

**TAYS V. COUNTY OF DOÑA ANA**

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**PATRICK D. TAYS,**  
Plaintiff-Appellant,  
v.  
**COUNTY OF DOÑA ANA and**  
**STATE OF NEW MEXICO,**  
Defendants-Appellees.

No. 33,131

COURT OF APPEALS OF NEW MEXICO

June 11, 2014

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, James T. Martin,  
District Judge

**COUNSEL**

Patrick D. Tays, Ruidoso, NM, Pro se Appellant

Gary K. King, Attorney General, Nicholas M. Sydow, Assistant Attorney General, Santa Fe, NM, for Appellees

**JUDGES**

RODERICK T. KENNEDY, Chief Judge. WE CONCUR: LINDA M. VANZI, Judge,  
TIMOTHY L. GARCIA, Judge

**AUTHOR:** RODERICK T. KENNEDY

**MEMORANDUM OPINION**

**KENNEDY, Chief Judge.**

{1} Patrick Tays (Plaintiff) appeals from the district court's order dismissing his complaint against the State of New Mexico on the grounds that his claims for monetary

damages were based on the alleged wrongdoing of Judge James Martin and, as such, were barred by judicial immunity. This Court issued a calendar notice proposing to affirm. Plaintiff has filed a memorandum in opposition to this Court's proposed disposition, which we have duly considered. Unpersuaded, we affirm.

{2} As we pointed out in our notice of proposed disposition, Plaintiff's complaint alleges that Judge Martin improperly incarcerated Plaintiff. [2dCN 3] We pointed out that Judge Martin's act of incarcerating Plaintiff appeared to be properly characterized as a "judicial function" and, therefore, the district court's dismissal on the basis of judicial immunity was proper. [2dCN 3] Plaintiff has not provided this Court with any authority or facts that would indicate that Judge Martin's actions were not undertaken as part of his role in the judiciary. Moreover, to the extent Plaintiff argues that judges should be held to the same standard as other public employees and officials, [2dMIO 3] Plaintiff's argument is inconsistent with New Mexico law. *See Hunnicutt v. Sewell*, 2009-NMCA-121, ¶ 9, 147 N.M. 272, 219 P.3d 529 (discussing the doctrine of judicial immunity).

{3} Consequently, for the reasons stated above and in this Court's second notice of proposed disposition, we affirm.

{4} **IT IS SO ORDERED.**

**RODERICK T. KENNEDY, Chief Judge**

**WE CONCUR:**

**LINDA M. VANZI, Judge**

**TIMOTHY L. GARCIA, Judge**