

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-14330

Non-Argument Calendar

JOSEPH ALEXANDER CLARKE,

Plaintiff-Appellant,

versus

KIMBERLY M. ESMOND ADAMS,
FANI T. WILLIS,
CATHELENE TINA ROBINSON,
CHRIS CARR,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:22-cv-04408-LMM

Before WILLIAM PRYOR, Chief Judge, and ABUDU and ANDERSON,
Circuit Judges.

PER CURIAM:

Joseph Clarke, a Georgia prisoner, appeals *pro se* the dismissal of his complaint against various state and court officials. 42 U.S.C. § 1983. We affirm.

The district court did not abuse its discretion when it *sua sponte* dismissed Clarke's complaint, 28 U.S.C. § 1915A. *Miller v. Donald*, 541 F.3d 1091, 1100 (11th Cir. 2008). Insofar as the complaint challenges his incarceration with its references to the "commercial charges" against him and the "confinement of [his] body still being held as collateral," the district court correctly concluded that this challenge was barred under *Heck v. Humphrey*, 512 U.S. 477 (1994), because requiring the officials to accept his "unrebutted commercial affidavit of truth" would necessarily imply the invalidity of his convictions. And the district court correctly determined that the complaint was otherwise frivolous because Clarke's allegations, which are "typical of those often used by so-called 'sovereign citizens,'" lack "an arguable basis either in law or in fact." *Miller*, 541 F.3d at 1100.

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Opinion of the Court

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We **AFFIRM** the dismissal of Clarke's complaint.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JOSEPH ALEXANDER CLARKE, :
Inmate No. 1002736404, :
Plaintiff, : PRISONER CIVIL RIGHTS
: 42 U.S.C. §1983
v. :
: CIVIL ACTION NO.
KIMBERLY M. ESMOND ADAMS; : 1:22-CV-4408-LMM-JKL
et al., :
Defendants. :

ORDER AND FINAL REPORT AND RECOMMENDATION

Plaintiff Joseph Alexander Clarke, who is incarcerated at the Dooly State Prison in Unadilla, Georgia, has filed the instant *pro se* civil rights complaint under 42 U.S.C. §1983. (Doc. 1). The matter is before the Court for a frivolity screening pursuant to 28 U.S.C. §1915A.

I. 28 U.S.C. § 1915A Frivolity Review

Pursuant to 28 U.S.C. §1915A, a federal court is required to conduct an initial screening of a prisoner complaint to determine whether the action is: (1) frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. §§1915A(b). A claim is frivolous when it “lacks an arguable basis either in law or in fact.” *Bingham v. Thomas*, 654 F.3d 1171, 1175 (11th Cir. 2011) (internal quotation marks and citations omitted). To state a claim, a pleading must contain a

“short and plain statement of the claim showing that the pleader is entitled to relief[.]” Fed. R. Civ. P. 8(a)(2). “A plaintiff . . . must plead facts sufficient to show that [his] claim has substantive plausibility” and to inform the defendant of “the factual basis” for the complaint. *Johnson v. City of Shelby, Miss.*, 574 U.S. 10, 135 S. Ct. 346, 347 (2014).

In reviewing whether a plaintiff has stated a claim, the Court presumes the truth of a plaintiff’s non-frivolous factual allegations, construing them in the plaintiff’s favor. *Gissendaner v. Commissioner, Ga. Dep’t of Corr.*, 803 F.3d 565, 578 (11th Cir. 2015). Additionally, the Court holds *pro se* pleadings to a less stringent standard than pleadings drafted by lawyers, *Bingham*, 654 F.3d at 1175, but “this leniency does not give a court license to serve as *de facto* counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action.” *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1168-69 (11th Cir. 2014) (internal quotation marks and citation omitted).

II. Plaintiff’s Allegations

Plaintiff is serving a life sentence for his 2016 convictions for home invasion, murder, two counts of possession of a firearm during commission of a crime, two counts of aggravated assault, aggravated battery, and gang participation. See Fulton County Superior Court Docket Search, available at <https://publicrecordsaccess.fultoncountyga.gov/Portal/Home/WorkspaceMode?p=0>

(last visited November 14, 2022). In the complaint Plaintiff appears to complain about his state court proceedings, and uses the terms “trust account,” “commercial affidavit of truth,” talks about accepting his “commercial charges,” and calls himself a “natural flesh and blood living being” and beneficiary of a trust, i.e., the “Cestui Que Vie Trust,” that he states is his “ALL CAPS Name C. JOSEPH ALEXANDER CLARKE.” He seeks monetary damages.

III. Analysis Of Plaintiff's Claims

Putting aside the facts that any complaint raising issues regarding 2016 criminal proceedings would most likely be untimely¹ and that most of the named Defendants cannot be sued under §1983, Plaintiff cannot seek damages for his alleged unlawful confinement. Indeed, in order to seek monetary damages for an alleged unconstitutional confinement, a plaintiff “must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus[.]” *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Put another way, a plaintiff seeking monetary damages must establish that the proceedings terminated in a manner

¹ The statute of limitations for a §1983 action in Georgia is two years. *Butt v. Zimmerman*, No. 21-14187, 2022 WL 5237916, at *1 (11th Cir. Oct. 6, 2022).

favorable to him. Plaintiff has not done so. Thus, any claims for damages are barred by Heck.

Moreover, as best as the Court can discern, Plaintiff's allegations are typical of those "often used by so-called 'sovereign citizens,' who believe they are not subject to the jurisdiction of the courts and who frequently deny that they are the defendants in the action, instead referring to themselves as third-party intervenors[.]" *United States v. Sterling*, 738 F.3d 228, 233 n.1 (11th Cir. 2013). However, "courts have repeatedly rejected as frivolous arguments that people are 'sovereign citizens' who are not subject to the jurisdiction of any courts." *Walker v. Florida*, 688 F. App'x 864, 865 (11th Cir. 2017); *see also Trevino v. Florida*, 687 F. App'x 861, 862 (11th Cir. 2017) (dismissing as frivolous sovereign citizen lawsuit filed by a "living, breathing, flesh and blood human being"); *Henry v. Fernandez-Rundle*, 773 F. App'x 596, 597 (11th Cir. 2019) (citing with approval *United States v. Benabe*, 654 F.3d 753, 767 (7th Cir. 2011), which collected cases and noted that a court should summarily reject arguments that a person is beyond a court's jurisdiction because he claims he is a "sovereign citizen," "secured-party creditor," or "flesh-and-blood human being"); *Morrison v. CCA Corr-Civil*, No. 7:20-CV-00238-HL-TQL, 2021 WL 1820658, at *4 (M.D. Ga. May 6, 2021) (dismissing as frivolous sovereign citizen complaint where plaintiff claimed that defendants owed him millions of dollars because the government created fraudulent CQV trust accounts using his

identity to pay off debts for the state and the government); *Townsend v. Georgia*, No. CV418-303, 2019 WL 1009421, at *3 (S.D. Ga. Feb. 11, 2019) (dismissing as frivolous sovereign citizen complaint where plaintiff, *inter alia*, referred to his “commercial trade name” as his name in all capital letters and claimed to be a “living soul”); *Muhammad v. Mich. Dep’t of Corr.*, No. 1:17-cv-68, 2017 WL 743943, at *3 (W.D. Mich. Feb. 27, 2017) (“The capitalization of Plaintiff’s name did not create a fictitious legal entity, and it certainly did not turn such artificial entity into property governed by the Uniform Commercial Code or admiralty law. The courts repeatedly have rejected such ‘redemptionist and sovereign citizen’ arguments as utterly frivolous.”).

IV. Conclusion

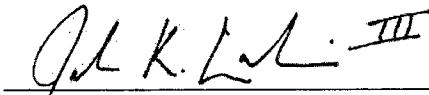
Based on the foregoing reasons,

IT IS HEREBY RECOMMENDED that this complaint be **DISMISSED** as frivolous under 28 U.S.C. §1915A.

IT IS ORDERED that status for Plaintiff’s request to proceed *in forma pauperis* [Doc. 2] is **GRANTED** for the purpose of dismissal only.

The Clerk is **DIRECTED** to terminate the reference to the undersigned
Magistrate Judge.

SO ORDERED AND RECOMMENDED this 14th day of November, 2022.



JOHN K. LARKINS III
UNITED STATES MAGISTRATE JUDGE