# APPENDIX

# 'A'

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 21-7419**

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RAJUL RUHBAYAN,

Plaintiff - Appellant,

v.

REBECCA BEACH SMITH, District Judge; ROBERT B. KING, Appeal Judge; ALLYSON K. DUNCAN, Appeal Judge; WILLIAM W. WILKINS, Appeal Judge,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:21-ct-03133-BO)

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Submitted: March 24, 2022 Decided: July 15, 2022

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Before GREGORY, Chief Judge, and WYNN and RUSHING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Rajul Ruhbayan, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rajul Ruhbayan appeals from the district court's order dismissing his *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), complaint as frivolous under 28 U.S.C. § 1915A.* Ruhbayan sued the district court judge who presided over his trial and the three judges from this court who decided his direct criminal appeal. The district court determined that Defendants were protected by absolute judicial immunity. We affirm.

Ruhbayan asserts that his complaint sought prospective declaratory relief, liability for which a judge is not immune. Under 28 U.S.C. § 1915A(a), a district court is required "to engage in a preliminary screening of any complaint in which a prisoner seeks redress from a governmental entity or an officer or employee of a governmental entity." *McClean v. United States*, 566 F.3d 391, 394 (4th Cir. 2009), *abrogated on other grounds by Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721 (2020). A district court must dismiss the complaint if it "is frivolous, malicious, or fails to state a claim upon which relief may be granted." 28 U.S.C. § 1915A(b)(1). "[A] complaint . . . is frivolous where it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Such a circumstance exists, for example, when the complaint "describ[es] fantastic or delusional scenarios" or seeks relief "on an indisputably meritless legal theory." *Id.* at 327-28.

* The district court cited to 28 U.S.C. § 1915(e), but that statute is inapplicable to Ruhbayan who was a fee paid litigant.

*Bivens* does not bar declaratory relief against judges. *Just. Network Inc. v. Craighead Cnty.*, 931 F.3d 753, 763 (8th Cir. 2019) (considering 42 U.S.C. § 1983 complaint); *Butz v. Economou*, 438 U.S. 478, 500 (1978) (noting that it is inappropriate to create a distinction between state and federal judges for immunity purposes). However, "[a] declaratory judgment is meant to define the legal rights and obligations of the parties in anticipation of *some future conduct*, not simply to proclaim liability for a past act." *Just. Network*, 931 F.3d at 763 (internal quotation marks omitted); *see also Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690, 698 (3d Cir. 1996) (concluding that relief sought is not prospective where "specific allegations target past conduct, and the . . . remedy [sought] is not intended to halt a present, continuing violation of federal law"). Thus, a claim for declaratory relief that will avoid judicial immunity is, at most, limited to prospective declaratory relief. *See Just. Network*, 931 F.3d at 764.

We find that Ruhbayan's request for declaratory relief is purely retrospective. He sought a declaratory judgment that past actions that occurred within the context of his criminal proceeding violated his constitutional rights. As a result, Defendants are protected by judicial immunity, and the district court correctly determined that Ruhbayan was not entitled to relief under *Bivens*. As such, we affirm. 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 'B'

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:21-CT-3133-BO

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| RAJUL RUHBAYAN,<br><br>Plaintiff,<br><br>v.<br><br>REBECCA BEACH SMITH, ROBERT B. KING, ALLYSON K. DUNCAN, and WILLIAM W. WILKENS,<br><br>Defendants. | ) | ORDER |

Rajul Ruhbayan ("plaintiff"), a federal inmate, filed this civil rights action *pro se* pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). The matter now is before the court for an initial review pursuant to 28 U.S.C. § 1915. The matter also is before the court on plaintiff's motion to amend his complaint (DE 4) and his pleading captioned "Motion for Intervention" (DE 6).

The court GRANTS plaintiff's motion to amend, and next conducts an initial review of the pleadings pursuant to 28 U.S.C. § 1915(e)(2)(B). See Fed. R. Civ. P. 15(a); Scinto v. Sandberry, 507 F. App'x 311, 312 (4th Cir. 2013). Section 1915 provides that courts shall review complaints in which prisoners seek relief from a governmental entity or officer and dismiss such complaints when they are "frivolous." 28 U.S.C. § 1915(e)(2)(B)(i). A complaint may be found frivolous because of either legal or factual deficiencies. First, a complaint is frivolous where "it lacks an arguable basis . . . in law." Neitzke v. Williams, 490 U.S. 319, 325 (1989). Legally frivolous claims are based on

an "indisputably meritless legal theory" and include "claims of infringement of a legal interest which clearly does not exist." Adams v. Rice, 40 F.3d 72, 74 (4th Cir. 1994) (quoting Neitzke, 490 U.S. at 327). Under this standard, complaints may be dismissed for failure to state a claim cognizable in law, although frivolity is a more lenient standard than that for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Neitzke, 490 U.S. at 328. Second, a complaint may be frivolous where it "lacks an arguable basis . . . in fact." Id. at 325. Section 1915 permits federal courts "to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless." See Denton v. Hernandez, 504 U.S. 25, 32 (1992) (citing Neitzke, 490 U.S. at 327).

In 2002, plaintiff was convicted, following a jury trial in the United States District Court for the Eastern District of Virginia, of conspiracy to commit perjury and obstruction of justice, witness tampering, perjury, suborning perjury, and obstruction of justice. See United States v. Ruhbayan, 369 F. App'x 497 (4th Cir. 2010). Plaintiff was sentenced to life imprisonment. Id. Plaintiff now brings this action against United States District Court Judge Rebecca Beach Smith ("Smith"), and Fourth Circuit Court of Appeals Judges Robert B. King, Allyson K. Duncan, and William W. Wilkens. Plaintiff sues the defendant judges in their individual and official capacities "for solely prospective injunctive relief & prospective damages relief." ((DE 1), p. 2) (alterations to the original); ((DE 4), p. 1)..

Plaintiff essentially challenges the decisions the judge defendants made in plaintiff's federal criminal proceedings, including the appellate process. Judges are entitled to absolute immunity for acts performed in their judicial capacity. See Pressly v. Gregory, 831 F.2d 514, 517 (4th Cir. 1987); Mireles v. Waco, 502 U.S. 9, 9-11 (1991); Hendricks v. Cook, No. ELH-19-1674, 2019 WL

2994701, at *2 (D. Md. July 8, 2019). Judicial immunity extends to requests for injunctive relief unless "a declaratory decree was violated or declaratory relief was unavailable." 42 U.S.C. § 1983; see Murphy v. Ross, No. 3:14CV870, 2015 WL 1787351, at *3 (E.D. Va. Apr. 15, 2015) (unpublished); McCarty v. Jones, No. 5:09-CT-3133-FL, 2009 WL 8757960, at *1 (E.D.N.C. Nov. 30, 2009) (unpublished), aff'd, 376 F. App'x 293 (4th Cir. 2010) (per curiam) (unpublished). Plaintiff has not plausibly alleged facts sufficient to show that the judge defendants acted in clear absence of all jurisdiction, that a declaratory decree was violated, or that declaratory relief was unavailable. Accordingly, judicial immunity bars plaintiff's claims against defendants Smith, King, Duncan, and Wilkens.

The court next turns to plaintiff's motion requesting court intervention. Notably, the court construes this motion as one requesting injunctive relief due to the fact that plaintiff seeks a "resolution" of alleged mail mishandling at Butner Correctional Institution. See ((DE 6), p. 1). Notably, plaintiff did not move to amend his complaint to include any mail-related claims. See Fed. R. Civ. P. 15(a). Even if plaintiff had moved to amend his complaint to include any new claim related to his mail, the court would have denied the motion as futile because plaintiff did not connect his mail-related allegations to any named defendants and did not name any additional defendants. See West v. Atkins, 487 U.S. 42, 48 (1988); see Philips v. Pitt Cty. Mem'l Hosp., 572 F.3d 176, 180 (4th Cir. 2009). Moreover, a plaintiff cannot bring unrelated claims against unrelated defendants in a single action. See Fed. R. Civ. P. 18(a), 20(a)(2); George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). In any event, because the court has dismissed plaintiff's action against the named defendants, his motion for intervention is DENIED as MOOT.

In summary, plaintiff's motion to amend (DE 4) is GRANTED, but the court dismisses this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff's motion for court intervention (DE 6) is DENIED as MOOT. The Clerk of Court is DIRECTED to close this case.

SO ORDERED, this the 22 day of September, 2021.

Terrence Boyle

TERRENCE W. BOYLE
United States District Judge

# APPENDIX 'C'

FILED: October 17, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 21-7419
(5:21-ct-03133-BO)

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RAJUL RUHBAYAN

Plaintiff - Appellant

v.

REBECCA BEACH SMITH, District Judge; ROBERT B. KING, Appeal Judge; ALLYSON K. DUNCAN, Appeal Judge; WILLIAM W. WILKINS, Appeal Judge

Defendants - Appellees

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ORDER

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Chief Judge Gregory, Judge Wynn, and Judge Rushing.

For the Court

/s/ Patricia S. Connor, Clerk