

FILED: October 11, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-1418  
(0:18-cv-03499-MGL)

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BRANDY V. HARRIS

Plaintiff - Appellant

v.

BRITNEY MAY; ANDRES MALDONADO; CHRISTOPHER PRICE;  
CAMERON KIRBY; SEAN SERCU; WILLIAM WATSON; BRANDON  
AVIDON; ANTOINE LOGAN; JANE MODLA, Judge; PETER LENZI; PAULA  
BROWN, Prosecutor; MUNICIPAL COURT ROCK HILL S.C., 120 E. Black St.  
29730; KENNETH MARTIN; DANIELS SHEALY; KEENA MCCROREY;  
JUSTIN SPADER; LEWIS RAYMES; KENYATTA TRIPP; SCOTT CRIBB;  
OFFICER MURPHY; INVESTIGATOR OFFICER WELCH; SUPERVISOR  
OFFICER BREEDEN; SUPERVISOR OFFICER HUMPHRIES

Defendants - Appellees

and

ROCK HILL MUNICIPAL COURT, 120 East Black, Rock Hill, South Carolina  
29730

Defendant

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ORDER

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The court denies the petition for rehearing.

# APPENDIX-A

FILED: August 30, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-1418  
(0:18-cv-03499-MGL)

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BRANDY V. HARRIS

Plaintiff - Appellant

v.

BRITNEY MAY; ANDRES MALDONADO; CHRISTOPHER PRICE;  
CAMERON KIRBY; SEAN SERCU; WILLIAM WATSON; BRANDON  
AVIDON; ANTOINE LOGAN; JANE MODLA, Judge; PETER LENZI; PAULA  
BROWN, Prosecutor; MUNICIPAL COURT ROCK HILL S.C., 120 E. Black St.  
29730; KENNETH MARTIN; DANIELS SHEALY; KEENA MCCROREY;  
JUSTIN SPADER; LEWIS RAYMES; KENYATTA TRIPP; SCOTT CRIBB;  
OFFICER MURPHY; INVESTIGATOR OFFICER WELCH; SUPERVISOR  
OFFICER BREEDEN; SUPERVISOR OFFICER HUMPHRIES

Defendants - Appellees

and

ROCK HILL MUNICIPAL COURT, 120 East Black, Rock Hill, South Carolina  
29730

Defendant

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Affirmed by unpublished per curiam opinion.

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Brandy V. Harris, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brandy V. Harris appeals the district court's order accepting the recommendation of the magistrate judge and dismissing his civil complaint with prejudice for failure to state a claim. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Harris v. May*, No. 0:18-cv-03499-MGL (D.S.C. Apr. 10, 2019). 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.

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*AFFIRMED*

# UNITED STATES DISTRICT COURT

for the

District of South Carolina

Brandy V. Harris, *also known as* Brandy Vernon

Harris,

*Plaintiff*

v.

Civil Action No.

0:18-cv-03499-MGL

Britney May; Andres Maldonado; Christopher Price;

Cameron Kirby; Sean Sercu; William Watson;

Brandon Avidon; Antoine Logan; Jane Modla,

*Judge*; Peter Lenzi; Paula Brown, *Prosecutor*;

Municipal Court Rock Hill S.C., 120 E. Black St.

29730; Kenneth Martin; Daniels Shealy; Keena

Mccrorey; Justin Spader; Lewis Raymes; Kenyatta

Tripp; Scott Cribb; Officer Murphy; Investigator

Officer Welch; Supervisor Officer Breeden;

Supervisor Officer Humphries,

*Defendants*

## JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

☐ the plaintiff (*name*) \_\_\_\_\_ recover from the defendant (*name*) \_\_\_\_\_ the amount of \_\_\_\_\_ dollars (\$\_\_\_), which includes prejudgment interest at the rate of \_\_\_\_ %, plus postjudgment interest at the rate of \_\_\_\_ %, along with costs.

The plaintiff, Brandy V. Harris, *also known as* Brandy Vernon Harris, shall take nothing of the defendants, Britney May; Andres Maldonado; Christopher Price; Cameron Kirby; Sean Sercu; William Watson; Brandon Avidon; Antoine Logan; Jane Modla, *Judge*; Peter Lenzi; Paula Brown, *Prosecutor*; Municipal Court Rock Hill S.C., 120 E. Black St. 29730; Kenneth Martin; Daniels Shealy; Keena Mccrorey; Justin Spader; Lewis Raymes; Kenyatta Tripp; Scott Cribb; Officer Murphy; Investigator Officer Welch; Supervisor Officer Breeden; and Supervisor Officer Humphries, and this action is dismissed with prejudice.

This action was (*check one*):

☐ tried by a jury, the Honorable \_\_\_\_\_ presiding, and the jury has rendered a verdict.

☐ tried by the Honorable \_\_\_\_\_ presiding, without a jury and the above decision was reached.

decided by the Honorable Mary Geiger Lewis, United States District Judge, presiding, adopting the Report and Recommendation of the Honorable Paige J. Gossett, United States Magistrate Judge, which recommended dismissing the action with prejudice.

Date: April 10, 2019

ROBIN L. BLUME, CLERK OF COURT

s/B. Goodman

*Signature of Clerk or Deputy Clerk*



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

BRANDY VERNON HARRIS,  
Plaintiff,

vs.

BRITNEY MAY; ANDRES MALDONADO;  
CHRISTOPHER PRICE; CAMERON KIRBY;  
SEAN SERCU; WILLIAM WATSON;  
BRANDON AVIDON; ANTOINE LOGAN;  
JANE MOLDA; PETER LENZI; PAULA  
BROWN; MUNICIPAL COURT ROCK HILL  
SOUTH CAROLINA; KENNETH MARTIN;  
DANIELS SHEALY; KEENA MCCROREY;  
JUSTIN SPADER; LEWIS RAYMES;  
KENYATTA TRIPP; SCOTT CRIBB;  
OFFICER MURPHY; INVESTIGATOR  
OFFICER WELCH; SUPERVISOR OFFICER  
BREEDEN; and SUPERVISOR OFFICER  
HUMPHRIES,

Defendants.

CIVIL ACTION NO.: 0:18-cv-3499-MGL

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ORDER ADOPTING REPORT AND RECOMMENDATION AND  
DISMISSING WITH PREJUDICE PLAINTIFF'S AMENDED COMPLAINT

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Plaintiff Brandy Vernon Harris (Harris) is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Harris's petition is subject to summary dismissal pursuant to 28 U.S.C. § 1915. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see* Fed. R. Civ. P. 72(b). “A document filed *pro se* is ‘to be liberally construed.’” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). Courts are not, however, required to “conjure up questions never squarely presented to them” or seek out arguments for a party. *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985).

The Magistrate Judge filed the Report on March 6, 2019, ECF No. 20, and the Clerk filed Harris’s objections on March 13, 2019, ECF No. 22. The Clerk also filed Harris’s motion for a new case number, ECF No. 26, and a subsequent letter Harris sent the Court regarding his motion for a new case number, ECF No. 29.

After reviewing Harris’s complaint, the Magistrate Judge entered an order giving Harris twenty-one days to amend his complaint and warning him that failure to amend would lead to a recommendation for summary dismissal. ECF No. 10. Harris’s amended complaint is over one-hundred-thirty copies of one page of the standard complaint form this Court provides *pro se* litigants. Each one of the one-hundred-thirty pages has a date, time, place, and the name of a defendant in this action, along with a conclusory legal phrase such as “false arrest,” “racial

discrimination,” or “deliberate indifference.” Critically, Harris fails to provide any facts or specific allegations explaining how even one of the named defendants in this action violated his constitutional rights. Although Harris attached various legal documents and arrest records to his amended complaint, there is no clear connection between the documents and the defendants. Harris fails to even list a cause of action anywhere in his amended complaint that would allow this Court to construe his pleadings such that he states a cognizable legal claim.

In his objections to the Report, Harris purports to submit “Facts to Each Claim,” presumably in response to the Magistrate Judge’s assertion Harris’s amended complaint was devoid of facts and therefore subject to summary dismissal. For example, Harris asserts as one of his objections:

I was found not guilty of 9 charges, I faxed a memo to the appeal judge Mrs. Weaver the Defendant herein appeal his conviction and sentence and request reversal on the following grounds: (1) The judge did not direct a verdict despite the incident occurring on private property, and (2) the judge did not dismiss this case when the behavior the defendant was charged for is speech protected by the 1st amendment of the US Constitution.

ECF No. 22 at 2. Harris continues, “For the reason stated above the defendant requests that his conviction for public disorderly conduct be reversed but was reverse 9 chargies was dismiss 2 appeals which proves violations within appeals makes total of 11 not guilty chargies.” *Id.* (errors in original).

The remainder of Harris’s objections unfortunately are replete with similarly worded legal conclusions without the necessary facts or allegations against defendants in this case necessary to state a claim and survive summary dismissal. The Court concludes all of the materials Harris has submitted, liberally construed, fail to correct the deficiencies identified in the Report. And, to the extent Harris’s letter or motion for a new case number could be construed as a motion to amend, the Court will decline to give Harris another opportunity to amend because such amendment would

be futile. *See Martin v. Duffy*, 858 F.3d 239, 447-48 (4th Cir. 2017) (finding the plaintiff's "repeated, ineffective attempts at amendment" suggest further amendment would be futile).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Harris's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court Harris's complaint is **SUMMARILY DISMISSED WITH PREJUDICE** and without issuance and service of process. Because the Court concludes summary dismissal is appropriate, the Court **DISMISSES AS MOOT** Harris's motion for a new case number.

**IT IS SO ORDERED.**

Signed this 10th day of April, 2019, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Brandy Vernon Harris,	)	C/A No. 0:18-3499-MGL-PJG
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Britney May; Andres Maldonado; Christopher	)	<b>REPORT AND RECOMMENDATION</b>
Price; Cameron Kirby; Sean Sercu; William	)	
Watson; Brandon Avidon; Antoine Logan;	)	
Jane Molda; Peter Lenzi; Paula Brown;	)	
Municipal Court Rock Hill S.C.; Kenneth	)	
Martin; Daniels Shealy; Keena Mccrorey;	)	
Justin Spader; Lewis Raymes; Kenyatta Tripp;	)	
Scott Cribb; Officer Murphy; Investigator	)	
Officer Welch; Supervisor Officer Breeden;	)	
Supervisor Officer Humphries,	)	
	)	
Defendants.	)	
	)	

The plaintiff, Brandy Vernon Harris, proceeding *pro se*, brings this action pursuant to 28 U.S.C. § 1915. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.) By order dated January 17, 2019, the court provided Plaintiff the opportunity to file an amended complaint to correct deficiencies identified by the court that would warrant summary dismissal of the Complaint pursuant to 28 U.S.C. § 1915. (ECF No. 10.) In response, Plaintiff filed an Amended Complaint and supplement.<sup>1</sup> (ECF No. 13 & 17.) Having reviewed the Amended Complaint in accordance with applicable law, the court concludes the Amended Complaint

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<sup>1</sup> The court also issued an order directing Plaintiff to file the service documents necessary for the issuance and service of process. (ECF No. 8.) In response, Plaintiff provided a summons form that does not include Defendants Murphy, Welch, Breeden, or Humphries, and Plaintiff provided Forms USM-285 for all of the defendants except "Municipal Court Rock Hill SC." (ECF Nos. 12 & 18.) Thus, the case is still ready for the issuance and service of process.

still fails to state a viable claim and should be summarily dismissed with prejudice and issuance of service of process.

## **I. Factual and Procedural Background**

In both the original Complaint and the Amended Complaint, Plaintiff provides numerous copies of one page of a standard complaint form this court provides *pro se* litigants. In the Amended Complaint, Plaintiff includes over one hundred thirty copies of that page, and Plaintiff provides similar allegations on each page. Each page includes a date, time, place, and the name of a defendant, and each has a conclusory legal phrase such as “false arrest,” “racial discrimination,” “deliberate indifference,” or the like, as the apparent allegation against each defendant. Among these pages, there are eleven different dates and times listed between 2017 and 2018, and six different locations, all apparently in Rock Hill, South Carolina. Plaintiff provides no specific allegations about the defendants that explain how they violated Plaintiff’s constitutional rights. And though it appears all of the incidents involve arrests and legal proceedings, plaintiff provides no facts about them other than dates, times, and places. Plaintiff also attaches various arrest records and related legal documents to the Amended Complaint, but they have no clear connection to the limited allegations in the pleadings. As for relief, Plaintiff indicates she seeks “reimbursement of bail” and damages. (Am. Compl., ECF No. 13 at 127.)

## **II. Discussion**

### **A. Standard of Review**

Under established local procedure in this judicial district, a careful review has been made of the *pro se* Complaint. The Complaint has been filed pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative

costs of proceeding with the lawsuit. This statute allows a district court to dismiss the case upon a finding that the action “is frivolous or malicious,” “fails to state a claim on which relief may be granted,” or “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

In order to state a claim upon which relief can be granted, the plaintiff must do more than make mere conclusory statements. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). Rather, the complaint must contain sufficient factual matter, accepted as true, to state a claim that is plausible on its face. Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 570. The reviewing court need only accept as true the complaint’s factual allegations, not its legal conclusions. Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 555.

This court is required to liberally construe *pro se* complaints, which are held to a less stringent standard than those drafted by attorneys. Erickson v. Pardus, 551 U.S. 89, 94 (2007); King v. Rubenstein, 825 F.3d 206, 214 (4th Cir. 2016). Nonetheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. See Weller v. Dep’t of Soc. Servs., 901 F.2d 387 (4th Cir. 1990); see also Ashcroft v. Iqbal, 556 U.S. 662, 684 (2009) (outlining pleading requirements under Rule 8 of the Federal Rules of Civil Procedure for “all civil actions”).

#### **B. Analysis**

The court finds that despite having availed herself of the opportunity to cure the deficiencies previously identified by the court, Plaintiff’s Amended Complaint should nonetheless be summarily dismissed for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). See Martin v. Duffy, 858 F.3d 239, 247-48 (4th Cir. 2017) (finding the

plaintiff's "repeated, ineffective attempts an amendment" suggest further amendment would be futile).

Both pleadings are nothing more than lists of defendants with corresponding constitutional violations, dates, times, and places. However, Plaintiff provides no factual allegations to support her assertions that the defendants violated her constitutional rights. See Fed. R. Civ. P. 8 (requiring that a pleading contain "a short and plain statement of the claim showing that the pleader is entitled to relief"); Iqbal, 556 U.S. at 678 (stating Federal Rule of Civil Procedure 8 does not require detailed factual allegations, but it requires more than a plain accusation that the defendant unlawfully harmed the plaintiff, devoid of factual support). Nor does Plaintiff identify any specific causes of action she seeks to raise against the defendants, such that the court could liberally construe the pleadings to state a cognizable legal claim. Consequently, the court finds that the Amended Complaint fails to state a claim upon which relief can be granted.

### **III. Conclusion**

Accordingly, the court recommends that the Amended Complaint be summarily dismissed with prejudice and without issuance and service of process. See Workman v. Morrison Healthcare, 724 F. App'x 280, 281 (4th Cir. 2018) (in a case where the district court had already afforded the plaintiff an opportunity to amend, directing the district court on remand to "in its discretion, either afford [the plaintiff] another opportunity to file an amended complaint or dismiss the complaint with

prejudice, thereby rendering the dismissal order a final, appealable order”) (citing Goode v. Cent. Va. Legal Aid Soc’y, Inc., 807 F.3d 619, 630 (4th Cir. 2015)).

March 6, 2019  
Columbia, South Carolina

  
\_\_\_\_\_  
Paige J. Gossett  
UNITED STATES MAGISTRATE JUDGE

*Plaintiff's attention is directed to the important notice on the next page.*

### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk  
United States District Court  
901 Richland Street  
Columbia, South Carolina 29201

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).