

23-_____

IN THE

SUPREME COURT OF THE UNITED
STATES

PALANI KARUPAIYAN; P. P.; R. P. --
Petitioners

V.

WOODBIDGE TOWNSHIP OF NJ;
STATE OF NEW JERSEY;
UNITED STATES;
UNION OF INDIA;
OFFICER GANDHI, 5038 individually and in his official
capacity as Parking enforcement officer of Woodbridge;
POLICE DEPARTMENT OF WOODBRIDGE--
Respondents

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Third Circuit

**Appendix -PETITION FOR WRIT
FOR CERTIORARI**

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**I. APPENDIX-A : OPINION OF UNITED STATES
COURT OF APPEALS FOR 3RD CIR, FEB 23, 2023
NOT PRECEDENTIAL
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 22-2949

PALANI KARUPAIYAN; P.P.; R.P.,
Appellants

v.

TOWNSHIP OF WOODBRIDGE; STATE OF NEW
JERSEY; UNITED STATES OF AMERICA; UNION
OF INDIA; OFFICER GANDHI, 5038, individually and
in his official capacity as Parking enforcement officer of
Woodbridge;
WOODBRIDGE POLICE DEPARTMENT

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-21-cv-19737)
District Judge: Honorable Esther Salas

Submitted for Possible Dismissal under 28 U.S.C. §
1915(e)(2) or Possible Summary Action Pursuant to
Third Circuit LAR 27.4 and I.O.P. 10.6 Feb 9, 2023
Before: KRAUSE, PORTER, and AMBRO, Circuit
Judges
(Opinion filed February 23, 2023)

OPINION^{1*}

¹ * This disposition is not an opinion of the full Court and pursuant to I.O.P.
5.7 does not constitute binding precedent.

PER CURIAM

Pro se appellant Palani Karupaiyan appeals from the District Court's order entered in August 2022 disposing of three motions. For the following reasons, we will affirm.

Karupaiyan filed a complaint in District Court alleging disparate claims against the State of New Jersey, the United States, the "Union of India," the Township of Woodbridge, New Jersey, and other Woodbridge-related defendants. He sought to proceed in forma pauperis. By letter order in December 2021, the District Court dismissed the complaint because, among other things, immunity doctrines deprived the court of jurisdiction over his claims against certain defendants and the complaint failed to state a claim, see 28 U.S.C. § 1915(e)(2)(B)(ii). The District Court provided Karupaiyan with the option to amend his complaint as to the Woodbridge defendants, but he did not do so and instead filed several post-judgment motions and a notice of appeal. The District Court denied those motions, and we ultimately affirmed the District Court's rulings. See C.A. No. 21-3339 (judgment entered May 3, 2022).

While his appeal was pending, Karupaiyan filed three more motions in the District Court: for leave to appeal in forma pauperis (ECF No. 16), for a stay "for the United States/President Biden nominate/appoint US Supreme Court Justices" (ECF No. 17), and for an emergency protective order against Woodridge Township to prevent his arrest (ECF No. 18). After we issued the mandate as to his appeal, the District Court denied the three motions.

We review the denial of these post-judgment motions for an abuse of discretion. See *Bullock v. Suomela*, 710 F.2d 102, 103 (3d Cir. 1983); *Pyrotechnics Mgmt., Inc. v. XFX Pyrotechnics LLC*, 38

F.4th 331, 335 (3d Cir. 2022)². An abuse of discretion may follow from an erroneous legal interpretation, improper application of law to fact, or clearly erroneous finding of fact. See *McDowell v. Phila. Hous. Auth.*, 423 F.3d 233, 238 (3d Cir. 2005). We discern no issues of that kind here. As the District Court decided, Karupaiyan's motion for in forma pauperis status on appeal was clearly rendered moot by the resolution of that appeal in May 2022. We also agree with its conclusion that Karupaiyan's concerns raised about the appointment of U.S. Supreme Court justices merely duplicated arguments he made earlier in his complaint, reconsideration motion, and on appeal. See D. Ct. ECF No. 1 at 12-14, 27; No. 11 at 9-10; C.A. No. 21-3339, 3d Cir. ECF No. 17; see generally D. Ct. ECF No. 4 (Letter Order); D. Ct. ECF No. 14 (Order denying post-judgment motions); C.A. No. 21-3339, 3d Cir. ECF No. 26 (Mandate and Opinion). Finally, the District Court did not abuse its discretion in denying the motion for a protective order because Karupaiyan failed to comply with Federal Rule of Civil Procedure 65(b)(1)(A), let alone explain how the District Court had the authority to prevent the execution of a local arrest warrant in the first place.

Accordingly, we will affirm the order of the District Court. Karupaiyan's motions for relief in this Court are denied³.

² We have jurisdiction over the appeal pursuant to 28 U.S.C. § 1291, and will summarily affirm if the appeal does not present a substantial question. See *Murray v. Bledsoe*, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam); 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

³ As in his previous appeals, Karupaiyan seeks to represent his minor children, but as we have explained, a pro se litigant who is not an attorney may not do so. See *Osei-Afriyie by Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 883 (3d Cir. 1991).

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**II. APPENDIX-B : JUDGMENT OF UNITED STATES
COURT OF APPEALS FOR 3RD CIR. FEB 23 2023
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 22-2949

PALANI KARUPAIYAN; P.P.; R.P., Appellants

v.

TOWNSHIP OF WOODBRIDGE; STATE OF NEW
JERSEY; UNITED STATES OF AMERICA; UNION
OF INDIA; OFFICER GANDHI, 5038, individually and
in his official capacity as Parking enforcement officer of
Woodbridge; WOODBRIDGE POLICE DEPARTMENT

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-21-cv-19737)
District Judge: Honorable Esther Salas

Submitted for Possible Dismissal under 28 U.S.C. §
1915(e)(2) or Possible Summary Action Pursuant to
Third Circuit LAR 27.4 and I.O.P. 10.6
February 9, 2023
Before: KRAUSE, PORTER, and AMBRO, Circuit
Judges

JUDGMENT

This cause came to be considered on the record
from the United States District Court for the District of
New Jersey and was submitted for possible dismissal
under 28 U.S.C. § 1915(e)(2) or possible summary
action pursuant to Third Circuit LAR 27.4 and I.O.P.

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10.6 on February 9, 2023. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgments of the District Court entered August 19, 2022 be and the same hereby is affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:
s/Patricia S. Dodszeit
Clerk

DATED: February 23, 2023

III. APPENDIX-C: ORDER OF UNITED STATES DISTRICT COURT FOR NEW JERSEY, AUG 19, 2022.

Not for Publication

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PALANI KARUPAIYAN,

Plaintiff,

v.

WOODBIDGE TOWNSHIP OF NJ, *et al.*,

Defendants.

Civil Action No.: 21-19737 (ES) (JSA)

ORDER

SALAS, DISTRICT JUDGE

1. Before the Court are *pro se* plaintiff Palani Karupaiyan's (i) second motion for leave to appeal *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a)(1) (D.E. No. 16), (ii) motion for an immediate stay "for the United States/President Biden [to] nominate/appoint US Supreme Court Justices" (D.E. No. 17), and (iii) an emergency motion for a protective order against defendant Woodbridge Township to prevent his arrest (D.E. No. 18) (together, the "Motions"); and it appearing that:

2. On November 4, 2021, *pro se* plaintiff Palani Karupaiyan⁴ filed this action against defendants Woodbridge Township of NJ, Officer Gandhi, the Police Department of Woodbridge (together, the “Woodbridge Defendants”), the State of New Jersey, the United States, and the “Union of India” (all together, “Defendants”). (D.E. No. 1 (“Complaint” or “Compl.”) at 1). On the same day, Plaintiff filed an application to proceed IFP. (D.E. No. 1-1).

3. On December 9, 2021, utilizing its “discretion to consider the merits of a case and evaluate an IFP application in either order or even simultaneously,” *see Brown v. Sage*, 941 F.3d 655, 660 (3d Cir. 2019), the Court dismissed Plaintiff’s Complaint but permitted him to replead his claims against the Woodbridge Defendants. (D.E. No. 4 (“December 9, 2021 Letter Order”) at 4). In doing so, the Court granted Plaintiff leave to amend within thirty days and warned that failure to amend said claims against the Woodbridge Defendants or to cure the noted deficiencies would result in dismissal of Plaintiff’s federal claims *with prejudice*. (*Id.*). Accordingly, the Court made no determination as to whether Plaintiff’s monthly income rendered him eligible for proceeding IFP.

⁴ Although the docket and the Complaint list PP and RP as two additional plaintiffs, the civil cover sheet lists only plaintiff Palani Karupaiyan. (*Compare* D.E. No. 1, *with* D.E. No. 1-4). Even if Plaintiff intended to bring this action individually and on behalf of his children, PP and RP (*see* D.E. No. 13), a parent cannot represent the interests of his or her minor children *pro se*. *See Jackson v. Bolandi*, No. 18-17484, 2020 WL 255974, at *4 (D.N.J. Jan. 17, 2020) (noting that “a non-attorney parent may not represent his or her child *pro se* in federal court”) (citing *Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 882–83 (3d Cir. 1991)).

4. Thereafter, on December 17, 2021, Plaintiff requested an additional twelve months to amend his Complaint. (D.E. No. 5). On the same day, Plaintiff filed a notice of appeal of the Court's December 9, 2021 Letter Order ("Plaintiff's Appeal") and his first motion to appeal IFP. (D.E. Nos. 6–7 & 10).

5. On December 23, 2021, one day after a case number was assigned to Plaintiff's appeal, he filed a motion "for [d]eclarative/injunctive orders – reconsideration." (*Compare* D.E. No. 10, *with* D.E. No. 11).

6. Four days later, on December 27, 2021, Plaintiff moved to (i) "[r]emove the traffic ticket docket from [W]oodbridge municipal court to District Court," and (ii) "to appoint [a] guardian ad litem to children PP, [and] RP" or, alternatively, "to appoint [an] attorney to the Plaintiff(s)." (D.E. Nos. 12 & 13).

7. On January 13, 2021, the Court (i) denied Plaintiff's motion to appeal IFP because the application did not provide a valid basis to grant IFP status for purposes of appeal; (ii) denied Plaintiff's motion for reconsideration for failure to raise an intervening change in law, the availability of new evidence, or the need to correct a clear error of law or fact; and (iii) denied Plaintiff's remaining motions in light of his appeal to the Third Circuit. (D.E. No. 14).

8. In the coming months, pending resolution of Plaintiff's Appeal, he filed the instant Motions. (D.E. Nos. 16–18).

9. On May 3, 2022, the Third Circuit affirmed the Court's judgments entered on December 10, 2021, and January 13, 2022. (D.E. Nos. 20 & 21)⁵.

⁵ In its opinion, the Third Circuit noted that the Court's orders dated December 9, 2021, and January 13, 2022, comprised a final decision because Plaintiff declined to amend his Complaint, "withdrew his request for an extension of time to do so," and

10. *Second Motion to Appeal IFP.* Plaintiff's second motion to appeal IFP is moot given the Third Circuit's May 3, 2022 opinion and judgment. The Third Circuit has already held that this Court did not err in denying reconsideration of its December 9, 2021 Letter Order or in denying any of Plaintiff's other requests on January 13, 2022. (D.E. No. 21 at 3–5).

11. *Motion for Immediate Stay.* As best as this Court can discern, Plaintiff's motion for an "immediate stay for United States/President Biden [to] nominate/appoint US Supreme Court Justices and Promote 13 USCA Judges to [the] US Supreme Court" (D.E. No. 17) is related to his initial request as described in the Court's December 9, 2021 Letter Order. (See D.E. No. 4 (noting that Plaintiff asserted "another entirely unrelated category of allegations against the United States Supreme Court for not hearing a case about Plaintiff's broken ribcage" (citing D.E. No. 1 ¶¶ 73–76), and that "[h]e requests that more judges be added to the Court" (citing *id.* ¶ 83)); see also D.E. No. 21 at 2). Because the Third Circuit already affirmed the dismissal of Plaintiff's Complaint under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim and the Court's denial of reconsideration regarding the same, it need not address Plaintiff's substantially duplicative and conclusory request for additional Supreme Court Justices. (See D.E. No. 21 at 3–5).

12. *Motion for a Protective Order.* In his final motion, Plaintiff requests "emergent" relief in the form of a protective order to prevent the Woodbridge Township from arresting him. (D.E. No. 18). Plaintiff's request fails for multiple reasons. First, he does not assert Woodbridge Township's alleged basis for his

"expressly stated" to the Third Circuit "that he [was] standing on his complaint." (D.E. No. 21 at 3 n.2).

arrest and does not further describe or attach an arrest warrant that allegedly is invalid. (*See generally id.*). Second and relatedly, Plaintiff's request, fashioned as one for "emergency" relief, is wholly insufficient under Federal Rule of Civil Procedure 65 and Local Civil Rule 65.1. For example, Plaintiff fails to set forth any facts in either an affidavit or verified complaint "clearly show[ing] that immediate and irreparable injury, loss, or damage will result to [him] before the adverse party can be heard in opposition." *See* Fed. R. Civ. P. 65(b) (1)(A); *McKinney v. Guthrie*, 309 F. App'x 586, 590 (3d Cir. 2009) (citing *McNeil v. United States*, 508 U.S. 106, 113 (1993) ("[W]e have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel.")). Third, Plaintiff presents no authority under which this Court may, by way of a protective order, prevent local law enforcement from executing an arrest warrant.

Accordingly, IT IS on this 19th day of August 2022,

ORDERED that Plaintiff's second motion for leave to appeal *in forma pauperis* (D.E. No.16) is **DENIED** as moot; and it is further

ORDERED that Plaintiff's motion for an immediate stay to appoint Supreme Court Justices is **DENIED**; and it is further

ORDERED that Plaintiff's motion for a protective order against Woodbridge Township is **DENIED**; and it is further

ORDERED that the Clerk of Court shall **TERMINATE** docket entry numbers 16, 17, &18; and it is further

ORDERED that the Clerk of Court serve Plaintiff with a copy of this Order by regular mail.

s/Esther Salas

Esther Salas, U.S.D.J.

**IV. APPENDIX-D : OSEI-AFRIYE ORDER OF
UNITED STATES COURT OF APPEALS FOR 3RD CIR. OCT
25, 2022**

**UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT**

No. 22-2949

**Karupaiyan v. Woodbridge Township of NJ
(D.N.J. No. 2-21-cv-19737)**

ORDER

Palani Karupaiyan has filed a notice of appeal on behalf of himself and his minor children, R.P. and P.P. The notice of appeal will be docketed as to these individuals pursuant to Federal Rule of Appellate Procedure 3(c)(2). It is noted that a person who is not a licensed attorney may only represent himself in this Court. See 28 U.S.C. § 1654; see also *Osei-Afriye v. The Medical College of Pennsylvania*, 937 F.2d 876 (3d Cir. 1991) (non-lawyer appearing pro se may not act as attorney for minor child or incompetent). A non-attorney parent must be represented by counsel to the extent the parent brings an action to pursue claims on behalf of his or her child. Palani Karupaiyan does not appear to be a licensed attorney. Accordingly, this action will proceed only as to the parent unless an appearance by counsel is entered within twenty-one (21) days of the date of this order.

In addition, pursuant to Third Circuit Local Appellate Rule 113.12 and the Judicial Conference Policy on Privacy and Public Access to Electronic Cases, personal identifier information must be redacted from filings. These identifiers include Social Security numbers, names of minor children, financial account numbers, dates of birth, and home addresses in criminal cases. **Litigants are responsible for redacting documents.** This Court's Local

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Appellate Rules and a link to the Judicial Conference Policy are available at www.ca3.uscourts.gov.

Accordingly, this action has been docketed under the initials of the minor children Appellants, rather than their full names.

The parties should comply with L.A.R. 113.12 and the Judicial Conference Policy on Privacy. Any future filings should be in compliance with the local rule and that policy. The Clerk will not review each filing for compliance with L.A.R. 113.12. This order has no impact on any filings in the District Court, and the parties should address any issues regarding those filings with that Court.

For the Court,
s/ Patricia S. Dodszeit
Clerk

Dated: October 25, 2022
Sb/cc: Palani Karupaiyan

V. APPENDIX-E : FORMA PAUPERIS GRANTED BY
USCA3 AND DISMISSAL OF APPOINT ATTORNEY
REQUEST, DEC 20, 2022

UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT

No. 22-2949

Karupaiyan v. Woodbridge Township of New Jersey
(D.N.J. No. 2-21-cv-19737)

To: Clerk

- 1) Motions by Appellant for leave to appeal in forma pauperis
- 2) Motion by Appellant for appointment of counsel contained within Appellant's October 31, 2022 response

The foregoing motions to proceed in forma pauperis are granted. The appeal will be submitted to a panel of this court for determination under 28 U.S.C. ' 1915(e)(2) as to whether the appeal will be dismissed as legally frivolous or whether summary action under Third Circuit L.A.R. 27.4 and I.O.P. 10.6 is appropriate. In making this determination, the district court opinion and record will be examined. Appellant may submit argument, which should not exceed 5 pages, in support of the appeal. The document, with certificate of service, must be filed with the clerk within 21 days of the date of this order. Appellee need not file a response unless directed to do so. The Court may reconsider in forma pauperis status or request additional information at any time during the course of this appeal.

Appellant's motion for appointment of counsel is referred to the same panel of the Court that will consider whether the appeal should be dismissed pursuant to 28 U.S.C. Section 1915(e) or whether summary action is appropriate.

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For the Court,
s/ Patricia S. Dodszeit ,
Clerk
Dated: December 20, 2022
Sb/cc: Palani Karupaiyan
J. Andrew Ruymann, Esq.

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VI. APPENDIX- F : LETTER ORDER (SUA SPONTE
DISMISSAL) OF UNITED STATES DIST COURT-DIST OF
NEW JERSEY, DEC 09, 2022.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHAMBERS OF ESTHER SALAS UNITED STATES DISTRICT JUDGE	MARTIN LUTHER KING COURTHOUSE 50 WALNUT ST. ROOM 5076 NEWARK, NJ 07101 973-297-4887
--	---

December 9, 2021

LETTER ORDER

Re: *Karupaiyan. v. Woodbridge Township of NJ, et al.*
Civil Case No. 21-19737 (ES) (JSA)

Dear party,

Pro se plaintiff Palani Karupaiyan ("Plaintiff") initiated the instant action against defendants Woodbridge Township of NJ, the State of New Jersey, the United States, the "Union of India," Officer Gandhi, and the Police Department of Woodbridge (collectively "Defendants"). (D.E. No. 1 ("Complaint" or "Compl.") at 1). Plaintiff also filed an application to proceed *in forma pauperis* ("IFP"). (D.E. No. 1-1).

"[W]hen a person proceeds *in forma pauperis*, the statute instructs the District Court to 'dismiss the case *at any time* if the court determines that . . . [the complaint] fails to state a claim on which relief may be granted.'" *Harris v. Bennett*, 746 F. App'x 91, 93 (3d Cir. 2018) (quoting 28 U.S.C. § 1915(e)(2)(B)(ii)). Courts have "the discretion to consider the merits of a case and

evaluate an IFP application in either order or even simultaneously.” *Brown v. Sage*, 941 F.3d 655, 660 (3d Cir. 2019).

The Court opts to consider the merits of Plaintiff’s claims first. “The legal standard for dismissing a complaint for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as that for dismissing a complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).” *Schreane v. Seana*, 506 F. App’x 120, 122 (3d Cir. 2012). The 12(b)(6) standard is a familiar one: “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face’”; but “unadorned, the defendant-unlawfully-harmed-me accusation[s]” are insufficient. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). With a *pro se* plaintiff, courts are “required to interpret the *pro se* complaint liberally” *See Sause v. Bauer*, 138 S. Ct. 2561, 2563 (2018).

In addition, Rule 8(a)(2) requires that a complaint set forth “a short and plain statement of the claim[s] showing that the [plaintiff] is entitled to relief.” Each allegation in the complaint “must be simple, concise, and direct.” Fed. R. Civ. P. 8(d)(1). Rule 8 further requires that the complaint set forth the plaintiff’s claims with enough specificity 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 (internal quotation marks omitted). Thus, the complaint must contain “sufficient facts to put the proper defendants on notice so they can frame an answer” to the plaintiff’s allegations. *See Dist. Council 47, Am. Fed’n of State, Cty. & Mun. Emps., AFL-CIO by Cronin v. Bradley*, 795 F.2d 310, 315 (3d Cir. 1986). “Taken together,’ Rules 8(a) and 8(d)(1) ‘underscore the

emphasis placed on clarity and brevity by the federal pleading rules.” *Binsack v. Lackawanna Cty. Prison*, 438 F. App’x 158, 160 (3d Cir. 2011) (quoting *In re Westinghouse Sec. Litig.*, 90 F.3d 696, 702 (3d Cir. 1995)); see also 5 Wright & Miller, Fed. Prac. & Proc. Civ. § 1217 (3d ed.).

Here, Plaintiff uses the Complaint to air numerous unrelated grievances against unrelated defendants. Plaintiff’s complaints against Woodbridge Township, Police Department of Woodbridge, and Officer Gandhi (the “Woodbridge Defendants”) seem to constitute one category of allegations. With respect to the Woodbridge Defendants, Plaintiff alleges that he is homeless and lives in his car. (Compl. ¶¶ 5 & 49). And he believes that his car was unlawfully towed and that he was improperly “charged” with having an unregistered and uninsured motor vehicle, for failing to have an inspection, and for willfully abandoning a motor vehicle. (*Id.* ¶¶26–57). Related to this event, Plaintiff claims that Officer Gandhi called him a racial slur, and that the police unlawfully discriminated against him by charging him—an Indian male—but not charging a white woman whose car should have been towed. (*Id.* ¶¶ 42 & 60).

Another category of allegations seems to be those against the United States and India. Those allegations appear to stem from the fact that Plaintiff is separated from his children who either are or were at some point located in India, where they sustained injuries. (*Id.* ¶¶ 63–69 & 105–113). On this score, Plaintiff complains that the United States should have granted his request to deny passports for his children to go to India. (*Id.* ¶¶ 63–69). He seeks an injunction against the United States to have “parental rights” added to the United States Constitution. (*Id.* ¶72). And he seeks an

injunction against India to have his children returned to the United States. (*Id.* ¶ 115).

A third group of allegations pertains to the State of New Jersey. While these allegations are not entirely clear, it seems that Plaintiff became frustrated with the New Jersey Motor Vehicle Commission and the New Jersey Attorney General's office when he tried to register his vehicle and report the illegal towing of his vehicle. (*Id.* ¶¶ 84–94). Plaintiff also loops in the State of New Jersey with respect to some allegations about his children's injuries in India. (*See e.g., id.* at ¶¶ 163, 165 & 168). Finally, there appears to be another entirely unrelated category of allegations against the United States Supreme Court for not hearing a case about Plaintiff's broken ribcage. (*Id.* ¶¶ 73–76). He requests that more judges be added to the Court. (*Id.* ¶ 83).

Preliminarily, various immunity doctrines strip this Court of jurisdiction over Plaintiff's claims against certain defendants. First, the Foreign Sovereign Immunities Act ("FSIA") "provides the sole basis for obtaining jurisdiction over a foreign state in federal court." *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428, 439 (1989). Specifically, the FSIA provides that a "foreign state shall be immune from the jurisdiction" of both federal and state courts except as provided by 28 U.S.C. §§ 1605–07. *See* 28 U.S.C. § 1604. Based on the facts as pled, it does not appear that any of the exceptions apply to permit suit against India. *See M/S Najaat Welfare Found. Through Chishti v. Modi*, No. 19-4484, 2020 WL 1321525, at *1 (S.D. Tex. Mar. 4, 2020) ("Without an allegation triggering the application of an exception to the FSIA, the Government of India is presumed immune from suit."), *report and recommendation adopted*, 2020 WL 1321819 (S.D. Tex. Mar. 20, 2020).

Second, “[t]he United States, as sovereign, is immune from suit save as it consents to be sued, and the terms of its consent to be sued in any court define that court’s jurisdiction to entertain the suit.” *United States v. Sherwood*, 312 U.S. 584, 586 (1941) (internal citations omitted). Here, it is somewhat difficult to discern what Plaintiff’s claims against the United States are, but Plaintiff appears to allege various constitutional theories of liability against the United States. (Compl. ¶¶ 163, 165, 168 & 170). The United States is immune from suit for such claims. *McClain v. United States*, No. 21-4997, 2021 WL 2224270, at *2 (D.N.J. June 2, 2021) (“[T]he United States is not subject to suit for constitutional torts, including the civil rights claims Plaintiff seeks to raise, and is entitled to absolute sovereign immunity in this matter.”); *Hill v. United States*, No. 21-3872, 2021 WL 3879101, at *2 (D.N.J. Aug. 30, 2021) (similar).

Likewise, the Eleventh Amendment bars all private suits against non-consenting states in federal court. U.S. Const. amend. XI; *Lombardo v. Pennsylvania, Dep’t of Pub. Welfare*, 540 F.3d 190, 194 (3d Cir. 2008) (“The immunity of States from suit in the federal courts is a fundamental aspect of state sovereignty.”). Although there are some exceptions to sovereign immunity, it does not appear that any apply in this case to permit suit against the state of New Jersey. See *Patel v. Crist*, No. 19-9232, 2020 WL 64618, at *3 (D.N.J. Jan. 7, 2020).

Immunity issues aside, the Complaint is “anything but ‘simple, concise, and direct.’” See *Binsack*, 438 F. App’x at 160 (quoting Fed. R. Civ. P. 8(d)(1)). Plaintiff asserts twenty-one (21) causes of action sounding in both federal and state law. (*Id.* ¶¶

151–83)⁶. Plaintiff alleges various claims for relief that do not exist, such as “denial of justice” (Count 14), “unfair justice” (Count 17), and “excessive charging” (Count 18). Plaintiff does include some recognized legal theories for relief such as malicious prosecution (Count 1), unlawful discrimination (Count 2), violation of the Americans with Disabilities Act (Count 5), and violation of due process (Count 16). But even for those cognizable legal claims, rather than setting forth how he is entitled to relief, the Complaint is mostly riddled with “mere conclusory statements” and “unadorned, the defendant- unlawfully-harmed-me accusation[s]”—which are insufficient to state a claim. *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 556); (see e.g., Compl. ¶ 153 (alleging that by taking away Plaintiff’s “living property,” Woodbridge and its police violated the Americans with Disabilities Act)).

Thus, even after considering Plaintiff’s status as a *pro se* litigant, Plaintiff fails to state a claim upon which relief can be granted. Notably, Plaintiff is no stranger to the legal system, and he has been made aware of the pleading standards required to state a claim in federal court. See e.g., *Karupaiyan v. Atl. Realty Dev. Corp.*, 827 F. App’x 165, 167 (3d Cir. 2020) (“We agree with the District Court that Karupaiyan’s difficult-to-follow complaint fails to suggest the existence of any plausible claim.”); *Karupaiyan v. Naganda*, No. 20-12356, 2021 WL 3616724, at *2 (D.N.J. Aug. 12, 2021) (“Plaintiff’s First Amended

⁶ The Court focuses its analysis on the federal claims, and because those claims fail for a variety of reasons, the Court does not exercise supplemental jurisdiction over Plaintiff’s state law claims. However, the Court notes that the issues discussed herein permeate the state claims as well.

Complaint is largely incoherent and partially illegible . . ."); *Karupaiyan v. CVS Health Corp.*, No. 19-8814, 2021 WL 4341132, at *36 (S.D.N.Y. Sept. 23, 2021) (explaining that despite having an opportunity to amend, the benefit of multiple rounds of pre-motion letters from defendants, and despite the court's leeway in construing his claims liberally, "there remain fundamental deficiencies in most of Plaintiffs' claims"). Notwithstanding the foregoing, Plaintiff has once again filed a lawsuit that fails to adhere to the relevant pleading standards.

Finally, in addition to the immunity issues and pleading deficiencies, the Complaint does not comply with Federal Rule of Civil Procedure 20. Rule 20(a)(2) provides that Defendants "may be joined in one action as defendants if"

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

Although the requirements of Rule 20(a) are to be liberally construed, Rule 20 is not "a license to join unrelated claims and defendants in one lawsuit." *Bragg v. Wilson*, No. 16-2868, 2017 WL 6513419, at *1 (D.N.J. Dec. 19, 2017). Here, construing both the Complaint and Rule 20(a) liberally, the Court struggles to understand how Plaintiff's claims against the United States and India are properly joined with the claims against the Woodbridge Defendants and certain claims against the State of New Jersey. See *Salley v. Sec'y Pennsylvania Dep't of Corr.*, 565 F. App'x 77, 82 (3d Cir. 2014) (affirming district court's determination that

claims were not sufficiently related and must be filed separately).

For all of the foregoing reasons, the Court will dismiss the Complaint. Because there is no adjudication on the merits of Plaintiff's claims against the United States, India, and the State of New Jersey, those claims must be dismissed *without prejudice*. *Figueroa v. Buccaneer Hotel Inc.*, 188 F.3d 172, 182 (3d Cir. 1999). However, because the aforementioned immunity doctrines strip this Court of jurisdiction over those claims, any amendment would be futile. See *Karolski v. City of Aliquippa*, No. 15-1101, 2016 WL 7404551, at *4 (W.D. Pa. Dec. 22, 2016) (citing *Walker v. Zenk*, 323 F. App'x 144, 148 (3d Cir. 2009)). The remaining claims against the Woodbridge Defendants are also dismissed *without prejudice* for failure to state a claim. Plaintiff is granted leave to replead only his claims against the Woodbridge Defendants to cure the deficiencies identified herein within thirty days from the entry of this Order. Plaintiff is on notice that failure to file an amended complaint on time or to cure the deficiencies in the Complaint will result in a dismissal of his federal claims *with prejudice*. Upon the filing of an amended complaint, the Court will conduct an additional screening pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and, if appropriate, evaluate the IFP application.

SO ORDERED.

s/ Esther Salas

Esther Salas, U.S.D.J.

**VII. APPENDIX - G : ORDER OF UNITED STATES
DISTRICT COURT, DISTRICT OF NEW JERSEY- NEWARK
DIV RELATED TO RECONSIDERATION / INJUNCTIVE
RELIEFS. JAN 13, 2022.**

Not for Publication

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PALANI KARUPAIYAN,

Plaintiff,

v.

WOODBIDGE TOWNSHIP OF NJ, *et al.*,

Defendants.

Civil Action No. 21-19737 (ES) (JSA)

ORDER

SALAS, DISTRICT JUDGE

1. Before the Court are *pro se* plaintiff Palani Karupaiyan's motions (i) for leave to appeal *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a)(1) (D.E. No. 7), (ii) for declarative/ injunctive orders and reconsideration (D.E. No. 11), (iii) to remove a traffic ticket docket from Woodbridge municipal court (D.E. No. 12), and (iv) to appoint a guardian *ad litem* to his children, or alternatively, to appoint pro bono counsel (D.E. No. 13); and it appearing that:

2. On November 4, 2021, *pro se* plaintiff Palani Karupaiyan⁷ filed this action against defendants Woodbridge Township of NJ, Officer Gandhi, the Police Department of Woodbridge (together, the “Woodbridge Defendants”), the State of New Jersey, the United States, and the “Union of India” (all together, “Defendants”). (D.E. No. 1 (“Complaint”) at 1). On the same day, Plaintiff filed an application to proceed IFP. (D.E. No. 1-1).

3. In his IFP application, Plaintiff attested that he does not have any monthly income and that his total monthly expenses for a “family support order [are] \$3900 monthly.” (D.E. No. 1-1).

4. On December 9, 2021, utilizing its “discretion to consider the merits of a case and evaluate an IFP application in either order or even simultaneously,” *see Brown v. Sage*, 941 F.3d 655, 660 (3d Cir. 2019), the Court dismissed Plaintiff’s Complaint but permitted him to replead his claims against the Woodbridge Defendants. (D.E. No. 4 (“December 9, 2021 Letter Order”) at 4). In doing so, the Court granted Plaintiff leave to amend within thirty days and warned that failure to amend said claims against the Woodbridge Defendants or to cure the noted deficiencies would result in dismissal of Plaintiff’s federal claims *with prejudice*. (*Id.*). Accordingly, the Court made no

⁷ Although the docket and the Complaint list PP and RP as two additional plaintiffs, the civil cover sheet lists only plaintiff Palani Karupaiyan. (*Compare* D.E. No. 1, *with* D.E. No. 1-4). Even if Plaintiff intended to bring this action individually and on behalf of his children, PP and RP (*see* D.E. No. 13), the Court notes that a parent cannot represent the interests of his or her minor children *pro se*. *See Jackson v. Bolandi*, No. 18-17484, 2020 WL 255974, at *4 (D.N.J. Jan. 17, 2020) (noting that “a non-attorney parent may not represent his or her child *pro se* in federal court”) (citing *Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 882-83 (3d Cir. 1991)).

determination as to whether Plaintiff's monthly income rendered him eligible for proceeding IFP.

5. Thereafter, on December 17, 2021, Plaintiff requested an additional twelve months to amend his Complaint. (D.E. No. 5). On the same day, Plaintiff filed a notice of appeal of the Court's December 9, 2021 Letter Order and a motion to appeal IFP. (D.E. Nos. 6–7 & 10)⁸.

6. On December 23, 2021, one day after a case number was assigned to Plaintiff's appeal, he filed a motion “for [d]eclarative/ injunctive orders – reconsideration.” (*Compare* D.E. No. 10, *with* D.E. No. 11).

7. Four days later, on December 27, 2021, Plaintiff moved to (i) “[r]emove the traffic ticket docket from [W]oodbridge municipal court to District Court,” and (ii) “to appoint [a] guardian ad litem to children PP, [and] RP” or, alternatively, “to appoint [an] attorney to the Plaintiff(s).” (D.E. Nos. 12 & 13).

Motion to Appeal IFP

8. Because the Court did not previously decide Plaintiff's IFP status, Plaintiff must comply with the requirements set out by Federal Rule of Appellate Procedure 24(a)(1) in order to obtain IFP status on appeal. Specifically, “a party to a district-court action

⁸ Although the Court granted Plaintiff a limited extension to amend his Complaint until January 24, 2022, Plaintiff withdrew his request by letter dated December 21, 2021. (D.E. Nos. 5, 8 & 9). As of the date of this Order, Plaintiff has not filed an amended complaint. Thus, “[b]y failing to file an amended complaint within the time allotted by [the Court] and filing a notice of appeal instead, [Plaintiff] ‘elected to stand’ on his [C]omplaint.” See *Rodriguez v. Wawa Inc.*, 833 F. App’x 933 n.2 (3d Cir. 2021) (first citing *Batoff v. State Farm Insurance Co.*, 977 F.2d 848, 851 n.5 (3d Cir. 1992); and then citing *Hoffman v. Nordic Naturals, Inc.*, 837 F.3d 272, 279 (3d Cir. 2016)).

who desires to appeal in forma pauperis must file a motion in the district court," attaching an affidavit that "(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal." Fed. R. App. P. 24(a)(1). With respect to subsection (A), Form 4 requires the applicant to list, in detail, all sources of income, assets of the applicant and the spouse, and monthly expenses.

9. Here, Plaintiff's motion to appeal IFP consists of a two-page IFP application in which Plaintiff attests that his wife, son, and daughter are dependent on him for support, but that he is unemployed and homeless such that he does not have income apart from "some \$\$\$ from India (home)." (D.E. No. 7 at 1-2). Plaintiff also attested that he has no cash in checking or saving accounts, that his monthly expenses in court-ordered family support alone are \$3,900.00, and that he has over \$70,000.00 in debt. (*Id.* at 2).

10. Even assuming he is unable to pay the filing fee, Plaintiff's motion fails to comply with subsection (B) because it does not contain any affidavit claiming his entitlement to redress. (*See* D.E. No. 7). While Plaintiff did submit a motion for declarative/injunctive relief that also includes the title "Affidavit/Affirmation" in which he purports to restate his initial arguments, it is not clear whether he intends to present only these grievances on appeal to comport with subsection (C). (*See* D.E. No. 11). Moreover, for the reasons stated in its December 9, 2021 Letter Order, "this Court, on its own, fails to find any claim Plaintiff could raise in good faith." *See Abdulmalik v. Pittman*, No. 12-3340, 2012 WL 6021520, at *4 (D.N.J. Nov. 28, 2012); *see also* 28 U.S.C. § 1915(3) ("An appeal may not be taken in forma

pauperis if the trial court certifies in writing that it is not taken in good faith.”). In this context, good faith is judged by an objective standard. *Reyes v. Scism*, No. 10-1835, 2012 WL 727908, at *2 (M.D. Pa. Mar. 6, 2012) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). And “a finding of frivolousness is viewed as a certification that the appeal is not taken in good faith.” *Urrutia v. Harrisburg Cty. Police Dep’t*, 91 F.3d 451, 455 n.6 (3d Cir. 1996) (quoting *Oatess v. Sobolevitch*, 914 F.2d 428, 430 n.4 (3d Cir. 1990)); see also *Muhammad El Ali v. Vitti*, 218 F. App’x 161, 163 (3d Cir. 2007) (“An appeal is frivolous where none of the legal points is arguable on the merits.”); *Scott v. Wellington*, No. 02-1586, 2012 WL 13170049, at *1 (M.D. Pa. Nov. 5, 2012) (“[E]ven if Scott qualifies as indigent, her motion to proceed in forma pauperis would still be denied as wholly without merit and therefore frivolous” (citing *Neitzke v. Williams*, 490 U.S. 319, 327 (1989))); *Dieffenbach v. Crago*, No. 09-967, 2011 WL 3320951, at *1 (M.D. Pa. Aug. 2, 2011).

11. Because the Court previously declined to rule on Plaintiff’s IFP status for purposes of the present action and because the present application does not provide a valid basis to grant Plaintiff IFP status for purposes of appeal, the Court denies Plaintiff’s motion.

Motion for Reconsideration

12. Generally, the filing of a notice of appeal divests the district court of jurisdiction to consider subsequently filed motions. *Venen v. Sweet*, 758 F.2d 117 (3d Cir.1985). However, “[t]he timely filing of a Rule 59(e) motion negates any previously filed notice of appeal, depriving the appeals court of jurisdiction over the case until after disposition of the Rule 59(e) motion.” *Livingston v. United States*, No. 09-546, 2009 WL 3424181, at *1 (D.N.J. Oct. 20, 2009) (citing *United*

States v. Rogers Transp. Inc., 751 F.2d 635, 636–37 (3d Cir. 1985)); *Lakeside Resort Enters., LP v. Bd. of Supervisors of Palmyra Twp.*, 455 F.3d 154, 156 n.4 (3d Cir. 2006). Although Plaintiff filed a notice of appeal on December 17, 2021, the Court will broadly construe Plaintiff's filing dated December 23, 2021, as a motion for reconsideration under Rule 59(e).

13. "Whether brought pursuant to Federal Rule of Civil Procedure 59(e), or pursuant to Local Civil Rule 7.1(i), the scope of a motion for reconsideration is extremely limited, and such motions should only be granted sparingly." *Martinez v. Robinson*, No. 18-1493, 2019 WL 4918115, at *1 (D.N.J. Oct. 4, 2019) (citing *Blystone v. Horn*, 664 F.3d 397, 415 (3d Cir. 2011); *Delanoy v. Twp. of Ocean*, No. 13-1555, 2015 WL 2235103, at *2 (D.N.J. May 12, 2015)). In seeking reconsideration, a party must demonstrate either "(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [issued its order]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." *Max's Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). A motion for reconsideration is not a mechanism to "ask the Court to rethink what it ha[s] already thought through[.]" *Interfaith Cmty. Org. v. Honeywell Int'l, Inc.*, 215 F. Supp. 2d 482, 507 (D.N.J. 2002) (citation omitted). In other words, a court must "deny a motion that simply 'rehashes the claims already considered.'" *Eye Laser Care Center, LLC v. MDTV Med. News Now, Inc.*, No. 07-4788, 2010 WL 2342579, at *1 (D.N.J. June 7, 2010) (quoting *Russell v. Levi*, No. 06-2643, 2006 WL 2355476, at *2 (D.N.J. June 21, 2006)). Moreover, matters may not be introduced for the first time on a reconsideration motion, and absent unusual circumstances, a court should reject new evidence that

was not presented when the court made the contested decision. See *Harris v. Brody*, No. 07-1146, 2007 WL 3071796, at *1 (D.N.J. Oct. 22, 2007) (citations omitted).

14. Here, Plaintiff's arguments are not appropriate for reconsideration because they do not truly concern "(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [issued its order]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." See *Max's Seafood Café*, 176 F.3d at 677. Rather, Plaintiff rehashes arguments presented in his Complaint against the United States, the State of New Jersey, and India. (D.E. No. 11). Plaintiff's mere disagreement with the Court's screening of his Complaint is not a ground for reconsideration. See *Assisted Living Assocs. of Moorestown, LLC v. Moorestown Twp.*, 996 F. Supp. 409, 442 (D.N.J. 1998) (citing *Birmingham v. Sony Corp. of Am., Inc.*, 820 F. Supp. 834, 859 n.8 (D.N.J. 1992)); see also *Drysdale v. Woerth*, 153 F. Supp. 2d 678, 682 (E.D. Pa. 2001) (holding that a motion for reconsideration may not be used to reargue matters already argued and disposed of by the court).

15. As stated in its December 9, 2021 Letter Order, there are no apparent exceptions to the Foreign Sovereign Immunities Act that would permit suit against India. (D.E. No. 4 at 2-3). And it appears that both the United States and the State of New Jersey are immune from suit with respect to Plaintiff's claims. (*Id.* at 3 (first citing *United States v. Sherwood*, 312 U.S. 584, 586 (1941); and then citing *Lombardo v. Pennsylvania, Dep't of Pub. Welfare*, 540 F.3d 190, 194 (3d Cir. 2008))). Indeed, even for those cognizable legal claims, rather than setting forth how he is entitled to relief, both the Complaint and request to reconsider are

mostly riddled with “mere conclusory statements” and “unadorned, the-defendant-unlawfully-harmed-me accusation[s]”— which are insufficient to overcome the pleading standard. (*Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009))); *D’Agostino v. CECOMRDEC*, No. 10-4558, 2010 WL 3719623, at *1 (D.N.J. Sept. 10, 2010) (“The Court need not, however, credit a pro se plaintiff’s ‘bald assertions’ or ‘legal conclusions.’”). Because Plaintiff’s motion reiterates the same claims this Court already considered and rejected, his motion to reconsider must be denied.

Remaining Motions

16. Finally, because Plaintiff’s remaining motions were filed after he expressed an intention to stand on his complaint (*see* D.E. No. 9 (withdrawing request for an additional twelve months to amend)), and because Plaintiff has not filed an amendment in the allotted time, the Court lacks jurisdiction over Plaintiff’s subsequently filed motions. *See Weber v. McGrogan*, 939 F.3d 232, 238 (3d Cir. 2019) (noting that “[o]nly if the plaintiff cannot amend or declares his intention to *stand on his complaint* does the order become final and appealable” (quoting *Borelli v. City of Reading*, 532 F.2d 950, 952 (3d Cir. 1976) (emphasis added))); *see also Abulkhair v. Bush*, No. 11-6616, 2012 WL 12895700, at *1 (D.N.J. July 11, 2012), *aff’d*, No. 12-3358 (3d Cir. Jan. 7, 2013); (D.E. No. 11 (motion for “declarative/injunctive orders”); D.E. No. 12 (motion to remove a traffic ticket docket from Woodbridge municipal court); D.E. No. 13 (motion for a guardian *ad litem* or pro bono counsel)).

Accordingly, IT IS on this 13th day of January 2022,

ORDERED that Plaintiff’s motion for leave to appeal

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in forma pauperis (D.E. No. 7) is DENIED⁹; and it is further

ORDERED that Plaintiff's motion for reconsideration of the Court's December 9, 2021 Letter Order is DENIED; and it is further

ORDERED that Plaintiff's motions for declarative/ injunctive orders, to remove the traffic ticket docket from Woodbridge municipal court, and to appoint a guardian *ad litem* for his minor children, or alternatively, to appoint pro bono counsel are DENIED *without prejudice* for lack of jurisdiction (D.E. Nos. 11, 12 & 13); and it is further

ORDERED that the Clerk of Court shall TERMINATE docket entry numbers 7, 11, 12 and 13; and it is further.

ORDERED that the Clerk of Court mark this matter CLOSED; and it is further.

ORDERED that the Clerk of Court serve Plaintiff with a copy of this Order by regular mail and certified mail return receipt.

s/*Esther Salas*
Esther Salas, U.S.D.J.

⁹ This denial is *without prejudice* to Plaintiff's right to seek IFP status from the United States Court of Appeals for the Third Circuit.