

APPENDIX

ATTACHMENT 1- "Mitigating Witness Interview"

ATTACHMENT 2- "Open Records Request To LMPD From Investigator"

ATTACHMENT 3- "Response/ Disciplinary Record on LMPD Detective Anthony Lee Finch"

ATTACHMENT 4- "Confidential Memo to Counsel From Investigator, includes NEWSPAPER ARTICLE on Det. Finch charged with Perjury and 54 Counts of Off. Misconduct, and other charges."

ATTACHMENT 5- "Request for Full Record on Det. Finch."

ATTACHMENT 6- "Lisa Thomas, (Witness for Commonwealth) Arrest Record"

ATTACHMENT 7- "Newspaper Clip on LMPD revealing Fraudulent Arrests and Official Misconduct history by LMPD detectives"

ATTACHMENT 8- "Letter from the Hon. Mr. Erwin Lewis to the Governor, the Attorney General, the Chief Justice, all D.P.A. Directing Attorney's, and other Top- Executives of the Judiciary, Executice and Legislative branches" , dated May 23, 2008.

ATTACHMENT 9- "Letter from the Hon. Mr. Robert C. Ewald to the Governor", dated April 16, 2006.

ATTACHMENT 10- "AFFIDAVIT from the Hon. Mr. Edward C. Monahan"

ATTACHMENT 11- FISCAL REPORTS, for years 2007, 2009; 1998, 1999; 2011, 2012", with statement from the United States Attorney General at the Vera Institute of Justice's third annual Justice Address."

NOT RECOMMENDED FOR PUBLICATION

No. 22-5401

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Jun 23, 2023

DEBORAH S. HUNT, Clerk

RONNY DEVIOD WALKER,)
v.)
Plaintiff-Appellant,)
AMY ROBEY, et al.,) ON APPEAL FROM THE UNITED
Defendants-Appellees.) STATES DISTRICT COURT FOR
v.) THE WESTERN DISTRICT OF
KENTUCKY

O R D E R

Before: CLAY, WHITE, and LARSEN, Circuit Judges.

Ronny Deviod Walker, a pro se Kentucky prisoner, appeals the district court's order denying his post-judgment motion for a default judgment. Walker moves the court for appointment of counsel and for a default judgment. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See Fed. R. App. P. 34(a)*. For the reasons that follow, we affirm the district court's order and deny all pending motions.

Walker is serving a life sentence for murder. *See Walker v. Commonwealth*, 349 S.W.3d 307 (Ky. 2011). In 2020, the district court denied Walker's 28 U.S.C. § 2254 habeas petition, and we dismissed his appeal as untimely. *See Walker v. Litteral*, No. 20-5411 (6th Cir. May 14, 2020). We then denied Walker a certificate of appealability as to the district court's denial of his post-judgment motions. *See Walker v. Robey*, No. 20-5411 (6th Cir. Dec. 23, 2020).

In the present case, Walker sued the district judge and the magistrate judge who presided over his § 2254 case, as well as the interim warden of his prison, Amy Robey, under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Even liberally construed, Walker's complaint was only a recitation of the procedural

history of his habeas proceedings with a prayer for damages added at the end. The district court granted Walker leave to proceed in forma pauperis and then dismissed his complaint on initial screening under 28 U.S.C. § 1915(e)(2) because the judicial officers were immune from suit and he had not stated a claim against the warden.

Walker then filed a motion for a default judgment, which the district court denied as moot because it had already closed the case. Alternatively, the court ruled that the defendants were not in default because they had never been served with the complaint and therefore were not required to plead or defend. The court considered and rejected the possibility that the motion might be construed as a Federal Rule of Civil Procedure 59 motion to alter or amend the judgment or a Federal Rule of Civil Procedure Rule 60 motion for relief from the judgment because Walker did not cite either of these rules, and his habeas case showed that he knows how to file a proper post-judgment motion for relief under these rules.

Walker filed a timely notice of appeal from the district court's order denying his motion for a default judgment. But despite our best efforts to make sense of Walker's appellate brief, we conclude that he has not developed any argument demonstrating that the district court erred in denying his motion for a default judgment. We conclude therefore that Walker has forfeited appellate review of the district court's order. *See Geboy v. Brigano*, 489 F.3d 752, 767 (6th Cir. 2007); *Coleman v. Shoney's, Inc.*, 79 F. App'x 155, 157 (6th Cir. 2003). Even if we excuse this forfeiture, Walker was not entitled to a default judgment because the district court dismissed his complaint before the defendants were served. *See* Fed. R. Civ. P. 55(a), (b); *Friedman v. Est. of Presser*, 929 F.2d 1151, 1156-57 (6th Cir. 1991).

For these reasons, we **AFFIRM** the district court's order. We **DENY** Walker's motion for appointment of counsel because this appeal is frivolous. *See Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). We **DENY** Walker's motion for a default judgment as moot.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Jun 23, 2023

DEBORAH S. HUNT, Clerk

No. 22-5401

RONNY DEVIOD WALKER,

Plaintiff-Appellant,

v.

AMY ROBEY; COLIN H. LINDSAY; DAVID J.
HALE,

Defendants-Appellees.

Before: CLAY, WHITE, and LARSEN, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Western District of Kentucky at Louisville.

THIS CAUSE was heard on the record from the district court and was submitted on the
briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court
is AFFIRMED.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 06/23/2023.

Case Name: Ronny Walker v. Amy Robey, et al

Case Number: 22-5401

Docket Text:

ORDER filed: For these reasons, we AFFIRM the district court's order. We DENY Walker's motion for appointment of counsel [6840156-2] because this appeal is frivolous. See Lavado v. Keohane, 992 F.2d 601, 606 (6th Cir. 1993). We DENY Walker's motion for a default judgment [6926779-2] as moot. Pursuant to FRAP 34(a)(2)(C), decision not for publication. Mandate to issue. Eric L. Clay, Circuit Judge; Helene N. White, Circuit Judge and Joan L. Larsen, Circuit Judge.

The following documents(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

Ronny Deviod Walker
Western Kentucky Correctional Complex
374 New Bethel Church Road
Fredonia, KY 42411-0000

A copy of this notice will be issued to:

Mr. James J. Vilt Jr.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

RONNY DEVIOD WALKER

PLAINTIFF

v.

CIVIL ACTION NO. 3:21-cv-225-BJB

AMY ROBEY et al.

DEFENDANTS

ORDER

Plaintiff filed a motion for default judgment (DN 10) shortly after the Court dismissed his prisoner civil-rights lawsuit on review under 28 U.S.C. § 1915A for failure to state a claim upon which relief may be granted.

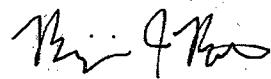
The motion is difficult to follow but seems to pertain to Plaintiff's previously filed habeas corpus case, *Walker v. Litteral*, 3:17-cv-541-DJH-CHL. A motion for default in another case has no purpose here.

Plaintiff's motion for default also has no purpose in this case. Because the case is closed, Plaintiff's motion for default is moot. *See, e.g., McCord v. Brooks, McComb & Fields, LLP*, No. 17-6459, 2018 WL 8514480, at *4 (6th Cir. Dec. 12, 2018) ("When McCord filed the motion, the district court had already granted the motion to strike and dismissed the action with prejudice. McCord's motion for an extension, therefore, was moot."). Even were the case not already closed, the motion has no merit. Rule 55 of the Federal Rules of Civil Procedure authorizes entry of default "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise[.]" Fed. R. Civ. P. 55(a). Defendants in this case did not fail to plead or otherwise defend. The Court dismissed this case on initial review under § 1915A, and Defendants were never served; therefore, they were not required to respond or defend.

Because Plaintiff filed this motion within 28 days of the final decision, the Court has considered the possibility that he intended this to be a motion to alter or amend the judgment in this case under Rule 59 of the Federal Rules of Civil Procedure. *See Fed. R. Civ. P. 59* (“A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.”). The motion, however, makes no reference to that Rule or to Rule 60, which enumerates grounds for relief from a final judgment, order, or proceeding. Moreover, the Court notes that Plaintiff appears to be familiar with post-judgment motions to reconsider the Court’s final decision. He filed such motions under Rule 60 after judgment was entered in his habeas case. *See Walker v. Litteral*, 3:17-cv-541-DJH-CHL (DNs 47 and 48).

The Court denies Plaintiff’s motion (DN 10).

Date:



Benjamin Beaton, District Judge

United States District Court

cc: Plaintiff, *pro se*
Defendants
B213.009

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

RONNY DEVIOD WALKER

PLAINTIFF

v.

CIVIL ACTION NO. 3:21-cv-225-BJB

AMY ROBEY et al.

DEFENDANTS

MEMORANDUM OPINION

Plaintiff Ronny Deviod Walker filed a complaint on this Court's *pro se* 42 U.S.C. § 1983/*Bivens*¹ complaint form. This matter is before the Court for screening pursuant to 28 U.S.C. § 1915A and *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), *overruled on other grounds by Jones v. Bock*, 549 U.S. 199 (2007). For the following reasons, this lawsuit will be dismissed.

I. STATEMENT OF CLAIMS

Walker names as Defendants in their official capacities Luther Luckett Correctional Complex (LLCC) Interim Warden Amy Robey; and Judge David. J. Hale and Magistrate Judge Colin H. Lindsay, both of this Court. This lawsuit appears to be a reaction to the denial of Walker's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in *Walker v. Litteral*, 3:17-cv-541-DJH-CHL. In that case, Judge Hale, the presiding judge, referred the matter to Magistrate Judge Lindsay pursuant to 28 U.S.C. § 636(b)(1)(A) & (B) for rulings on all non-dispositive motions; for appropriate hearings, if necessary; and for findings of fact, conclusions, and recommendations on any dispositive matter. *Walker v. Litteral*, at DN 18. The Magistrate Judge entered Findings of Fact and Conclusions of Law and recommended that the habeas

¹ In *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), the Supreme Court established a direct cause of action under the Constitution against federal officials for the violation of constitutional rights.

petition be denied and that a certificate of appealability (COA) be denied. *Id.* at DN 40. Judge Hale adopted in full the Magistrate Judge's Findings and Recommendation and entered Judgment on November 13, 2019. *Id.* at DN 43.

Walker then filed among other things, a Notice of Petition for Writ of Certiorari to the Supreme Court (*id.* at DN 46), two motions to alter judgment (*id.* at DNs 47 and 48), and a motion to correct judgment (*id.* at DN 49). The Court denied those motions by Order entered April 3, 2020 (*id.* at DN 51), and Walker filed a Notice of Appeal (*id.* at DN 52). The Court of Appeals for the Sixth Circuit dismissed the appeal as it applied to the November 13, 2019, judgment (*id.* at DN 58) and denied a COA (*id.* at DN 64). Walker filed another Notice of Appeal (*id.* at DN 65) on the November 13, 2019, Judgment (*id.* at DN 43). The Sixth Circuit dismissed the appeal due to a late notice of appeal (*id.* at DN 72). Walker filed a motion for evidentiary hearing and to appoint counsel, both of which were denied as moot (*id.* at DN 76). Walker then filed the current lawsuit.

In the Complaint, Walker details much of the procedural history of his habeas case and asks the Court "to undo the court's order and allow [Walker] to file a notice of appeal for the court's order denying [Walker]'s habeas petition." DN 1 at 4.

Walker seeks monetary and punitive damages, as well as injunctive relief by a "motion for evidentiary hearing." DN 1 at 6.

II. STANDARD OF REVIEW

When a prisoner sues a governmental entity, officer, or employee, the trial court must review the complaint and dismiss the action if the Court determines that it is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915A(b)(1) and (2). When

determining whether a plaintiff has stated a claim upon which relief can be granted, the Court must construe the complaint in a light most favorable to the plaintiff and accept all of the factual allegations as true. *See, e.g., Hill v. Lappin*, 630 F.3d 468, 470–72 (6th Cir. 2010). While a reviewing court must liberally construe *pro se* pleadings, *see id.* at 471; *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam), to avoid dismissal, a complaint must include “enough facts to state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

III. ANALYSIS

A. Judge Hale and Magistrate Judge Lindsay

These Defendants are immune from Walker’s lawsuit. Judges, including Magistrate Judges, are entitled to judicial immunity arising out of the performance of their judicial functions. *Mireles v. Waco*, 502 U.S. 9, 9 (1991) (per curiam); *Kipen v. Lawson*, 57 F. App’x 691, 691-92 (6th Cir. 2003) (discussing immunity of federal judges); *Alexander v. Carter*, No. 1:15-CV-69-HSM-SKL, 2018 WL 1124959, at *5 (E.D. Tenn. Mar. 1, 2018) (“Therefore, as Magistrate Judge Carter is entitled to absolute immunity from suit, Plaintiff’s claims against him fail to state a claim on which relief may be granted under § 1983 or *Bivens*.”). Judicial immunity is an immunity from suit, not just immunity from the assessment of money damages, and it applies even when a judge is accused of acting in bad faith, maliciously, or corruptly. *Mireles*, 502 U.S. at 11. It also serves to protect federal judges from injunctive relief. *Kipen*, 57 F. App’x at 691.

Judicial immunity from suit can be overcome in two situations, neither of which are applicable to Walker’s complaint. A judge is not immune from liability for non-judicial actions,

i.e., “actions not taken in the judge’s judicial capacity,” or for “actions, though judicial in nature, which are taken in the complete absence of all jurisdiction.” *Mireles*, 502 U.S. at 11-12.

A review of the docket of Walker’s habeas action and the Complaint in this case show no non-judicial actions taken by either Judge Hale or Magistrate Judge Lindsay or any action taken in the absence of all jurisdiction. Nor does Walker argue that there were.

Walker’s *Bivens* claims against Judge Hale and Magistrate Judge Lindsay fail to state a claim upon which relief may be granted. These claims will be dismissed.

B. Warden Robey

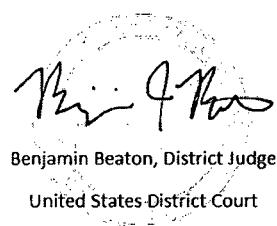
The Complaint makes no allegations against Warden Robey. “Where a person is named as a defendant without an allegation of specific conduct, the complaint is subject to dismissal, even under the liberal construction afforded to *pro se* complaints.” *Frieszell v. Dep’t of Corr.*, No. 3:20-CV-P509-RGJ, 2020 WL 6066174, at *3 (W.D. Ky. Oct. 14, 2020); *see also Frazier v. Michigan*, 41 F. App’x 762, 764 (6th Cir. 2002) (affirming dismissal of plaintiff’s claims where the complaint did not “allege with any degree of specificity which of the named defendants were personally involved in or responsible for” each alleged violation of rights).

It may be that Walker included Warden Robey as a Defendant in this civil action because the warden of the institution where a habeas petitioner is housed is the appropriate respondent in that habeas action. *See Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts* (“If the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody.”). A civil-rights action under § 1983 or *Bivens*, however, is not the appropriate method to seek review of a district court judge’s decision in a habeas case. *Quarles v. Chambers*, No. CIV. A. 92-2688, 1992 WL 122869, at *1 (E.D. Pa. May 29, 1992) (dismissing as frivolous a civil-rights action against

district court judge because it was not appropriate vehicle for review of judge's decision in habeas case). The claim against Warden Robey will be dismissed.

By separate Order, the Court will dismiss this lawsuit.

Date:



Benjamin Beaton, District Judge
United States District Court

cc: Plaintiff, *pro se*
Defendants
B213.009

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

RONNY DEVIOD WALKER

PLAINTIFF

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CIVIL ACTION NO. 3:21-cv-225-BJB

AMY ROBEY et al.

DEFENDANTS

ORDER

For the reasons set forth in the Memorandum Opinion entered today and being otherwise sufficiently advised, Plaintiff's claims are **DISMISSED** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1).

This is a **final** Order.

The Court **certifies** that an appeal *in forma pauperis* would not be taken in good faith for the reasons set forth in the Memorandum Opinion. *See* 28 U.S.C. § 1915(a)(3).

Date:



Benjamin Beaton, District Judge
United States District Court

cc: Plaintiff, *pro se*
Defendants
B213.009

**Additional material
from this filing is
available in the
Clerk's Office.**