                    | ) |                        |
|                              | ) | <b>No. 13-2084-KHV</b> |
| <b>ROBERT L. SERRA,</b>      | ) |                        |
|                              | ) |                        |
| <b>Defendant.</b>            | ) |                        |
| _____                        | ) |                        |

**MEMORANDUM AND ORDER**

On February 15, 2013, plaintiff filed a civil complaint. On March 15, 2013, the Court ordered plaintiff to show cause in writing on or before April 5, 2013, why this action should not be dismissed for failure to state a claim upon which relief can be granted on the ground that defendant is entitled to judicial immunity in this action. See Notice And Order To Show Cause (Doc. #6). Because plaintiff did not file a response on or before April 5, the Court entered an order dismissing plaintiff's complaint without prejudice. See Order (Doc. #7) filed April 16, 2013.

Plaintiff then filed a motion asking the Court to reopen his case. Motion To Open Case Due To Postal Error (Doc. #8) filed April 19, 2013. He appended his response to the Notice And Order To Show Cause, along with copies of postal receipts showing that a letter he sent to the courthouse by certified mail was delivered on April 2, 2013. Docs. #8-1, 8-2. However, his response did not include the caption of this case and court personnel were unable to determine that it was to be filed in this civil action. Because plaintiff submitted his response before April 5, however, the Court now considers it.

In the Notice And Order To Show Cause (Doc. #6), Magistrate Judge David J. Waxse reviewed the allegations of plaintiff's complaint which names as defendant the state court judge

who entered a small claims judgment against plaintiff. Recognizing the established principle that a judge is generally immune from suit for money damages, Judge Waxse suggested that plaintiff's complaint may fail to state a claim upon which relief may be granted because defendant is entitled to immunity. He therefore ordered plaintiff to show cause why this action should not be dismissed for that reason. Plaintiff's response does not demonstrate that any facts or legal arguments exist which would overcome defendant's entitlement to judicial immunity. Accordingly, for the reasons set forth in the Notice And Order To Show Cause (Doc. #6), the Court **OVERRULES** plaintiff's Motion To Open Case Due To Postal Error (Doc. #8) filed April 19, 2013.

**IT IS SO ORDERED.**

Dated this 1st day of May, 2013 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge