APPENDIX

Appendix A

Appeal: 18-1523 Doc: 36 Filed: 09/18/2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1523
(1:17CV00677-LO-TCB)

ANDREW CHIEN,

Plaintiff - Appellant

v.

COMMONWEALTH OF VA; MARK R. HERRING, Attorney General; CHESTERFIELD COUNTY; KARL S. LEONARD, Sheriff of Chesterfield County; FREDERICK G. ROCKWELL, III, Judge of Chesterfield Circuit Court; JUDY L. WORTHINGTON, former Clerk of Chesterfield Circuit Court; MARY E. CRAZE, Deputy Clerk of Chesterfield Circuit Court; WENDY S. HUGHES, Clerk of Chesterfield Circuit Court; DONALD W. LEMONS, Chief Justice of VA Supreme Court; GLEN A. HUFF, Chief Judge of VA Court of Appeals; W. ALLAN SHARRETT, Hon., Chief Judge, Prince George Circuit Court; DENNIS S. PROFFITT

Defendants - Appellees

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court
/s/ Patricia S. Connor, Clerk

Appendix B

Appeal: 18-1523 Doc: 30 Filed: 08/20/2018

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1523

ANDREW CHIEN,

Plaintiff - Appellant

v.

COMMONWEALTH OF VA; MARK R. HERRING, Attorney General; CHESTERFIELD COUNTY; KARL S. LEONARD, Sheriff of Chesterfield County; FREDERICK G. ROCKWELL, III, Judge of Chesterfield Circuit Court; JUDY L. WORTHINGTON, former Clerk of Chesterfield Circuit Court; MARY E. CRAZE, Deputy Clerk of Chesterfield Circuit Court; WENDY S. HUGHES, Clerk of Chesterfield Circuit Court; DONALD W. LEMONS, Chief Justice of VA Supreme Court; GLEN A. HUFF, Chief Judge of VA Court of Appeals; W. ALLAN SHARRETT, Hon., Chief Judge, Prince George Circuit Court; DENNIS S. PROFFITT,

Defendants - Appellees

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, District Judge. (1:17-cv-00677-LO-TCB)

Submitted: August 16, 2018
Decided: August 20, 2018

Before WYNN and DIAZ, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Andrew Chien, Appellant Pro Se. Sandra Snead Gregor, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Jeffrey Lee Mincks, County Attorney, Emily Claire Russell, COUNTY ATTORNEY'S OFFICE, Chesterfield, Virginia; John P. O'Herron, THOMPSON MCMULLAN PC, Richmond, Virginia; William Fisher Etherington, BEALE, DAVIDSON, ETHERINGTON & MORRIS, PC, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andrew Chien appeals an order of the district court ruling on two postjudgment motions. First, the district court denied Chine's Fed. R. Civ. P. 60(b) motion to reconsider its judgment dismissing his 42 U.S.C. § 1983 (2012) complaint. We review this order for an abuse of discretion, *Aikens v. Ingram*, 652 F.3d 496, 501 (4th Cir. 2011) (en banc), and we perceive no such abuse in the district court's ruling. Chien also seeks to challenge the court's denial of an extension of time to file an appeal. As Chien has filed a timely appeal, this portion of the appeal is moot. Accordingly,

we affirm the district court's judgment and deny Chien's motion to disqualify the district court judge. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Appendix C

Appeal: 18-6346 Doc: 22 Filed: 08/21/2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6346
(l:13-cv-00993-LO-IDD)

ANDREW CHIEN,

Plaintiff - Appellant

v.

LECLAIR RYAN; WILLIAM K. GROGAN & ASSOCIATES; WILLIAM K. GROGAN

Defendants - Appellees

and

CHESTERFIELD COUNTY

Defendant

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

Appendix D

Appeal: 18-6346 Doc: 15 Filed: 06/19/2018

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6346

ANDREW CHIEN,
Plaintiff - Appellant

v.

LECLAIR RYAN; WILLIAM K. GROGAN & ASSOCIATES; WILLIAM K. GROGAN,
Defendants - Appellees,

and

CHESTERFIELD COUNTY,
Defendant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, District Judge. (1:13-CV-00993-LO-IDD)

Submitted: June 14, 2018
Decided: June 19, 2018

Before TRAXLER, DUNCAN, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Andrew Chien, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andrew Chien appeals the district court's orders denying his motion for relief from judgment under Fed. R. Civ. P. 60(b)(4), and his motion to disqualify the district court judge. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Chien v. Chesterfield Cty.*, No. 1:13-cv- 00993-LO-IDD (E D. Va. filed Mar. 6, 2018 & entered Mar. 7, 2018; filed Mar. 15, 2018 & entered on Mar. 16, 2018). We also deny Chien's motion to expedite. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Appendix E

Case 1:17-cv-00677-LO-TCB Document 137 Filed 04/05/18

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ANDREW CHIEN,
Plaintiff.
v.
COMMONWEALTH OF VIRGINIA et al.
Defendants.

Civil No. 1:17CV677(LO-TCB)

ORDER

This matter comes before the Court on Plaintiffs "Motion for Altering or Amending Judgment [Doc.#125 & #126]" (Dkt. 132) and Plaintiffs "Motion of Delaying to Appeal Until 30 Days After Order of Motion for Altering or Amending Judgment [Doc.#125 & #126]" (Dkt. 134).

The first motion, brought under Fed. R. Civ. P. 60, is **DENIED**. As Plaintiff notes, under Rule 60(b), a party may move to alter a final judgment for 1) mistake, inadvertence, surprise, or excusable neglect, 2) newly discovered evidence, 3) fraud, 4) the judgment is void, 5) the judgment has been satisfied, or 6) any other reason. The moving party must also preliminarily show "timeliness, a meritorious defense, a lack of unfair prejudice to the opposing party, and exceptional circumstances." *Dowell v. State Farm Fire & Cas. Auto. Ins.* Co., 993 F.2d 46, 48 (4th Cir. 1993) (quoting *Werner v. Carbo,* 731 F.2d 204, 207 (4th Cir. 1984)). Plaintiff asserts that "[a]ny judgment having subject error is void due to Rule 60(b)(4)." Plaintiff alleges that the Court's

Order dismissing the case (Dkt. 126) violated his constitutional rights; was negligently, wantonly, and recklessly issued; was affected by "partisan interests, public clamor, or fear of criticism"; and improperly applied the *Rooker-Feldman* doctrine and res judicata. To these issues, Plaintiff adds that the Court improperly analyzed statutes of limitations and goes on to re- argue the bulk of his responses to the motions to dismiss the Order resolved. Plaintiff s motion was timely filed, but it lacks merit. Most of Plaintiffs points are meritless on their face and those of substance are issues for appeal, as they simply re-raise arguments Plaintiff made in his briefs responsive to the motions to dismiss. *See Aikens v. Ingram,* 652 F.3d 496. 501 (4th Cir. 2011) ("[Ilf the reason asserted for the Rule 60(b)(6) motion could have been addressed on appeal from the judgment, we have denied the motion as merely an inappropriate substitute for appeal.") (citing *Dowell,* 993 F.2d at 48).

Plaintiffs second motion asking for this Court to grant him an additional 30 days to file his appeal under the Federal Rules of Appellate Procedure is also DENIED. Fed. R. App. P. 4(a)(5) permits a district court to enlarge a party's time to file an appeal by up to 30 days upon showing of excusable neglect or good cause. Plaintiff argues that the Court should grant his motion because of the complexity of the case and time necessary for the Court's reconsideration of Plaintiff s 60(b) motion. As a technical matter, the time necessary for the Court's reconsideration is not good cause for an additional 30 days, as the time period between the filing of a 60(b) motion and the Court's decision on it is tolled for purposes of Fed. R. App. P. 4. *See* Fed. R. App. P. 4(a)(4)(A). Plaintiff has not shown that the alleged complexity of the case, consisting of a multitude of issues already litigated through appeal to the Fourth Circuit in other

cases (*see* 1:13-cv-993 and 1:17-cv-358), is good cause for granting an additional 30 days to appeal, particularly in light of the fact that Plaintiffs 60(b) motion already raises arguments appropriate for an appeal. Accordingly, the Court finds that Plaintiff has made an insufficient showing for the Court to grant either his Fed. R. Civ, P. 60(b) motion (Dkt. 132) or his Fed. R. App. P. 4(a)(5) motion (Dkt. 134). Both are **DENIED**.

It is **SO ORDERED**.

Liam O'Grady
United States District Judge
Alexandria, Virginia

April 5, 2018

Appendix F
Case 1:17-cv-00677-LO-TCB Document 125 Filed 03/05/18

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ANDREW CHIEN,
Plaintiff.
v.
COMMONWEALTH OF VIRGINIA et al.
Defendants.

Civil No. 1:17CV677(LO-TCB)

MEMORANDUM OPINION

This matter comes before the Court on Defendants' various Motions to Dismiss (Dkt. Nos. 75, 77, 79, 83, 86, and 92), For the reasons below and for good cause shown, the Motions to Dismiss are GRANTED.

I. BACKGROUND

Plaintiff, pro se, filed the initial complaint in this matter on June 12,2017. Dkt. No. 1. The background facts of this case as set forth in Plaintiffs 125-page complaint are materially indistinguishable from those alleged in a related case *Chien v. Grogan*, 2017 WL 3381978 (E.D.Va. Aug. 3, 2017), *aff'd*, 2018 WL 746523 (4th Cir. Feb. 7, 2018) (unpublished *per curiam* opinion). The Court's Memorandum Opinion dismissing that case provides a recitation of the underlying facts of this matter. *See id.*

On August 28, 2017, the Court granted all pending motions to dismiss the case, having overlooked that it earlier granted an extension of time for Plaintiff to respond to the pending motions. Dkt. Nos. 47 and 48.

The Court rescinded the order on September 12, 2017 and also granted Plaintiff leave to amend his complaint in light of the reasons for dismissal identified in the Court's mistaken order. Due to confusion over what constitutes amendment of complaint, the amended complaint in this case was not filed until October 19, 2017. Dkt. 73. The instant motions seek dismissal of that October 19,2017 amended complaint.

Despite having had the benefit of this Court's dismissal in the Grogan matter and the mistaken, but explanative, dismissal of the original complaint in this matter, the amended complaint warrants dismissal for many of the same reasons identified in the Court's August 28, 2017 order. Defendants have moved to dismiss the complaint on virtually the same grounds. The instant motions are fully briefed and the Court has dispensed with oral arguments.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(1) permits the defendant to move for dismissal of a claim when the court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). The court must dismiss the action if it determines at any time that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). Defendants may, as in this case, attack "the existence of subject matter jurisdiction in fact, quite apart from any pleading" because even with sufficient pleading, the district court could not have jurisdiction over the claim. *White v. CMA Const. Co. Inc.,* F. Supp. 231, 233 (E.D. Va. 1996). The plaintiff bears the burden to establish that subject matter jurisdiction exists. *See Evans v. B.F. Perkins Co.,* 166 F.3d 642, 647 (4th Cir. 1999). The Court grants a Rule 12(b)(1) motion if the material jurisdictional facts are known and the moving party is

entitled to prevail as a matter of law. *See Richmond, Fredericksburg & Potomac R.R. Co. v.United States*, 945 F.2d 765, 768 (4th Cir. 1991).

To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), a complaint must contain sufficient factual information to "state a claim to relief that is plausible on its face."*Bell All. Corp. v.Twombly*, 550 U.S. 544, 550 (2007). A motion to dismiss pursuant to Rule 12(b)(6) must be considered in combination with Rule 8(a)(2), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief' so as to "give the defendant fair notice of what the ... claim is and the grounds upon which it rests." Fed. R. Civ.P. 8(a)(2); *Twombly*, 550 U.S. at 555. While "detailed factual allegations" are not required, Rule 8 does demand that a plaintiff provide more than mere labels and conclusions stating that the plaintiff is entitled to relief. *Id.* Because a Rule 12(b)(6) motion tests the sufficiency of complaint without resolving factual disputes, a district court "'must accept as true all of the factual allegations contained in the complaint' and 'draw all reasonable inferences in favor of the plaintiff.'" *Kensington Volunteer Fire Dep't v. Montgomery County*, 684 F.3d 462, 467 (4th Cir.2012) (quoting *E./. du Pont de Nemours & Co. v. Kolon Indus., Inc.*, 637 F.3d 435, 440 (4th Cir.2011)). Accordingly, a complaint may survive a motion to dismiss "even if it appears 'that recovery is very remote and unlikely.'" *Id.* (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)).

III. DISCUSSION

A. Wendy Hughes - Failure to State a Claim

During the relevant time period, Ms. Hughes was the Clerk of Court for Chesterfield County Circuit

Court. Plaintiff alleges five claims against her: 1) violating Va. Code § 18.2-472;2) perjury; 3) aiding false imprisonment; 4) violation of the Due Process clause, and 5) violation of 18 U.S.C. § 1959(a)(4). Plaintiff has failed to state a claim against Ms. Hughes on these counts

Violation of Va. Code § 18.2-472 has no civil remedy. In order for a private right of action to arise out of the Virginia Code, the civil remedy must appear on the face of the statute. *See Sch. Bd. of City of Norfolk v. Giannoutsos*, 238 Va. 144, 147, 380 S.E.2d 647, 649 (1989) ("[When] a statute creates a right and provides a remedy for the vindication of that right, then that remedy is exclusive unless the statute says otherwise"). Va. Code § 18.2-472 criminalizes false entries or destruction of records but does not provide a civil right of action. Accordingly, the claims here, predicated on state criminal statutes that afford no civil remedy, must be dismissed for failing to state a claim.

As to aiding false imprisonment, the elements of the tort of false imprisonment are plainly not supported by the facts alleged in the amended complaint. False imprisonment is the "direct restraint by one person of the physical liberty of another without adequate legal justification" and consists of restraining a person's freedom of movement by force of fear.*Jordan v. Shands*, 255 Va. 492, 497 (1998) (quoting *W.T. Grant Co. v. Owens*, 149 Va. 906, 921 (1928)). There are simply no facts sufficiently pleaded in the amended complaint to plausibly believe that Plaintiff was incarcerated without adequate legal justification.

As to the claimed Due Process violation, the cause of action must originate under 42 U.S.C. § 1983 and is

time-barred. In Virginia, the relevant statute of limitations is two years.*Amr v. Moore*, No. 3:09CV667, 2010 WL 3154576, at *5 (E.D. Va. June 21, 2010), *report and recommendation adopted*, No. 3:09CV667, 2010 WL 3154567 (E.D. Va. Aug. 9, 2010), *aff'd*, 411 F. App'x 584 (4th Cir. 2011). The allegation in the amended complaint concerns conduct which occurred more than two years prior to the filing of the initial complaint on June 12, 2017. Plaintiffs assertion that this claim "has no time bar because this is part of the conspiracy to detain Chien, and it also is relative to Chien's property damage" is meritless.

The Civil RICO claim is similarly infirm. To state a claim for civil RICO, "[a] plaintiff must plead all elements of the alleged violation of section 1962 in order to state a civil claim under section 1964(c)." *D'Addario v. Geller*, 264 F. Supp. 2d 367, 388 (E.D. Va. 2003).[1] "Thus, plaintiff must allege '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Plaintiff must additionally show that (5) he was injured in his business or property (6) by reason of the RICO violation." *Id.* (quoting *Sedima, S.P.R.L. v. Imrex, Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed. 2d 346 (1985)).

The amended complaint asserts that the debt collection against him and his arrest for failing to comply with court orders were illegal and constitute racketeering offenses because they involve, *inter alia*, kidnapping, extortion, retaliation against a witness, and interference with commerce. At the heart of the complaint, Plaintiff alleges that Ms. Hughes and others conspired to fraudulently detain Plaintiff and collect against him.

Plaintiff's allegations fail to set forth a claim under RICO. While all factual allegations in the

amended complaint must be presumed true at this stage in the proceedings, the fraud allegations must nevertheless meet the heightened pleading requirements set forth in Fed. R. Civ.P. Rule 9(b). *Menasco, Inc. v. Wasserman*, 886 F.2d 681, 684 (4th Cir. 1989); *see also Slay's Restoration, LLC v. Wright Nat'l Flood Ins. Co.*, 226 F. Supp. 3d 589, 593 (E.D. Va. 2017). The amended complaint does not identify a pattern of particular fraudulent acts perpetrated by Ms. Hughes (or any of the other Defendants) and does not satisfy the pleading requirements under Rule 9(b). Accordingly, Plaintiff's RICO claim must be dismissed.

Even if Plaintiff had stated a claim against Ms. Hughes upon which relief could be granted, Ms. Hughes is entitled to absolute quasi-judicial immunity for actions taken in her official capacity and is entitled to Eleventh Amendment immunity in her official capacity.

"Under the Eleventh Amendment, states, state agencies, and state officials sued in their official capacities are immune from suit." *Manion v. N. Carolina Med. Bd.*,No. 16-2075, 2017 WL 2480609, at *2 (4th Cir. June 8, 2017). While "[a] state officer is generally not immune under common law for failure to perform a required ministerial act[,]" *McCray v. State of Md.,* 456 F.2d 1,4 (4th Cir. 1972), this Court has repeatedly held that a Clerk of Court is entitled to

---

[1]Title 18 U.S.C. § 1962(c) provides that "it shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt."

derivative absolute judicial immunity for acts undertaken under the Court's direction. *See, e.g., Battle v. Whitehurst,* 831 F. Supp. 522, 528 (E.D. Va. 1993), *affd,* 36 F.3d 1091 (4th Cir. 1994).

The allegations in the amended complaint against Ms. Hughes concern actions she undertook at the direction of the Chancery Court pursuant to the orders entered in the Virginia courts.

B. Mary Craze - Failure to State a Claim

Ms. Craze was the acting Clerk of Court for Chesterfield County Circuit Court in 2014. She identifies herself in her Motion as a Deputy Clerk of Court. Dkt. No. 78 at 1. Plaintiff's claims against Ms. Craze include 1) violation of Va. Code § 18.2-472; 2) perjury; 3) conspiring to tortiously impersonate a judge; 4) aiding false imprisonment; and 5) violation of 18 U.S.C. § 1959(a)(4). Ms. Craze moves to dismiss for substantially the same reasons raised by Ms. Hughes. To the extent that the claims against Ms. Craze are the same as those made against Ms. Hughes, the claims against Ms. Craze are dismissed for the reasons discussed above and Ms. Craze is entitled to the same immunities as Ms. Hughes. Conspiring to tortiously impersonate a judge is not a cognizable tort. Plaintiff appears to be alleging a violation Va. Code § 18.2-174, which prohibits impersonation of, inter alia, a judge. To that extent, Plaintiffs claim is barred for the same reasons his claims under Va. Code § 18.2-174 are barred - the criminal statute does not create a civil cause of action.

C. Judy Worthington - Failure to State a Claim

Ms. Worthington is the former Clerk of Court for Chesterfield County Circuit Court. Plaintiff alleges eight counts against her: 1) violation of Due Process Clause "by arranging hearing dated 6/8/12, at

conspiracy and ex parte communication with Mr. Clark or other for Freer, without notice to Chien, and without to adapt a day when Chien was available"; 2) violation of Va. Code § 18.2-472 for tampering with Plaintiffs inmate records before April 2014; 3) perjury; 4) violation of Va. Code § 18.2-472 for perjuring court documents; 5) violation of Due Process Clause for an order of the Commissioner of the Court of Chancery dated February 18, 2014; 6) violation of Va. Code § 18.2-472 and Va. S. Ct. R. 1:1 for tampering with court records; 7) violation of 18 U.S.C. § 1959(a)(4); and 8) violation of 18 U.S.C. § 1962(d) for fraudulently concealing communications.

Ms. Worthington moves to dismiss for failure to state a claim upon which relief can be granted. Specifically, Ms. Worthington submits that claims 1 and 5, which assert denial of Due Process, are time barred; claims 2, 3,4, and 6, predicated on state criminal statutes, do not provide a civil cause of action; claims 7 and 8 fail to state a claim for civil RICO; to the extent she has been sued in her official capacity such claims are barred by the Eleventh Amendment; and she is entitled to quasi-judicial immunity.

As these claims mirror claims already substantively discussed and dismissed as to Ms. Hughes and Ms. Craze, the allegations against Ms. Worthington fail to state a claim and Ms.Worthington is entitled to the same immunities as Ms. Hughes and Ms. Craze.

D. Commonwealth of Virginia, Mark Herring, Hon. Glen Huff, Hon. Donald Lemons, Hon. Frederick Rockwell, and Hon. Allan Sharrett - Lack of Subject Matter Jurisdiction and Failure to State a Claim

The Commonwealth of Virginia; the Attorney

General of Virginia; and various Virginia state court judges have joined in filing a single motion to dismiss for lack of subject matter jurisdiction and failure to state a claim. Defendants provide three grounds upon which the Court should dismiss the amended complaint for lack of subject matter jurisdiction. First, Plaintiffs action against the Commonwealth of Virginia is barred by the Eleventh Amendment. Second, Defendants contend that this case is governed by the *Rooker-Feldman* doctrine which prohibits federal court review of state-court decisions. Third, Defendants contend that Plaintiffs suit is barred by the doctrine of *res judicata.*

The *Rooker-Feldman* and *res judicata* arguments mirror those raised by the defendants in *Chien v. Grogan*, 2017 WL 3381978 (E.D. Va. Aug. 3, 2017), and upon which the Court dismissed that matter. In short, Plaintiff has repeatedly sought to re-litigate the decisions of Virginia courts through lawsuits in the federal courts of Virginia and Connecticut. These collateral challenges are precluded by the *Rooker-Feldman* doctrine. *See, e.g., Willner v. Frey*,243 F. App'x 744, 745-46 (4th Cir. 2007) (unpublished). In the amended complaint Plaintiff seeks to hold these Defendants liable for the decisions rendered by orders of Virginia state courts or to overturn those earlier decisions. *See,* e.g., Dkt. No. 73 at 32, 155(c) (alleging that Chief Judge Huff "intended to mishandle that appeal by avoiding making trial" and requesting that the court order "the [Virginia] trial court to make trial of Chien's evidence"). This Court does not have jurisdiction to provide the relief sought against these Defendants. The appropriate venue for such claims is the state courts of Virginia, of which Plaintiff has already thoroughly and unsuccessfully availed himself.

Accordingly, the amended complaint is dismissed as to these Defendants for lack of subject matter jurisdiction.

While Plaintiff contends in his responsive pleading to this motion that the *Rooker-Feldman* doctrine is inapplicable, he rests that bare assertion on the contention that these Defendants engaged in fraud and the doctrine is inapplicable under such circumstances. Setting aside that the response fails to address the *res judicata* grounds for dismissal, Plaintiff, as noted above, has failed to meet the heightened pleading standard for alleging fraud. Even liberally construing the claimed violations of 42 U.S.C. § 1983 by these Defendants as being beyond the limitations of the *Rooker-Feldman* doctrine, the claims are, as noted above, time-barred.

These Defendants also move to dismiss for failure to state a claim, arguing that Judge Rockwell, Chief Justice Lemons, Chief Judge Huff, and Judge Sharrett are entitled to absolute judicial immunity under federal and state law or are entitled to qualified immunity. Because the Court lacks subject matter jurisdiction over the claims it need not consider whether Plaintiff has failed to state a claim upon which relief can be granted against these Defendants.

E. Sheriffs Dennis Proffitt and Karl Leonard - Failure to State a Claim

Dennis Proffitt and Karl Leonard have both held the office of Sheriff for Chesterfield County during times relevant to Plaintiff's claims. Plaintiff alleges the following claims against Sheriff Proffitt: 1) false arrest in violation of the Fourth Amendment and 18 U.S.C. §§ 241-42; 2) false imprisonment in violation of 42 U.S.C. § 1983; 3) conspiracy to violate 42 U.S.C. § 1983 by violating Va. Code § 18.2-472; 4) violation of

Plaintiff's Sixth Amendment right to counsel; 5) violation of the Fifth and Fourteenth Amendments for serving a capias warrant and not serving another document; 6) violation of Plaintiff s Eighth Amendment rights for placing Plaintiff in solitary confinement for 72 hours; 7) violation of Plaintiffs Eighth and Fourteenth Amendment rights for delivering Plaintiff to a civil proceeding in prisoner restraints; 8) violation of 18 U.S.C. § 1959(a)(4) for joining in the racketeering acts with the other Defendants; and 9) violation of 18 U.S.C. § 1962(d) for fraudulent concealment of *ex parte* communications to facilitate Plaintiffs arrest and imprisonment. Plaintiff alleges the following claims against Sheriff Leonard: 1) false imprisonment in violation of 42 U.S.C. § 1983 and 18 U.S.C. §§241-42; 2) violation of Plaintiff s Sixth Amendment right to counsel; 3) conspiracy to violate and intentionally and tortiously violating Va. Code § 18.2-472; 4) violation of Plaintiff s Due Process rights in violation of 42 U.S.C. § 1983; 5) violation of Plaintiffs Eighth Amendment rights for delivering Plaintiff to two offices for meetings in prisoner restraints; and 6) violation of 18 U.S.C. § 1959(a)(4) for joining in the racketeering acts with the other Defendants.

Sheriffs Proffitt and Leonard have moved to dismiss the case against them for failing to state a claim. They argue that Plaintiffs false imprisonment claim is unsupported by facts and time-barred; that Plaintiffs § 1983 claims are unsupported by facts pertaining to them specifically and are time-barred; that they are entitled to Eleventh Amendment immunity for acts in their official capacity; Plaintiff fails to state an Eighth Amendment claim; Plaintiff fails to state a Due Process violation claim; claims

brought under criminal statutes fail to state cognizable civil action; both Sheriffs are entitled to qualified immunity; and Plaintiff has failed to state a claim under 18 U.S.C. § 1959(a)(4).

With the exception of the claims alleging violations of the Eighth Amendment, all of the claims against the Sheriffs are deficient in the same respects as those alleged against the preceding Defendants and are dismissed for that reason. The Court also finds that the Sheriffs are entitled to the same immunities as the other Defendants. As to the Eighth Amendment claim, Plaintiff has failed to state a claim for relief. Plaintiff alleges that he suffered cruel and unusual punishment in violation of the Eighth Amendment. "[T]o make out a prima facie case that prison conditions violate the Eighth Amendment, a plaintiff must show both (1) a serious deprivation of basic human need; and (2) deliberate indifference to prison conditions on the part of prison officials." *King v. Rubenstein*, 825 F.3d 206, 218 (4th Cir. 2016) (internal quotations and citations omitted). In the context of transporting a prisoner to a court appearance, this Court has held that placing a prisoner in a three-point restraint and denying him bathroom privileges two-hour period, during which the prisoner twice urinated on himself before appearing in Court, did not constitute an Eighth Amendment violation. *Davis v. Watson*, No. 2:15CV 146, 2015 WL 13049846, at *2 (E.D. Va. Nov. 17, 2015), *affd*, 650 F. App'x 842 (4th Cir. 2016), cert, denied,137 S. Ct. 578, 196 L. Ed. 2d 454 (2016). The Court observed that the allegations of discomfort and humiliation in Davis did not rise to the level of a serious or significant emotional injury. *Id.*

If being forced to travel in restraints and appear in

Court in a soiled jumpsuit is insufficiently humiliating to give rise to an Eighth Amendment claim, it reasonably follows that being forced to travel in restraints without the other factors present in *Davis* is similarly insufficient to state a claim for relief under the Eighth Amendment. See id.; *see also Brown v.Pepe,* 42 F. Supp. 3d 310, 317 (D. Mass. 2014) (forcing defendant to participate in a "perp walk" before the media in full restraints did not constitute a violation of the Eighth Amendment). Furthermore, Plaintiffs alleged injuries of public disgrace, shame, and embarrassment are insufficient on their own to rise to the level of a serious or significant emotional injury cognizable under the Eighth Amendment. See Davis, 2015 WL 13049846, at *2. Accordingly, Plaintiff has failed to state an Eighth Amendment claim.

Plaintiffs combined response to the motions to dismiss filed by Ms. Hughes, Ms. Craze, Ms. Worthington, Sheriff Proffitt, and Sheriff Leonard fails to adequately address these Defendants' grounds for dismissal, claiming generally that they are without merit and containing an extensive recitation of facts not in the amended complaint. Dkt. 95. Plaintiff claims that these Defendants are not entitled to immunity because they are low-level employees "being sued individually" for their work in an official capacity. Plaintiff also argues that these Defendants are not entitled to quasi-judicial immunity from a claim of false imprisonment because false imprisonment is an intentional tort. As to the Sheriff Defendants, Plaintiff contends that he need not show that either Sheriff personally violated his civil rights, only that his civil rights were violated while in the custody of the Sheriffs agents. Finally, he argues that

a five-year statute of limitations applies to § 1983 cases in Virginia, claiming that he is alleging property damage not injury to self. For the reasons discussed above, Plaintiffs arguments on these issues are simply not supported by controlling law and must fail.

F. Chesterfield County - Failure to State a Claim

Plaintiff presents one claim against Chesterfield County, a political subdivision of the Commonwealth of Virginia: that Chesterfield County was "gross-negligence of the corruption of the sheriff and clerks of Chesterfield Circuit Court, conspired with private lawyers Grogan and Mr. Clark to deprive Chien liberty for extortion, abduction, and kidnapping, '42USC §1983'. Although Chesterfield County didn't directly manage the operation of the court, but this case kept over three years, and its major officers such as Police-chief Dupuis, Board, of Supervisors, and Treasure Cordle [A370-387, Appendix (III), Doc. #34], Mayor and others, received Chien's complaint letters, but no action. Also, Attorney of the County didn't respond to order of Judge Rockwell regarding Chien's Writ of Habeas Corpus. This will be administrative mistake without immunity." Defendant Chesterfield County contends that Plaintiff has failed to state a claim for relief under § 1983.

Under 42 U.S.C. § 1983, "a municipality or other local government may be liable ... if the governmental body itself 'subjects' a person to a deprivation of rights or 'causes' a person 'to be subjected' to such deprivation." *Connick v. Thompson*, 563 U.S. 51, 131 S.Ct. 1350, 1359, 179 L.Ed.2d 417 (2011) (citing *Monell v. New York City Dep't of Social Servs.*, 436 U.S. 658, 692, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978)). But this liability only extends to the acts of the local

government and not the actions of employees under a theory of respondeat superior. *Id.* Thus "Plaintiff must show that the City deprived him of a constitutional right 'through an official policy or custom.'" *Moody v. City of Newport News*, Va., 93 F. Supp. 3d 516, 529 (E.D. Va. 2015) (quoting Lytle v. Doyle, 326 F.3d 463, 471 (4th Cir.2003)).

The § 1983 claims are dismissed for three reasons. First, the Complaint does not point to specific policy or custom of the municipality which deprived Plaintiff of his constitutional rights or acts undertaken by officers pursuant to a specific policy or custom. Second, the purported employees of the County identified by Plaintiff - clerks of court, sheriffs, and judicial officers - are not employees of the County but rather "constitutional officers" not subject to the authority of the local government. *See Carraway v. Hill*, 265 Va. 20, 24, 574 S.E.2d 274, 276 (2003) ("constitutional officer is an independent public official whose authority is derived from the Constitution of Virginia even though the duties of the office may be prescribed by statute"); see also *Hilton v. Amburgey*, 198 Va. 727, 729, 96 S.E.2d 151, 153 (1957) (holding that sheriffs, clerks of court, treasurers, commonwealth's attorneys, and commissioners of revenue are constitutional officers); *Strickler v. Waters*, 989 F.2d 1375, 1390 (4th Cir. 1993) (finding that municipality is not generally liable for the actions of its sheriff who is a constitutional officer); *Lloyd v. Morgan*, No. 4:14CV 107, 2015 WL 1288346, at *12 (E.D. Va. Mar. 20, 2015) ("Like the sheriff, the clerk of court is a constitutional officer"). The county judges are also constitutional officers. *Foster v. Jones*, 79 Va. 642, 645 (1884) ("Now, it will be observed that the office of county judge is fixed by the constitution, and the term of office is

clearly defined in the same instrument. It is, therefore, a constitutional office, and the county judge is a constitutional officer"). Third, the claims against Chesterfield County were not brought within the appropriate two-year statute of limitations.

Insofar as the single claim states a cause of action for gross negligence/ a gross negligence claim against a political subdivision of the Commonwealth, must be dismissed because sovereign immunity precludes such claims. *Seabolt v. Cty. of Albemarle*, 283 Va. 717, 719, 724 S.E.2d 715, 716 (2012) ("Counties, as political subdivisions of the Commonwealth, enjoy the same tort immunity as does the sovereign"). Chesterfield County is unquestionably political subdivision of the Commonwealth and has not explicitly waived its immunity to suit for the causes of action alleged in the Complaint. "Thus, even accepting as true the allegations of [Defendant's] gross negligence, the Court finds that [these] claims under Virginia law are barred by sovereign immunity." *B.M.H. by C.B. v. Sch. Bel of City of Chesapeake, Va.*, 833 r. Supp.560. 573 (E.D. Va. 1993).

IV. Conclusion

For these reasons and for good cause shown, the pending Motions to Dismiss are **GRANTED**. An corresponding order shall issue.

Liam O'Grady
United States District Judge
Alexandria, Virginia

March 5, 2018

---

[2] Mr. Chien's responsive pleading to Chesterfield County's instant motion appears to clarify that his claim is brought under § 1983. Dkt. 96. However, out of an abundance of caution, the Court will address the

claim as drafted in the operative complaint, liberally construed to include gross negligence.

Appendix G

Appeal: 17-1944 Doc: 28 Filed: 03/19/2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1944
(1:17CV00358-LO-TCB)

ANDREW CHIEN,

Plaintiff - Appellant

v.

WILLIAM K. GROGAN; WILLIAM K. GROGAN & ASSOCIATES

Defendants - Appellees

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

Appendix H

Appeal: 17-1944 Doc: 22 Filed: 02/07/2018

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1944

ANDREW CHIEN,
Plaintiff - Appellant

v.

WILLIAM K. GROGAN; WILLIAM K. GROGAN & ASSOCIATES
Defendants - Appellees

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, District Judge. (l:17-cv-00358-LO-TCB)

Submitted: January 26, 2018
Decided: February 7, 2018

Before MOTZ, WYNN, and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Andrew Chien, Appellant Pro Se. Nicholas Foris Snnopoulos, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for

Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Plaintiff Andrew Chien commenced this action against Defendants William K. Grogan and William K. Grogan & Associates, alleging that Grogan conspired with others to unlawfully confine Chien and transfer certain of Chien's assets to a third party as part of debt-collection action in a Virginia state court in which Grogan served as a Commissioner in Chancery. Chien appeals from the district court's order granting Defendants' motion to dismiss and dismissing his complaint. We affirm.

Chien seeks to declare void state-court judgment entered against him and in favor of Richard J. Freer. Under the *Rooker-Feldman** doctrine, "lower federal courts are precluded from exercising appellate jurisdiction over final state-court judgments." *Lance v. Dennis*, 546 U.S. 459, 463 (2006) (per curiam). This doctrine applies "to 'cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting [federal] court review and rejection of those judgments.'" *Id.* at 464 (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)).

Here, Chien lost in state court and is now

---

* *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*,263 U.S. 413 (1923).

seeking to attack a judgment that preceded the instant federal action. That he cannot do. Accordingly, we affirm the district court's dismissal of Chien's complaint pursuant to the *Rooker-Feldman* doctrine. We deny Chien's motion for an injunction invalidating Grogan's order in the Virginia collection action. We also deny Chien's motion to expedite as moot. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid in the decisional process.

AFFIRMED

Appendix I
Case 1:17-cv-00358-LO-TCB Document 24 Filed 08/03/17

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ANDREW CHIEN,
Plaintiff.
v.
WILLIAM K GROGAN, et al.
Defendants.

Civil No.
1:17cv358(LO-TCB)

MEMORANDUM OPINION

This matter comes before the Court on Defendants' Motion to Dismiss for lack of subject matter jurisdiction and failure to state a claim. (DkL No. 5). Plaintiff has also moved pro se for an injunction to invalidate Defendant William Grogan's order issued in his capacity as Commissioner for the Virginia Court of Chancery. (Dkt. No. 11). For the reasons discussed below, the Court **GRANTS** Defendants' Motion and **DENIES** Plaintiffs Motion.

I. Background

Plaintiff, Andrew Chien, is a self-employed financial consultant. Plaintiff was retained by Commonwealth Biotechnologies Incorporated ("CBI") to file SEC agency forms on the company's behalf and act as a meeting manager for the company's shareholder meetings. In this role, Plaintiff became involved with Richard J. Freer on or before 2011. At that time, Freer was the operating director of CBI.[1] In 2011, CBI sought bankruptcy protection. During the bankruptcy process, Plaintiff sought to expose what he believed to be numerous

instances of embezzlement and fraud by Freer.[2,3] On February 17,2012, Freer responded by filing a defamation lawsuit against Plaintiff in Virginia state court. The Virginia court entered judgment in the amount of $1.6 million dollars against Plaintiff. On September 26, 2012, Freer filed an action in Connecticut Superior Court to domesticate the Virginia judgment because Plaintiff's property is located in New Haven, Connecticut. On January 4, 2013, Freer filed judgment collection proceedings against Plaintiff in Virginia state court.

Defendant Grogan was engaged as a Commissioner in Chancery to adjudicate the debt proceedings on behalf of the Virginia court. From January 4,2013 to June 24, 2016, Plaintiff alleges that Defendant Grogan issued fourteen orders on the debt collection proceeding.5 The orders included a writ of capias to detain Plaintiff for failing to appear before the Court or answer the debtor's interrogatories. After Plaintiff was detained, on March 2,2013, Defendant Grogan ordered Plaintiff to not dispose of cash held in two companies operated by the

---

[1] Plaintiff identifies the company as "Commonwealth Biotechnologies Incorporation." Dkt. No. 1 at 14, ¶8. There is no company bearing that name and the Court concludes that Plaintiff has made a typographical error in identifying the company.

[2] Plaintiff substantially details the allegations against Freer. See Dkt. No. 1 at 14-24. None of these allegations directly concern the Defendants in this action and are therefore omitted for the sake of brevity.

[3] Plaintiff alleges without any factual basis that these orders were ghostwritten or written pursuant to by other individuals acting against Plaintiff's interests. See, e.g. Dkt. No. 1 at 39, ¶ 37.

Plaintiff. Plaintiff maintains that the assets of those companies are exempt from the judgment debt he owes to Freer. However, Defendant Grogan found that the shares of those companies should contribute to the debt collection. The shares were passed to Freer in partial satisfaction of the debt and Freer assumed control over the companies. Because of Plaintiff's unwillingness to cooperate with the orders of Defendant Grogan on behalf of the Chancery Court, Plaintiff was held in contempt and detained for a total of 1,146 days until June 24, 2016.

Over this time period, Plaintiff has repeatedly sought to litigate the debt collection decision and its effects in federal court in Virginia. On April 26, 2013, Plaintiff filed an adversary proceeding against Freer and CB1 in the bankruptcy court for the Eastern District of Virginia. *Chien v. Commonwealth Biotechnologies, Inc.*, 13-03088, Dkt. No. 1 (E.D. Va. Bkr.). The bankruptcy court dismissed the suit on July 1, 2013. Id. at Dkt. No. 19. Plaintiff appealed that decision on August 14,2013. *Chien v. Freer*, 3:13-cv-540 (Judge Hudson). The same day, Plaintiff filed a separate complaint in this court alleging violations of 42 U.S.C. § 1983 and seeking a writ of habeas corpus against Chesterfield County, Grogan, and Defendant Grogan, among others. *Chien v. Chesterfield County*, l:13-cv-00993 (Judge O'Grady). The Court dismissed the § 1983 action and petition for writ of habeas corpus on November 6, 2013. Id. Dkt. No. 7. That dismissal was affirmed by the Fourth Circuit. Id. Dkt. No. 23. Similarly, this Court dismissed Plaintiffs bankruptcy appeal on August 14,2014 and took the additional step of placing a pre-filing injunction on Plaintiff on the basis of his exceedingly litigious history. *Chien v. Freer*, 3:13-cv-540, Dkt. No. 51.

Plaintiff has also pursued actions in the state courts of Virginia. On June 18, 2014, Plaintiff filed suit in

Prince George County, Virginia seeking relief against Chesterfield County, Defendants, and the Supreme Court of Virginia arising out of the Virginia collection proceedings. *Chien v. Commonwealth*, No. CL 14000549-00. That suit was dismissed on September 8,2014 by the Virginia court for failure to state a claim and based on sovereign and judicial immunity. Plaintiff filed a direct appeal of his contempt incarceration to the Court of Appeals of Virginia. No. 1177-14-2. That appeal was dismissed on June 30, 2015. Plaintiff also instituted proceedings against Defendant Grogan in the Virginia Circuit Court. No. CL15-1569. Those proceedings were dismissed.

Finally, Plaintiff filed two separate actions against Defendants and others in the Federal District Court for the District of Connecticut. See *Chien v. Freer*, el al., Case No.: 3:15-cv-1620; *Chien v. Grogan*, et al., Case No: 3-16-cv-1881. The first of these cases was dismissed on November 15,2016 and the second case is presently pending on a motion for sanctions and motion to stay. While the lawsuits variously allege claims against Freer, the Defendants in this action, or others, all of the suits center on the same factual issue: Defendant Grogan's orders requiring Plaintiff to relinquish certain assets in satisfaction of the judgment for Freer and the incarceration which followed Plaintiffs refusal to cooperate.

Plaintiff filed the pro se Complaint in this matter on March 28, 2017. Dkt. No. 1. The 123-page Complaint sets forth 195 counts against Defendant William K. Grogan and five counts against Defendant's law firm, William K. Grogan & Associates ("WGA"). Specifically Plaintiff alleges:

> 11 counts of money laundering in violation of 18 USC §§ 1956-57;

3 counts of larceny in violation of Va. Code § 18.2-108 A and 18 U.S.C. §§ 1512-13, or 1951;

50 counts of transportation of stolen goods in violation of 18 U.S.C. § 2314;

4 counts of offenses of mail and wire fraud in violation of 18 U.S.C. § 1341,1343 and 18 U.S.C. § 1952 for interstate transportation in aid of racketeering enterprises;

4 counts of interferences of commerce in violation of 18 U.S.C. § 1951;

25 counts of mail and wire fraud in violation of 18 U.S.C. § 1341. 1343 and 18 U.S.C. §513;

18 counts of attempting to make false stock certificates (no statutory authority is provided for this cause of action);

4 counts of "deceived authority ... lying under oath" in violation of 28 U.S.C. §1738, CT Code § 53a-156", and 18 U.S.C. §§ 1512-13,1951-52, and 1956;

6 counts of conspiracy to give false testimony in violation of VA Code § 18.2-436;

6 counts of conspiracy to commit a felony in violation of VA Code § 18.2-22;

2 counts of false arrest and 6 counts of false

imprisonment in violation of 42 U.S.C.§§ 1981,1983;

16 counts of tampering with the orders of the Chesterfield Circuit Court in violation of Va. Code. § 18.2-472;

1 count of perjury in violation of VA Code § 18.2-434;

2 counts of conspiracy to commit a felony in violation of VA Code § 18.2-22;

11 counts of "objection of justice" in violation of VA Code § 18.2-460;

1 count of impersonating a judge in violation of VA Code § 18.2-174;

2 counts of cruel and unusual punishment in violation of the Eighth Amendment;

1 count of "abused process with ulterior purposes to vex and suppress [Plaintiff] under unfair due process" (no statutory authority is provided for this cause of action);

1 count of prejudice by misrepresentation (no statutory authority is provided for this cause of action);

1 count of conspiracy to commit trespass or larceny in violation of VA Code § 18.2-23;

I count of larceny and disturbance of property

rights in violation of 42 U.S.C. § 1982 and 10 U.S.C. § 921;

1 count of "offense of 18 U.S.C. § 1623";

8 counts of violating various securities laws, *see* Dkt. No. 1 at 121;

1 count of failure to serve in violation of 42 U.S.C. § 1981(a);

1 additional count of larceny in violation of 10 U.S.C. § 921;

2 counts of violations of 18 U.S. C. § 2314.

All of the counts arise out of Defendant Grogan's orders enforcing the judgment debt in Chesterfield County and detaining Plaintiff for contempt of court.

Defendants moved to dismiss the Complaint for want of subject matter jurisdiction and failure to state a claim. Dkt. No. 5. That matter has been fully briefed by the parties. Plaintiff has also moved for an injunction to invalidate Defendant Grogan's order directing the delivery of securities to Freer in satisfaction of the 2012 judgment. Dkt. No. 11. That matter has been fully briefed by the parties. 1 he Court took the matter under advisement without oral argument.

II. Legal Standard

Federal Rule of Civil Procedure 12(b)(1) permits the defendant to move for dismissal claim when the court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). The court must dismiss the action if it determines at any lime that it lacks subject matter jurisdiction. Fed. R. Civ.

P. 12(h)(3). Defendants may, as in this case, attack "the existence of subject matter jurisdiction in fact, quite apart from any pleading" because even with sufficient pleading, the district court could not have jurisdiction over the claim. *White v. CMA Const. Co. Inc.*, F. Supp. 231, 233 (E.D. Va. 1996). The plaintiff bears the burden to establish that subject matter jurisdiction exists. *See Evans v. B.F. Perkins Co.*, 166 F.3d 642, 647 (4th Cir. 1999). The Court grants a Rule 12(b)(1) motion if the material jurisdictional facts arc known and the moving party is entitled to prevail as a matter of law. *See Richmond. Fredericksburg & Potomac R.R. Co. v. United States*, 945 F.2d 765. 768 (4th Cir. 1991).

To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), a complaint must contain sufficient factual information to "state a claim to relief that is plausible on its face." *Bell All. Corp. v. Twombly*, 550 U.S. 544, 550 (2007). A motion to dismiss pursuant to Rule 12(b)(6) must be considered in combination with Rule 8(a)(2) which requires short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2), so as to "give the defendant fair notice of what the... claim is and the grounds upon which it rests." *Twombly*, 550 U.S. at 555. While "detailed factual allegations" are not required, Rule 8 docs demand that a plaintiff provides more than mere labels and conclusions stating that the plaintiff is entitled to relief. *Id.* Because a Rule 12(b)(6) motion tests the sufficiency of a complaint without resolving factual disputes, a district court "'must accept as true all of the factual allegations contained in the complaint' and 'draw all reasonable inferences in favor of the plaintiff.'" *Kensington Volunteer Fire Dep't v. Montgomery County*, 684 F.3d 462,467 (4th Cir.2012) (quoting *E.l. du Pont de Nemours & Co. v. Kolon Indus., Inc.*, 637 F.3d 435,440 (4th Cir. 2011)).

Accordingly, a complaint may survive a motion to dismiss "even if it appears 'that recovery is very remote and unlikely.'" *Id.* (quoting *Scheuer v. Rhodes*, 416 U.S. 232,236 (1974)).

III. **Discussion**

Defendant moves to dismiss Plaintiff's Amended Complaint with prejudice for want of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

A. <u>Subject Matter Jurisdiction</u>

Defendants provide two grounds upon which the Court should dismiss the Complaint for lack of subject matter jurisdiction. First, Defendants contend that this case is governed by the *Rooker-Feldman* doctrine which prohibits federal court review of state court decisions. Second, Defendants contend that Plaintiffs suit is barred by the doctrine of res judicata.

/. Rooker-Feldman Doctrine

"Under the *Rooker-Feldman* doctrine, lower federal courts generally do not have jurisdiction to review state-court decisions; rather, jurisdiction to review such decisions lies exclusively with superior state courts and, ultimately, the United States Supreme Court." *Plyler Moore.* 129 F.3d 728. 731 (4th Cir. 1997). Stated another way, **'[t]he *Rooker-Feldman* doctrine 'prevents a party losing in state court... from seeking what in substance would be appellate review of the state judgment in a United States district court.' " *IVillner v. Frey*, 243 F. App'x 744, 745-46 (4th Cir. 2007) (unpublished) (quoting *Henrichs v. Valley View Dev.*, 474 F.3d 609,611 (9th Cir.2007). The *Rooker-Feldman* doctrine bars consideration not only of issues actually presented to and decided by a state court, but also of constitutional claims that are "inextricably intertwined with" questions ruled upon by a state court, as when success on the federal

claim depends upon a determination "that the state court wrongly decided the issues before it." Id. (quoting *Charchenko v. City of Stillwater*, 47 F.3d 981.983 (5th Cir.1995)).

The *Rooker-Feldman* doctrine only applies where: "(1) the federal court plaintiff lost in state court; (2) the plaintiff complains of 'injuries caused by state-court judgments;' (3) the state-court judgment became final before the proceedings in federal court commenced; and (4) the federal plaintiff "invit[es] district court review and rejection of those judgments." *IVillner*, 243 F. App'x at 746 (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.* 544 U.S. 280, 284.125 S.Ct. 1517, 161 L.Ed.2d 454 (2005)).

Defendants submit that all of the *Rooker-Feldman* conditions are met in this case. First. Defendant contends that Plaintiff lost in the stale-court contempt and collection proceedings and lost those cases on appeal. Second, Defendant maintains that the injuries Plaintiff alleges are the product of the orders and actions which Defendant Grogan undertook during the Virginia state-court debt collection proceeding. Defendant does not address the third factor but argues that the fourth factor is met because "there is no way for Plaintiff to prevail on his Complaint in this Court without securing an indirect appeal and invalidation of Defendants' judicial actions and orders in the Virginia collection proceedings." Dkt. No. 5 at 7-8.

Plaintiff does not challenge any of these three observations, nor can he. Plaintiff unquestionably litigated and lost his defamation judgment, collection proceeding, and contempt detention in Virginia state court. He presently seeks relief in the form of the return of property collected in satisfaction of the 2012 judgment and damages for the taking of property and his detention

for contempt by the Virginia court. These injuries all arise out judgments of the state court. While Defendant does not address the third factor, the Court can take notice that the Virginia state-court proceedings became final years before the instant suit. Finally, Plaintiff seeks relief in the form of the return of property which Defendant Grogan collected in satisfaction of the debt proceedings. To provide such relief the Court would have to review and reject Defendant Grogan's decision to provide that relief.

Instead of challenging these four elements of the *Rooker-Feldman* doctrine. Plaintiff submits that 42 USC § 1983 affords the Court the authority "to create State Liability for deprive [sic] of constitutional right without Due Process, which can' [sic] apply *Rooker-Feldman* doctrine pursuant to Rule 12 (B)(1) of [the Federal Rules of Civil Procedure] as defendants claimed in their Brief." Dkt. No. 13 at 4, U 6 (capitalizations in original).

Plaintiffs argument is foreclosed by the holding of the Court of Appeals in *Willner*. In *Willner*, the appellants "urge[d] [tire court] to construe their federal complaint as raising an independent claim ... based on a violation of their constitutional rights by Frey and the consequence of the state court judgment—not the state court judgment itself." *Willner*, 243 F. App'x at 746. The Court of Appeals found the argument without merit, *id.* The court explained that "the key inquiry is not whether the state court ruled on the precise issue raised in federal court, but whether the 'state-court loser who files suit in federal court seeks redress for an injury caused by the state-court decision itself.' " *Id.* at 747 (4th Cir. 2007) (quoting *Davani v.Virginia Dep't of Transp.*, 434 F.3d 712, 715 (4th Cir.2006)). The relief sought by the appellants, "an injunction ordering Frey to remove the state court's final order from the county's land records,

leaves little doubt that the *Willners* want the district court to reverse the state court's judgment." *Id.* The fact that the suit in *Willner* was brought against the appellee in his individual capacity instead of against the state was also found to be meritless because the appellee's actions were produced by the state-court judgment, *id.*

In this case, Plaintiff similarly seeks relief based on a violation of constitutional rights, as well as criminal statutes, based on the consequences of the state-court judgment. No matter how Plaintiff characterizes the claims, at bottom, he seeks redress for an injury caused by the state-court decision itself—to take the shares of his company, transfer them to Freer, and incarcerate Plaintiff for contempt. Just as in *Willner*, Plaintiff seeks an injunction ordering the removal of one of Defendant Grogan's orders. Dkt. No. 11. The fact that Plaintiff has sued Grogan as an individual, and alleges that he acted outside of the scope of his authority as a Commissioner of the Court of Chancery, does not disturb the conclusion that the injuries Plaintiff alleges were the product of the Chancery' Court judgments and the remedy he seeks requires the Court to revisit those decisions.

Finally, the fact that Plaintiff alleges violations of 42 U.S.C. § 1983 does not overcome the constraints of the *Rooker-Feldman* doctrine. *See, e.g., Shooting Point, L.L.C, v. Cumming*, 368 F.3d 379,385 (4th Cir. 2004)(dismissing § 1983 claims based on the *Rooker-Feldman* doctrine).

For these reasons, the Court lacks subject matter jurisdiction over Plaintiff's claims and the Complaint must be dismissed with prejudice.

2. Res Judicata

"Virginia law has historically recognized that a litigant must unite every joinable claim that he has against a particular defendant in one proceeding or risk the preclusion of his other claims."[4] *Funny Guy, LLCv.*

Lecego, LLC, 293 Va. 135, 146, 795 S.E.2d 887, 892 (2017) Under Virginia law:

> A party whose claim for relief arising from identified conduct, a transaction, or an occurrence, is decided on the merits by a final judgment, shall be forever barred from prosecuting any second or subsequent civil action against the same opposing party or parties on any claim or cause of action that arises from that same conduct, transaction or occurrence, whether or not the legal theory or rights asserted in the second or subsequent action were raised in the prior lawsuit, and regardless of the legal elements or the evidence upon which any claims in the prior proceeding depended, or the particular remedies sought.

Id. (quoting VA Rule 1:6(A)).

Defendants submit that this principle "operates to bar any claim that could have been brought in conjunction with a prior claim, where the claim sought to be barred arose out of the same conduct, transaction, or occurrence as the previously litigated claim." Dkt. No. 5 at 8-9 (emphasis in original) (quoting *Marlin-Bangura v. Fa. Dep 'I of Menial Health,* 640 F. Supp. 2d 729, 738 (E.D. Va. 2009). Defendants contend that the relevant facts that form the basis of Plaintiff's claims were litigated in numerous federal and state court actions including direct appeal of Plaintiff's incarceration which was denied by the Virginia Court of Appeals.

Plaintiff raises two counter-arguments to the

---

[4]Virginia law governs this claim for res judicata because the earlier actions were adjudicated in Virginia state court and the federal district court sitting in Virginia. Q Im'l Courier Inc. v. Smoak, 441 F.3d 214,219 (4th Cir. 2006)

application of res judicata. First, Plaintiff contends that none of the six other cases cited by the Defendants included merits arguments and not all of the other cases addressed all of the arguments presently raised in the Complaint. Second, Plaintiff complains of due process violations, notably fraud, in several of the Virginia slate courts.

In their reply to the opposition. Defendants contend that Plaintiff incorrectly argues that res judicata may only result after a trial on the merits of the underlying action. Defendants contend that a dismissal by a district court for failure to state a claim and affirmance of that dismissal on appeal is subject to *res judicata.* See Dkt. No. 17 at 3 (citing *McLean v. United States,* 566 F.3d 391,396 (4th Cir. 2009)). Consequently, Defendants submit that the prior dismissals with prejudice in this Court, in Virginia State Court, and the District of Connecticut, were final judgments. Because those judgments concerned the same underlying facts and allegations, they should be foreclosed.

The Court previously dismissed Plaintiff s claims for failure to state a claim and lack of jurisdiction with prejudice in *Chien v. Chesterfield County*, l:13-cv-993. "A dismissal with prejudice 'is a complete adjudication of the issues presented by the pleadings and is a bar to a further action between the parties.' " *McLean*, 566 F.3d at 407 (quoting *Harrison v. Edison Bros. Apparel Stores. Inc.*, 924 F.2d 530, 534 (4th Cir. 1991)). Consequently, Plaintiffs allegation that the previous decisions did not include "merits arguments" is itself an argument without merit. The same can be said for Plaintiffs allegations that Defendants engaged in fraud. On appeal in *Chien v. Chesterfield County*, the Court of Appeals held that Defendant Grogan was protected by judicial immunity for his actions as Commissioner of the Chancery Court

notwithstanding Plaintiff s allegations that Defendant Grogan committed fraud and violated Plaintiff s due process. 1:13-cv-993, Dkt. No. 22. The finding of the Court of Appeals applies with equal force to the present action.

Having determined that, at the very least, the previous decision of the Court in *Chien v. Chesterfield County* can impose res judicata, the Court can compare Plaintiffs present claims to that earlier case. In Chien v. Chesterfield County, Plaintiff brought suit pursuant to 42 U.S.C. §1983 alleging that the Court of Chesterfield County, Defendant Grogan, WGA, and others had miscarried justice, perpetrated a tort on Plaintiff, and invaded Plaintiffs civil rights and humanity. l:13-cv-993, Dkt. No. 1 at 1. The complaint describes the bankruptcy dispute between Plaintiff and Freer over CBI and Plaintiffs subsequent detention for failure to comply with a court order. Id. at 2-5. The complaint alleges that Defendant Grogan colluded with counsel and violated his duties as Commissioner of Chancery. The Court dismissed all of these claims finding that Defendant Grogan was not a state actor amenable to suit under § 1983 and Defendant WGA was not a person amenable to suit under § 1983. 1:13-cv-993, Dkt. No. 7. The Court dismissed the claims against the remaining defendants for lack of amenability to suit or failure to state a claim for relief. Id. The Court of Appeals affirmed but diverged in part from the Court's reasoning. 1:13-cv-993, Dkt. No. 22. The Court of Appeals found that Defendant Grogan was a state actor amenable to suit under § 1983 but that he was entitled to judicial immunity because he undertook actions within the scope of his official duties. *Id.*

The facts in *Chien v. Chesterfield County*, are materially indistinguishable from those in the present

Complaint and the allegations arise out of the same transactions or occurrences. Because the Court entered a final judgment in the previous case and that decision was affirmed on appeal. Plaintiff's present suit is barred by res judicata and the Court lacks subject matter jurisdiction over the Complaint.

For this additional reason, the Complaint must be dismissed with prejudice.

B. Failure to State a Claim

Defendant also moves to dismiss the retaliation count for failure to state a claim. Because the Court lacks subject matter jurisdiction over the claims it need not consider whether Plaintiff has failed to state a claim upon which relief can be granted.

IV. Conclusion

For the foregoing reasons, the Court **GRANTS** the Motion to Dismiss. (Dkt. No. 5). Accordingly, the Complaint is **DISMISSED WITH PREJUDICE.** Further, because the Motion to Dismiss is granted, the Court **DENIES** the Motion for Injunctive Relief. (Dkt. No. 11).

August 3, 2017

Liam O'Grady
United States District Judge
Alexandria, Virginia

Appendix J
Case l:13-cv-00993-LO-IDD Document 38 Filed 03/06/18

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ANDREW CHIEN,
Plaintiff.
v.
CHESTERFIELD COUNTY,
et al.
Defendants.

Civil No.
1:13cv993(LO-IDD)

ORDER

This matter comes before the Court on Plaintiffs "Motion to Invalid Order (doc. #7) dated 11/06/13." Dkt. 35. The order at issue dismissed this case pursuant to 28 U.S.C. § 1915. Mr. Chien appealed that dismissal to the Fourth Circuit Court of Appeals, which affirmed the dismissal. Dkt. 22. In the instant motion. Mr. Chien appears to argue that this Court never had subject matter jurisdiction over the case and therefore the dismissal order is invalid. Mr. Chien's argument is without merit - Mr. Chien brought his case under 42 U.S.C. § 1983, plainly giving rise to federal question jurisdiction under 28 U.S.C. § 1331. Accordingly, the motion is DENIED. It is so ORDERED.

Liam O'Grady
March 6, 2018 United States District Judge
Alexandria, Virginia

Appendix K

Appeal: 13-8017 Filed: 04/21/2018

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-8017

ANDREW CHIEN,
Plaintiff - Appellant

v.

LECLAIR RYAN; WILLIAM K. GROGAN & ASSOCIATES; WILLIAM K. GROGAN,
Defendants - Appellees,

and

CHESTERFIELD COUNTY,
Defendant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, District Judge. (1:13-CV-00993-LO-IDD)

Submitted: April 17, 2014
Decided: April 21, 2014

Before WILKINSON, KING, and DUNCAN,, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Andrew Chien, Appellant Pro Se. Joseph Michael Rainsbury, LECLAIR RYAN, PC, Roanoke, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andrew Chien appeals the district court's order denying relief on his 42 U.S.C. § 1983 (2006) complaint. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's dismissal of the claims against LeClair Ryan and William K. Grogan & Associates for the reasons stated by the district court. *Chien v. Chesterfield Cty.*, No. 1:13-cv-00993-LO-IDD (E.D. Va. filed Nov. 6, entered Nov. 7, 2013). We affirm the district court's dismissal of the claims against William Grogan in his capacity as a Commissioner in Chancery on alternative grounds. *See MM ex rel. DM v. School Dist. of Greenville Cnty.*, 303 F.3d 523, 536 (4th Cir. 2002). While Grogan was a state actor, he is entitled to judicial immunity for actions taken within the scope of his official duties. See Stump v. Sparkman, 435 U.S. 349, 362 (1978) (defining factors used to determine whether an action is a judicial act). We deny Chien's motion to expedite this decision. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

standard for a motion to dismiss under Fed. R. Civ. P. 12(b)(6)." Sumner v.Tucker, 9 F. Supp. 2d 641, 642 (E.D. Va. 1998). Thus the alleged facts are presumed true, and the complaint should be dismissed only when "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Hishon v. King & Spalding, 467 U.S. 69, 73 (1984). To survive a 12(b)(6) motion, complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief 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 claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal. 556 U.S. at 678;

---

[1] Section 1915A provides:

(a) Screening. —The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

(b) Grounds for dismissal. —On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

(1) is frivolous, malicious, or fails to state a claim upon which relief can be granted; or

(2) seeks monetary relief from a defendant who is immune from such relief.

Twombly. 555 U.S. at 556. "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice" to meet this standard. Twombly, 550 U.S. at 555. A plaintiffs "[f]actual allegations must be enough to raise a right to relief above the speculative level...." Id. Moreover, a court is "not bound to accept as true a legal conclusion couched as a factual allegation." Iqbal. 556 U.S. at 678.

Here, plaintiff challenges the underlying events that occurred in his bankruptcy proceeding. Although district courts have a duty to construe pleadings by pro se litigants liberally, a pro se plaintiff nevertheless must allege a cause of action. Bracey v. Buchanan. 55 F. Supp. 2d 416,421 (E.D. Va. 1999). Section 1983 provides,

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

42 U.S.C. § 1983. To state a cause of action under § 1983, a plaintiff must allege facts indicating he was deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. West v. Atkins, 487 U.S. 42

(1988). Plaintiff appears to be challenging the validity of his being held pursuant to a "Detaining Creditor Order." Handwritten compl. at 4-1; see docket # 3.

Further, plaintiff explicitly names "LeClair Ryan, William K. Grogan & Associates, and William K. Grogan" as defendants. Defendant William K. Grogan is not a state actor and thus not amenable to suit under § 1983. As such, defendant William K. Grogan will be dismissed. As defendants LeClair Ryan and William K. Grogan & Associates are firms and not "persons" for purposes of § 1983 liability, the firms cannot be sued pursuant to 1983 and must be dismissed. Under other circumstances, plaintiff, in deference to his pro se status, would be given an opportunity to amend his complaint, to name a defendant amenable to suit under § 1983. Here, however, such a step would be futile because plaintiff's allegations in substance state no claim for which § 1983 relief is presently available. Plaintiff challenges the validity of his bankruptcy proceedings, not a state actor's actions. As such, this complaint must be dismissed pursuant to § 1915A(b)(2) for failure to state a claim on which relief can be granted.

Accordingly, it is hereby

ORDERED that this action be and is DISMISSED WITH PREJUDICE for failure to state claim, pursuant to 28 U.S.C. § 1915A(b)(l).

To appeal, plaintiff must file a written notice of appeal with the Clerk's Office within thirty (30) days of the date of this Order. See Fed. R. App. P. 4(a). A written notice of appeal is a short statement stating a desire to appeal this Order and noting the date of the

Order plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court.

The Clerk is directed to send a copy of this Order to plaintiff and to close this civil case.

Entered this 6th day of November of 2013

Alexandria, Virginia

Liam O'Grady
United States District Judge

		11/05/2013)
11/06/2013	7	Order dismissing action pursuant to 28 USC 1915A. Signed by District Judge Liam O'Grady on 11/6/13. (Copy mailed to pro se pltff.)(gwalk,) (Entered: 11/07/2013)
11/19/2013	8	MOTION to Amend/Correct X Complaint by Andrew Chien, (gwalk,) (Additional attachment(s) added on 11/19/2013: # X First Amendment of Complaint) (gwalk,). (Entered: 11/19/2013)
11/19/2013	9	Memorandum in Support re 8 MOTION to Amend/Correct X Complaint filed by Andrew Chien, (gwalk,) (Entered: 11/19/2013)
11/22/2013	10	MOTION to Add additional claims to the 1 Complaint by Andrew Chien, (gwalk,) (Entered: 11/25/2013)
11/22/2013	11	Memorandum in Support re 10 MOTION to Amend/Correct #1 Complaint filed by Andrew Chien. (Attachments: # 1 attachment) (gwalk,) (Entered: 11/25/2013)
11/22/2013	12	MOTION for a Bond Hearing by Andrew Chien, (gwalk,) (Entered: 11/25/2013)
11/22/2013	13	ORDER denying 8 Motion to Amend/ Correct. Signed by District Judge Liam O'Grady on 11/22/13. (copy mailed to pro se pltff.) (gwalk,) (Entered: 11/25/2013)
12/9/2013	14	ORDER denying 10 Motion to Amend/ Correct AND denying 12 Motion for Hearing. Signed by District Judge Liam O'Grady on 12/9/13. (Copy of order mailed to pro se pltff.)(gwalk,)(Entered:12/11/2013)
12/17/2013	15	NOTICE OF APPEAL as to 7 Order dismissing action pursuant to 28 USC 1915A by Andrew Chien, (gwalk,) (Entered:

		12/17/2013)
12/17/2013	**16**	Transmission of Notice of Appeal to US Court of Appeals re 15 Notice of Appeal (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov) (gwalk,) (Entered: 12/17/2013)
12/18/2013	**17**	USCA Case Number 13-8017 4th Circuit, Case Manager B. Bain for 15 Notice of Appeal filed by Andrew Chien, (rban,) (Entered: 12/18/2013)
12/18/2013	**18**	Letter to the Court, please transmit the record, (rban,) (Entered: 12/18/2013)
12/18/2013		Assembled INITIAL Electronic Record Transmitted to 4CCA re 15 Notice of Appeal(rban,) (Entered: 12/18/2013)
01/03/2014	**19**	MOTION for Extension of time to pay appeal fee by Andrew Chien, (gwalk,) (Entered:01/03/2014)
01/06/2014	**20**	USCA Appeal Fees received $ 505 receipt number 14683041029 re 15 Notice of Appeal filed by Andrew Chien (rban,) (Entered: 01/06/2014)
01/10/2014	**21**	ORDER denying as moot 19 Motion for Extension of Time to pay appeal filing fee. Signed by District Judge Liam O'Grady on 1/10/14. (gwalk,) (Entered: 01/13/2014)
04/21/2014	**22**	UNPUBLISHED Opinion of USCA, decided 4/21/2014 re 15 Notice of Appeal, Affirmed, (rban,) (Entered: 04/21/2014)
04/21/2014	**23**	USCA JUDGMENT as to 15 Notice of Appeal filed by Andrew Chien. In accordance with the decision of this court, the judgment of the district court is

		affirmed. This judgment shall take effect upon issuance of this court's mandate in accordance with FRAP 41. (rban,) (Entered: 04/21/2014)
05/06/2014	24	STAY OF MANDATE UNDER FED. R. APP. P. 41(d)(1) (gwalk,) (Entered: 05/06/2014)
06/03/2014	25	ORDER of USCA as to 15 Notice of Appeal filed by Andrew Chien. The court denies the petition for rehearing, (rban,) (Entered: 06/03/2014)
06/11/2014	26	USCA Mandate re 15 Notice of Appeal. The judgment of this court, entered 4/21/2014, takes effect today. This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of FRAP, (rban,) (Entered: 06/11/2014)
03/04/2016	27	MOTION to Reopen Case by Andrew Chien, (dvanm,) (Entered: 03/04/2016)
03/04/2016	28	Memorandum in Support re 27 MOTION to Reopen Case filed by Andrew Chien. (Attachments: # 1 Exhibit)(dvanm,) (Entered: 03/04/2016
03/04/2016	29	MOTION to Order This Case Into Criminal Procedure by Andrew Chien, (dvanm,) (Entered: 03/04/2016)
03/04/2016	30	Memorandum in Support re 29 MOTION to Order This Case Into Criminal Procedure filed by Andrew Chien, (dvanm,) (Entered: 03/04/2016)
04/01/2016	31	ORDER denying WITHOUT PREJUDICE 27 Motion to Reopen Case; denying 29 Motion to Order This Case Into Criminal Procedure. Signed by District Judge Liam O'Grady on 4/1/2016. (c/s as directed in

		Order) (dvanm,) (Entered: 04/04/2016)
07/29/2016	32	NOTICE of Release by Andrew Chien (dvanm,) (Entered: 07/29/2016)
08/22/2016	33	ORDER- it is hereby ORDERED that plaintiffs Motion to Voluntarily Withdraw a Petition for Habeas Corpus 32 be and is DENIED AS MOOT. Signed by District Judge Liam O'Grady on 8/22/2016. (dest,) (copy mailed as directed in the Order) (Entered: 08/22/2016)
02/23/2018	34	MOTION to Invalid Order (#7) dated 11/06/2013 re 7 Order dismissing action pursuant to 28 USC 1915A by Andrew Chien, (dvanm,) (Entered: 02/26/2018)
02/23/2018	35	Memorandum in Support re 34 MOTION to Invalid Order (#7) dated 11/06/2013 re 7 Order dismissing action pursuant to 28 USC 1915A filed by Andrew Chien, (dvanm,) (Entered: 02/26/2018)
02/23/2018	36	MOTION for Electronic Notice by Andrew Chien, (dvanm,) (Entered: 02/26/2018)
03/05/2018	37	NOTICE of Hearing on Motion 34 MOTION to Invalid Order #7 dated 11/06/2013 re 7 Order dismissing action pursuant to 28 USC 1915A : Motion Hearing set for 3/23/2018 at 10:00 AM in Alexandria Courtroom 1000 before District Judge Liam O'Grady, (dvanm,) (Entered: 03/06/2018)
03/06/2018	38	ORDER denying 34 Motion. Signed by District Judge Liam O'Grady on 3/6/2018. (cc: via US mail to Andrew Chien)(awac,) (Entered: 03/07/2018)
03/13/2018	39	MOTION to Disqualify Judge Hon. Liam O'Grady by Andrew Chien, (dvanm,)

		(Entered: 03/14/2018)
03/13/2018	**40**	Waiver of Oral Argument re 39 MOTION to Disqualify Judge by Andrew Chien (dvanm,) (Entered: 03/14/2018)
03/15/2018	**41**	ORDER - This matter comes before the Court on Plaintiffs Motion for Electronic Notice 36 and Motion for Disqualification of Hon. Liam O'Grady 39 . This case is closed. The case was dismissed on November 6, 2013 and that dismissal was affirmed on appeal on April 21, 2014. It is unclear to the Court why Plaintiff is continuing to file motions in this case file. Accordingly, the motions are STRICKEN. Signed by District Judge Liam O'Grady on 03/15/2018. (dvanm,) (Entered: 03/16/2018)
03/30/2018	**42**	MOTION for Waiver of Oral Argument Regarding Motion to Invalid Orders{doc.#7,38} Dated 11/6/13 and 3/06/18 Respectively Due to Subject Errors & 42USC §1983 by Andrew Chien, (dvanm,) (Entered: 04/02/2018)
04/04/2018	**43**	NOTICE OF APPEAL as to 38 Order on Motion for Miscellaneous Relief by Andrew Chien. Filing fee $ 505. (dvanm,) (Entered: 04/04/2018)
04/04/2018	**44**	Transmission of Notice of Appeal to US Court of Appeals re 43 Notice of Appeal (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov) (dvanm,) (Entered: 04/04/2018)
04/04/2018	**45**	USCA Appeal Fees received $ 505 receipt number 14683071927 re 43 Notice of

		Appeal filed by Andrew Chien (dvanm,) (Entered: 04/05/2018)
04/05/2018	**46**	USCA Case Number 18-6346 4th Circuit, case manager Rickie Edwards, for 43 Notice of Appeal filed by Andrew Chien, (dvanm,) (Entered: 04/05/2018)
04/05/2018	**47**	Letter from the 4th Circuit requesting transmission of record, (dvanm,) (Entered: 04/05/2018)
04/05/2018		Assembled INITIAL Electronic Record Transmitted to 4CCA re 43 Notice of Appeal(dvanm,) (Entered: 04/05/2018)