IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

David Martin, Plaintiff, v. Attorney General Kwame Raoul, Judge Gregory Emmett Ahern Jr., Unnamed Cook County Clerks, Cook County, Defendants.	)	Case No. 22-cv-6296 Honorable Andrea R. Wood

DEFENDANTS' ATTORNEY GENERAL RAOUL AND JUDGE AHERN'S MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT

INTRODUCTION

Plaintiff's Amended Complaint centers around a claim for contribution of college expenses brought against Plaintiff in the Circuit Court of Cook County pursuant to 750 ILCS 5/513 (the "College Contribution Statute"), a section of the Illinois Marriage and Dissolution of Marriage Act. *See* 750 ILCS 5/101 *et seq.* Plaintiff brings various claims under 42 U.S.C. § 1983 alleging that his Fourteenth Amendment substantive and procedural due process rights were violated by Judge Ahern in family court. ECF No. 10 at Counts I-III. Plaintiff also brings claims against Attorney General Raoul challenging the constitutionality of the College Contribution Statute. *Id.* at Counts V-IX. Plaintiff seeks declarative and injunctive relief against Judge Ahern and Attorney General Raoul (the "State Defendants"). ECF No. 10 at 25.

Plaintiff cannot state any viable claim against either State Defendant. Plaintiff's claims against Judge Ahern fail because this Court lacks jurisdiction over these claims or, alternatively, should abstain from hearing these claims pursuant to principles of comity. Plaintiff has also failed

to state a Section 1983 claim against Judge Ahern and Judge Ahern is entitled to absolute judicial immunity regarding any claim for damages.

Plaintiff has also failed to state any viable claim against Attorney General Raoul. Plaintiff's claims against Attorney General Raoul are grounded in his allegation that the College Contribution Statute is unconstitutional. However, Plaintiff's claims against the Attorney General are barred by the Eleventh Amendment and, even if these claims were not barred, Plaintiff cannot state a viable constitutional challenge. As such, Plaintiff's claims against the State Defendants should be dismissed.

BACKGROUND

Plaintiff's allegations are difficult to follow, but stem from an underlying dispute regarding child support and college costs. In May 2017, the mother of Plaintiff's child filed a claim against Plaintiff for contribution for college expenses for their son. ECF No. 10 at 5. At least one of the hearings in the contribution case was held before Judge Ahern, and Judge Ahern entered a default judgment against Plaintiff. *Id.* at 9. Plaintiff alleges that he had difficulty attending to that hearing virtually because he was initially given incorrect Zoom information. *Id.*

In 2021, Plaintiff appealed an order from a different Cook County Judge related to child support payments. *Id.* at 10. Plaintiff alleges that there were issues with the record for appeal. *Id.* at 11. Plaintiff appeared before Judge Ahern several more times where he raised his concerns regarding the record, objected to the court's jurisdiction because of the pending appeal, and moved to have Judge Ahern certify a proposed bystander's report. *Id.* at 10-14. Plaintiff alleges that Judge Ahern's refusal to certify his proposed bystander's report has deprived him of his constitutional right to a fair and impartial hearing. *Id.* at 13. As such, Plaintiff seems to bring a procedural due process claim against Judge Ahern related to receiving incorrect Zoom information and Judge Ahern's refusal to certify Plaintiff's bystander's report. *Id.* at Counts I-III.

Plaintiff also challenges the practice of providing notice of hearings via Zoom in general and the Cook County Circuit Court's prohibition on recording Zoom hearings. In Count III, Plaintiff alleges that Judge Ahern was involved in the deprivation of his rights because Plaintiff received incorrect Zoom information for a hearing. However, he does not allege that Judge Ahern provided the incorrect Zoom information, and so it is unclear if he brings this Count against Judge Ahern or other Circuit Court of Cook County employees. Count X also challenges the prohibition on recording Zoom court hearings, but this Count does not appear to be directed towards either State Defendant. Count IV is brought against the clerks of the Circuit Court of Cook County and relates to allegations that they altered records to prevent him from appealing circuit court decisions.

Counts V through IX challenge the constitutionality of 750 ILCS 5/513 of the Illinois Marriage and Dissolution of Marriage Act, which governs educational expenses for a non-minor child. Plaintiff alleges that this statute is unconstitutional on its face because it violates the right to trial by jury (Count V); is unconstitutional as applied because it violated his right to trial by jury (Count VI); is unconstitutionally vague on its face (Count VII); is unconstitutionally vague as applied to Plaintiff (Count VIII); and is unconstitutional as applied to Plaintiff because it violated his substantive due process rights (Count IX).

LEGAL STANDARD

A motion to dismiss under Rule 12(b)(6) tests the sufficiency of the complaint. A complaint may be dismissed if the plaintiff fails to allege sufficient facts to state a cause of action that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), *quoting Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A sufficient complaint must allege "more than a sheer possibility that a defendant has acted unlawfully" and be supported by factual content because "[t]hreadbare recitals of the elements of the cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678. On a motion to dismiss, the court may consider

any exhibits attached to the complaint and, where the exhibit and complaint conflict, the exhibit typically controls. *Massey v. Merrill Lynch & Co., Inc.*, 464 F.3d 642, 645 (7th Cir. 2006).

When ruling on a motion to dismiss pursuant to Rule 12(b)(6), the court must accept all well-pleaded facts as true, but it must also "draw on its judicial experience and common sense" to determine if the plaintiff has stated a plausible claim for relief. *Cooney v. Rossiter*, 583 F.3d 967, 971 (7th Cir. 2009), *quoting Iqbal* 556 U.S. at 678. If, upon its review, the court determines that a plaintiff has failed to meet this plausibility requirement, the matter should be dismissed.

Federal Rule of Civil Procedure 12(b)(1) provides that a party may move to dismiss a case based on "lack of subject matter jurisdiction." Fed. R. Civ. P. 12(b)(1). Pursuant to Rule 12(h)(3), "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action. Fed. R. Civ. P. 12(h)(3).

ARGUMENT

I. PLAINTIFF CANNOT STATE ANY VIABLE CLAIM AGAINST JUDGE AHERN.

Plaintiff's claims against Judge Ahern fail because the Court lacks jurisdiction over Plaintiff's claims based on the domestic relations exception and *Rooker-Feldman* doctrine. Even if the Court has jurisdiction, it should decline to exercise that jurisdiction based on principles of federal abstention. Plaintiff has also failed to state a claim against Judge Ahern. Finally, to the extent that Plaintiff seeks damages against Judge Ahern, any such claim is barred by absolute judicial immunity.

A. This Court lacks jurisdiction over Plaintiff's claims against Judge Ahern.

The Court lacks jurisdiction over Plaintiff's claims because those claims are barred by both the domestic relations exception to federal jurisdiction and the *Rooker-Feldma*n doctrine. First, Plaintiff's claims against Judge Ahern are barred by the domestic relations exception to federal

jurisdiction, which prevents federal courts from adjudicating cases that involve divorce, alimony, and child custody decrees. *Marshall v. Marshall*, 547 U.S. 293, 308 (2006); *Kowalski v. Boliker*, 893 F.3d 987, 995 (7th Cir. 2018) (quotations omitted). This rule prevents the federal courts from forcing their way into a state court matter, "particularly because state courts are assumed to have developed a core proficiency in probate and domestic relations matters." *Sykes v. Cook County Circuit Court Probate Division*, 837 F.3d 736, 741 (7th Cir. 2016). Here, Plaintiff's claims relate to his dissatisfaction with an underlying case centered on Plaintiff's financial obligations to his child—a clear domestic relations issue. As such, Plaintiff's claims are barred by the domestic relations exception to federal jurisdiction.

Further, Plaintiff's claims are barred by the *Rooker-Feldman* doctrine. The *Rooker-Feldman* doctrine applies to "cases brought by state-court losers complaining of injuries caused by the state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284 (2005). To the extent that Plaintiff is challenging any state court orders requiring him to pay child support and college expenses, these are final orders for purposes of the *Rooker-Feldman* doctrine. *Hadzi-Tanovic v. Johnson*, 62 F.4th 394, 400 (7th Cir. 2023) (holding that a state court custody order entered pursuant to the Illinois Marriage and Dissolution of Marriage Act was a final and appealable judgment). As stated, the *Rooker-Feldman* doctrine prevents state-court losers from re-litigating the matter in federal court. *Exxon Mobil Corp.*, 544 U.S. at 284. The doctrine recognizes that, even if a state court decision is wrong, "that did not make the judgment void, but merely left it open to reversal or modification in an appropriate and timely appellate proceeding." *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415 (1923). The federal district courts cannot review a state court civil judgment; only the United States Supreme Court may do that. *Harold v. Steel*, 773 F.3d 884, 886 (2014). Therefore, unless the claim is

independent from the state court judgment, the *Rooker-Feldman* doctrine bars jurisdiction. *Kelley v. Med-1 Solutions, LLC*, 548 F.3d 600, 603-04 (2008). As such, any claims related to final orders should be dismissed with prejudice.

Alternatively, should this Court determine that any of Plaintiff's claims relate to the ongoing state court proceedings and are not subject to the *Rooker-Feldman* doctrine, this Court should decline to hear the claims pursuant to *Younger v. Harris*, 470 U.S. 37 (1971). Federal courts apply *Younger* abstention when there is a parallel, pending state proceeding and any federal rulings would "implicate a State's interest in enforcing the orders and judgments of its courts." *Spring Comm. Inc. v. Jacobs*, 571 U.S. 69, 72-73 (2013). Here, if Plaintiff's claims are not precluded by the *Rooker-Feldman* doctrine, this Court should decline to hear the claims pursuant to *Younger*.

B. This Court should decline to hear Plaintiff's claims against Judge Ahern based on principles of federal abstention.

As discussed, the Court lacks jurisdiction to hear Plaintiff's claims against Judge Ahern. But even if the Court has jurisdiction, Plaintiff's claims should be dismissed based on federal abstention doctrines. If this Court determines that the domestic relations exception, the *Rooker-Feldman* doctrine, or *Younger* do not apply here, it should still abstain from hearing Plaintiffs' claims. As the Seventh Circuit explained in *J.D. v. Woodward*, even if a recognized abstention doctrine is not an exact fit, abstention can be appropriate because "[t]o insist on literal perfection" based on a complaint's allegations "risks a serious federal infringement." *J.D. v. Woodard*, 997 F.3d 714, 723 (7th Cir. 2021) (declining to exercise federal jurisdiction in a due process custody claim). Instead, "federal courts may decline to exercise jurisdiction where denying a federal forum would 'clearly serve an important countervailing interest,' including 'regard for federal-state relations.'" *Hadzi-Tanovic v. Johnson*, No. 20-cv-3460, 2021 U.S. Dist. LEXIS 226663 at *15 (N.D. Ill. Nov. 24, 2021) (holding that abstention was proper in federal case alleging a conspiracy

in a state-law divorce case), *quoting Courthouse News Serv. v. Brown*, 908 F.3d 1063, 1071 (7th Cir. 2018). "A common thread underlying the Supreme Court's abstention cases is that they all implicate (in one way or another and to different degrees) underlying principles of equity, comity, and federalism foundational to our federal constitutional structure." *J.B.*, 997 F.3d at 722 (declining to exercise jurisdiction over a due process claim related to underlying state court custody action).

Here, Plaintiff requests that this Court insert itself into a state court proceeding, but to do so "would intrude upon the independence of the state courts and their ability to resolve the cases before them." *J.B*, 997 F.3d at 721-22, *quoting SKS & Assocs. v. Dart*, 619 F.3d 674, 677 (7th Cir. 2010). As such, abstention is appropriate here because "[e]xercising federal jurisdiction over [these] claims would 'reflect a lack of respect for the state's ability to resolve [these issues] properly before its courts.'" *J.D.*, 997 F.3d at 722 quoting *SKS & Assocs.*, 619 F.3d at 679. Plaintiff's claims are directly related to an underlying state court case and deciding Plaintiff's claims in this case would necessarily require this Court to review those judgments, implicating principles of comity. As Judge Feinerman observed in a similar case seeking injunctive relief from a state court judge in a custody case:

> If the claims brought by Bush in *J.B.* warranted abstention to avoid providing him with an 'offensive tool to take to state court to challenge [Judge Carr's] orders, abstention surely is warranted . . . where Bush sues Judge Carr himself and asks this court to directly decide the constitutionality of the judge's rulings and actions.

Bush v. Carr, No. 20 C 6634, 2021 U.S. Dist. LEXIS 191289, at *2-3 (N.D. Ill. Oct. 5, 2021). So to here. Plaintiff asks this Court to review the constitutionality of Judge Ahern' rulings and actions in an underlying state court case. Accordingly, this Court should abstain from hearing Plaintiff's claims against Judge Ahern and those claims should be dismissed.

C. Plaintiff has not stated a viable Section 1983 claim against Judge Ahern.

Even if Plaintiff could get past the substantial jurisdictional hurdles, Plaintiff has not stated a plausible claim for relief under Section 1983 against Judge Ahern. It is not clear whether Plaintiff seeks injunctive relief against Judge Ahern, but to the extent that his request for "[a]ny remedy that this court can provide" (ECF No. 10 at Prayer for Relief) can be read as a request for injunctive relief, that claim fails. Section 1983 bars any suit for injunctive relief against a judge. In 1996, Congress amended 42 U.S.C. § 1983 to provide that "injunctive relief shall not be granted" in an action brought against "a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable." *Haas*, 109 F. App'x at 114 (quoting 42 U.S.C. § 1983). This amendment was intended to overrule the Supreme Court's decision in *Pulliam v. Allen*, 466 U.S. 522, 541-43 (1984), which held that judicial immunity is not a bar to demands for injunctive relief against state judges. *Haas*, 109 F. App'x at 114 (citation omitted). Plaintiff has not alleged that Judge Ahern has violated a declaratory decree or that declaratory relief was unavailable. Thus, Plaintiff cannot pursue a Section 1983 claim for injunctive relief against Judge Ahern.

Plaintiff does seek declaratory relief stating that his due process rights have been violated. ECF No. 10 at Prayer for Relief. But while the common law doctrine of absolute judicial immunity does not bar actions for declaratory judgment, *Pulliam*, 466 U.S. 522, the Eleventh Amendment bars such relief in this case. The Eleventh Amendment "does not permit judgments against state officers declaring that they violated federal law in the past." *P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993); *see also Williams v. Wettick*, Civil Action No. 06-991, 2006 U.S. Dist. LEXIS 67867, at *9 (W.D. Pa. Aug. 3, 2006). Here, Plaintiff is seeking a declaratory judgment that his due process rights were violated in the past, and such relief is barred by the Eleventh Amendment.

D. Judge Ahern is entitled to absolute judicial immunity for damages.

Finally, should Plaintiff's request for "[a]ny remedy that this court can provide" (ECF No. 10 at Prayer for Relief) be interpreted as a request for damages against Judge Ahern, that request would fail because Judge Ahern is entitled to absolute judicial immunity. Judicial immunity has been "embraced 'for centuries.'" *Dawson v. Newman*, 419 F.3d 656, 660 (7th Cir. 2005), *quoting Lowe v. Letsinger*, 772 F.2d 308, 311 (7th Cir. 1985); *see also Mireles v. Waco*, 502 U.S. 9 (1991) (listing cases). Judicial immunity protects judges from having to defend actions brought by disgruntled litigants. *See Forrester v. White*, 484 U.S. 219, 220 (1988); *Brokaw v. Mercer County*, 235 F.3d 1000, 1015 (7th Cir. 2000) (stating that judges must be "free to act upon [their] own convictions" without fear of liability). Judicial immunity "confers complete immunity from suit, not just a mere defense to liability," and this immunity applies to suits brought under Section 1983. *Dawson*, 419 F.3d at 660 (internal citations omitted).

Further, judicial immunity applies even if a judge makes an erroneous ruling, as the party can still seek redress through the appellate process. *Id.* at 661. Judges cannot be sued for their judicial acts, even when those acts are "in excess of their jurisdiction, and are alleged have been done maliciously or corruptly." *Bradley v. Fisher*, 80 U.S. 335, 351 (1871); *see also Stump v. Sparkman*, 435 U.S. 349, 358-59 (1978). Judges are absolutely immune from suits for damages unless: (1) "the suit challenges an action that is not judicial in nature" or (2) "the judge acted in the complete absence of all jurisdiction." *Haas v. Wisconsin*, 109 F. App'x 107, 113 (7th Cir. 2004).

Plaintiff's claims against Judge Ahern center entirely on Judge Ahern's judicial acts, specifically entering orders and ruling on motions. ECF No. 10. In other words, Plaintiff challenges Judge Ahern's application of state law, which is perhaps the paradigm of a judicial action. *See Loubser v. Thacker*, 440 F.3d 439, 442 (7th Cir. 2006) (the entry of rulings are judicial acts and

entitled to judicial immunity). Further, Judge Ahern had jurisdiction to hear Plaintiff's claims. *See* Ill. Const. Art. 6 §§ 6 & 9 (describing jurisdiction of the Illinois circuit and appellate courts). Moreover, as the Seventh Circuit has explained, "[t]he Supreme Court of [Illinois], not the federal judiciary, is responsible for dealing with claims that state judges erred." *Myrick v. Greenwood*, 856 F.3d 487, 487 (7th Cir. 2017). Courts in this circuit have routinely dismissed lawsuits against judges for actions taken in their judicial capacity. This Court should do the same and find that Plaintiff's claims against Judge Ahern are barred by absolute judicial immunity and should be dismissed.

II. PLAINTIFF CANNOT STATE ANY VIABLE CLAIM AGAINST ATTORNEY GENERAL RAOUL.

Counts V-IX of Plaintiff's complaint challenge the constitutionality of the College Contribution Statute. *See* ECF No. 10 at Counts V-IX. These appear to be the only claims directed at Attorney General Raoul. Specifically, Plaintiff alleges that this statute is unconstitutional on its face and as applied because it violates Plaintiff's right to a trial by jury (Counts V & VI) and is unconstitutionally vague on its face and as applied to Plaintiff (Counts VII & VIII); and, is unconstitutional as applied to Plaintiff because it violated his substantive due process rights (Count IX). *See Id.* Plaintiff's claims against the Attorney General are barred by the Eleventh Amendment and are not viable because the underlying statute is constitutional.

A. Plaintiff's claims against Attorney General Raoul are barred by the Eleventh Amendment.

The Eleventh Amendment prohibits suits against a state without the state's consent. *See Will v. Michigan Dep't of State Police*, 491 U.S. 58, 67 (1989); *Quern v. Jordan*, 440 U.S. 332, 342 (1979) (Eleventh Amendment bars § 1983 claims). It is long established that this protection is extended to state agencies. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1964). Further, "an official-capacity suit is, in all respects other than name, to be treated as a suit

against the entity." *Kentucky v. Graham*, 473 U.S. 159, 166 (1985). There is an exception under *Ex Parte Young* that allows for suits against state officers to enjoin the enforcement of allegedly unconstitutional acts. *See Ex Parte Young*, 209 U.S. 123, 155-57 (1908). But this exception does not apply here. To fall under this exception, "a plaintiff must show that the named state official plays some role in enforcing the statute in order to avoid the Eleventh Amendment." *Doe v. Holcomb*, 883 F.3d 971, 975 (7th Cir. 2019), citing *Ex Parte Young*, 209 U.S. at 157.

Plaintiff's Amended Complaint does not make any direct allegations against Attorney General Raoul[1] and does not allege that he has any specific role in the enforcement of the Illinois Marriage and Dissolution of Marriage Act. *See* ECF No. 10. As such, Plaintiff has failed to allege that Attorney General Raoul has any role in enforcing the Illinois Marriage and Dissolution of Marriage Act, let alone sufficient involvement to avoid the Eleventh Amendment. At most, it can be inferred that Plaintiff's claims against Attorney General Raoul are based on his general duties to enforce state laws. However, this general duty is insufficient to sustain a claim against the Attorney General. *Doe*, 833 F.3d at 976 (explaining that the duty to support the constitutionality of statutes does not overcome the Eleventh Amendment); *see also Heabler v. Madigan*, No. 12-cv-6193, 2013 U.S. Dist. LEXIS 136986, *11 (Sep. 24, 2013) (dismissing claim against attorney general and noting that the "general authority over Illinois law thus does not alone render [him] a proper defendant here"); *Sierakowski v. Ryan*, No. 98-cv-7088, 1999 U.S. Dist. LEXIS 6573, *4 (N.D. Ill. Apr. 26, 1999) (same). Because there are no allegations that the Attorney General is

[1] The Amended Complaint states that Attorney General Raoul is sued "Individually and in his official capacity" (ECF No. 10 at 2), but as stated the Amended Complaint does not include any allegation that Attorney General Raoul took any direct action with regard to Plaintiff. Thus, Plaintiff has failed to state a claim against Attorney General Raoul in his individual capacity. *See Miller v. Smith*, 220 F.3d 491, 494 (7th Cir. 2000) ("Where the plaintiff seeks injunctive relief from official policies or customs, the defendant has been sued in her official capacity; where the plaintiff alleges tortious conduct of an individual acting under color of state law, the defendant has been sued in her individual capacity.").

involved in the enforcement of the Illinois Marriage and Dissolution of Marriage Act, Plaintiff's claims against the Attorney General are barred by the Eleventh Amendment. Further, it does not appear that Plaintiff brings Count X against Attorney General Raoul or Judge Ahern. However, if this Court determines that Count X has been brought against either State Defendant, it is also barred by the Eleventh Amendment.

B. Even if Plaintiff's claims against Attorney General Raoul were not barred by the Eleventh Amendment, Plaintiff cannot state viable claims challenging the statute's constitutionality.

Plaintiff alleges that the College Contribution Statute violates his right to a trial by jury. ECF No. 10 at Counts V & VI. These claims fail because the Marriage and Marriage Dissolution Law, of which the College Contribution Statute is a part, does not provide for trial by jury. 750 ILCS 5/103 ("There shall be no trial by jury under this Act."). This provision of the Illinois Marriage and Dissolution of Marriage Act is constitutional because the right to a trial by jury only applies to suits that were available "at common law" when the constitution was adopted, and divorce proceedings were historically, and remain, equitable proceedings. *See Maines v. Vermillion Cnty. Circuit Court*, 980 F.2d 733 (7th Cir. 1992) (unpublished opinion citing treatises for proposition that divorce proceedings were historically and are currently equitable proceedings).

Plaintiff also challenges the College Expense Statute as being unconstitutionally vague on its face and as applied. ECF No. 10 at Counts VII & VII. The void-for-vagueness doctrine typically applies to criminal statutes and "guarantees that ordinary people have 'fair notice' of the conduct a statute proscribes." *Sessions v. Dimya*, 138 S. Ct. 1204, 1212 (2018), *citing Papachristou v. Jacksonville*, 405 U.S. 156, 162 (1972). Except for First Amendment challenges, "a plaintiff can only succeed in a facial challenge by "establish[ing] that no set of circumstances exists under which the Act would be valid," *i.e.*, that the law is unconstitutional in all of its applications." *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 449 (2008), *citing*

United States v. Salerno, 481 U.S. 739 (1987). In arguing that the statute is vague Plaintiff is, in effect, arguing the merits of the underlying case. *See* ECF No. 10 at Count VII (alleging that there is no controversy and that the mother of Plaintiff's child did not have standing to bring her claim in the Circuit Court) & Count VIII (asserting that there is no underlying controversy). These are not allegations that the College Contribution Statute itself is vague; rather, these are collateral attacks on the underlying state court case. As discussed above, these are the exact type of decisions that federal courts are either prohibited from hearing pursuant to the domestic relations exception to federal jurisdiction, the *Rooker-Feldman* doctrine, or general principles of federal abstention. Moreover, the College Contribution Statute is not vague; it provides clear direction about what educational expenses may be awarded to provide the educational expenses for a non-minor child and the factors that can be considered in making those determinations. *See* 750 ILCS 5/513.

Finally, Plaintiff alleges the College Contribution Statute violates his substantive due process right to "plan and budget for a child's college expenses." ECF No. 10 at Count IX. A fundamental right is one that is "deeply rooted in this Nation's history and tradition, and implicitly in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed. *Khan v. Bland*, 630 F.3d 519 (535) (7th Cir. 2010) (internal quotation omitted). Substantive due process claims have a narrow scope and courts should be hesitant to expand on this concept. *See Campos v. Cook Cty.*, 932 F.3d 972, 975 (7th Cir. 2019) (internal citations omitted). Despite Plaintiff's conclusory assertion otherwise, there is no fundamental right to budget for a child's educational expenses. As such, the College Contribution Statute is constitutional so long as it is rationally related to a legitimate government interest. Rational basis review is highly deferential, and a statute will stand unless the plaintiff can negate every conceivable basis for the government action. *Minerva Dairy, Inc. v. Harsdorf*, 905 F.3d 1047, 1053 (7th Cir. 2018) (internal citations omitted). Here, the College Contribution Statute provides

framework for state courts to determine how to allocate the expenses for a child's higher education between the parents. This promotes the education of children and equity between the parties. As such, the College Contribution Statute is rational, and Plaintiff's substantive due process claim fails.

CONCLUSION

Plaintiff's claims against Judge Ahern fail because the Court lacks jurisdiction over these claims, or in the alternative should abstain from hearing these claims pursuant to principles of comity. Plaintiff has also failed to state any claim against Judge Ahern, and Judge Ahern is entitled to absolute judicial immunity for any claims for damages. Further, Plaintiff's claims against Attorney General Raoul fail because Plaintiff has not stated a claim against him.

WHEREFORE, the State Defendants respectfully request that this Court grant their motion and dismiss all claims against them.

Respectfully Submitted,

KWAME RAOUL
Attorney General of Illinois

/s/ Mary A. Johnston
Mary A. Johnston
Assistant Attorney General
General Law Bureau
100 W. Randolph Street, 13th Floor
Chicago, Illinois 60601
(312) 814-4417
Mary.johnston@ilag.gov