

NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-0746-10T3

NORMAN L. MERRILL, JR., and  
TRACEY L. FRANZOSA,

Plaintiffs-Appellants,

v.

STATE OF NEW JERSEY, THE  
COUNTY OF ATLANTIC, MICHELE C.  
VERNO, ESQUIRE, and  
JONATHAN E. DIEGO, ESQUIRE,

Defendants-Respondents.

---

Argued October 3, 2011 - Decided November 22, 2011

Before Judges Parrillo, Alvarez and  
Skillman.

On appeal from the Superior Court of New  
Jersey, Law Division, Atlantic County,  
Docket No. L-1744-10.

Robert J. Pinizzotto and Robert D. Herman  
argued the cause for appellants (Pinizzotto,  
Hill & Traynor, L.L.C. and Law Offices of  
Robert D. Herman, attorneys; Mr. Pinizzotto  
and Mr. Herman, on the brief).

David B. Bender, Deputy Attorney General,  
argued the cause for respondent, State of  
New Jersey (Paula T. Dow, Attorney General,  
attorney; Lewis A. Scheindlin, Assistant  
Attorney General, of counsel; Mr. Bender, on  
the brief).

James F. Ferguson, Atlantic County Counsel,  
argued the cause for respondent, County of

Atlantic (Mr. Ferguson, attorney; James T. Dugan, Assistant County Counsel, on the brief).

Robert S. Sandman argued the cause for respondent, Michele C. Verno (Hankin, Sandman & Palladino, attorneys; Mr. Sandman and Ms. Verno, on the brief).

George N. Polis argued the cause for respondent, Jonathan E. Diego.

PER CURIAM

Plaintiffs Norman L. Merrill, Jr., and Tracey L. Franzosa appeal from the September 1, 2010 decision of Judge Valerie H. Armstrong dismissing their complaint with prejudice pursuant to Rule 4:6-2(e), for failure to state a claim upon which relief can be granted. The judgment also dismissed as moot plaintiffs' motion to amend the complaint. We affirm.

Merrill was charged with several motor vehicle offenses, including driving while under the influence, N.J.S.A. 39:4-50, in Hamilton Township. Franzosa was similarly charged in Atlantic City. As a result, they filed a complaint alleging that the statute authorizing the appointment and retention of municipal court judges, N.J.S.A. 2B:12-4, violates both the federal and state constitutions. The ninth count of the complaint also sought to impose the same code of ethics on municipal prosecutors as applies to State Attorneys General and County Prosecutors.

Defendants State of New Jersey, County of Atlantic, the municipal prosecutor in Hamilton Township, Michele C. Verno, Esquire, and the municipal prosecutor in Atlantic City, Jonathan E. Diego, Esquire, filed motions to dismiss in accordance with Rule 4:6-2(e). Plaintiffs cross-moved to amend the complaint to include a count alleging a violation of their civil rights, a demand for attorney's fees, and to name the State Attorney General and the Atlantic County Prosecutor as additional defendants.

In a thoughtful, cogent, and well-reasoned twenty-seven-page opinion, Judge Armstrong concluded that even "the most generous reading" of the allegations in the complaint did not reveal any legal basis for the prayers for relief asserted in the complaint. Having searched "[p]laintiffs' [c]omplaint in depth and with liberality[,]" Judge Armstrong could not "find even a suggestion of a claim worthy of consideration." The motion to amend the complaint was denied as moot in light of the dismissal. We agree with the reasons expressed in explicit detail in the written decision. Plaintiffs' arguments do not warrant any further discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION