

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 23-1449

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REVEREND DR. SAMUEL T. WHATLEY,

Plaintiff - Appellant,

v.

RICHLAND COUNTY FAMILY COURT COLUMBIA SOUTH CAROLINA;  
PHOEBE WHATLEY; MONET S. PINCUS, Family Court Judge; MICHELLE M.  
HURLEY LEEVY-JOHNSON, Family Court Judge; THOMAS M. NEAL, III,  
Family Court Attorney GAL; RICHARD G. WHITING, Family Court Attorney and  
Family Court SCBAR Former President; KRISTIN CANNON, Family Court  
Paralegal for Attorney Richard G. Whiting; KELLY B. ARNOLD, SC Assistant  
Disciplinary Counsel; LARRY MEDLIN, Counselor; CHRISTIAN COUNSELING  
CENTER FIRST PRESBYTERIAN CHURCH COLUMBIA SC; MARC HARARI;  
JEWETT DOOLEY, Attorney; MARY MUNDY, Dutch Fork High School  
Psychiatrist; DR. SOBOTOWICA, Dutch Fork High School Psychiatrist; CASSY  
PASCHAL, Oak Point Elementary School; WENDY LEVINE, Attorney;  
WILLIAM T. WATLINGTON; NEIGHBOR DESTROYED TREES; RICHLAND  
COUNTY SHERIFF DEPARTMENT ON TRUANCY ET AL,

Defendants - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at  
Columbia. Mary G. Lewis, District Judge. (3:22-cv-02119-MGL)

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Submitted: August 24, 2023

Decided: August 28, 2023

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Before QUATTLEBAUM and HEYTENS, Circuit Judges, and MOTZ, Senior Circuit  
Judge.

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Affirmed by unpublished per curiam opinion.

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Samuel T. Whatley, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Reverend Dr. Samuel T. Whatley appeals the district court's order accepting the recommendations of the magistrate judge and dismissing Whatley's 42 U.S.C. § 1983 and *Bivens*\* complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Whatley v. Richland Cnty. Fam. Ct.*, No. 3:22-cv-02119-MGL (D.S.C. Mar. 31, 2023). 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*

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\* *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)

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**District of South Carolina**

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**Case Name:** Whatley v. Richland County Family Court Columbia South Carolina et al  
**Case Number:** 3:22-cv-02119-MGL  
**Filer:**  
**Document Number:** 39

**Docket Text:**

**ORDER adopting [17] Report and Recommendation, adopting [33] Report and  
Recommendation, deeming as moot [38] Motion for Miscellaneous Relief, affirming the Mask  
Ruling and Seal Ruling. Signed by Honorable Mary Geiger Lewis on 3/31/2023. (cbru, )**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

REVEREND DR. SAMUEL T. WHATLEY,  
Plaintiff,

vs.

Civil Action No. 3:22-02119-MGL

RICHLAND COUNTY FAMILY COURT  
COLUMBIA SOUTH CAROLINA; PHOEBE  
S. WHATLEY; FAMILY COURT JUDGE  
MONET S. PINCUS; FAMILY COURT  
JUDGE MICHELLE M. HURLEY  
LEEVEY-JOHNSON; FAMILY COURT  
ATTORNEY GAL THOMAS M. NEAL, III;  
FAMILY COURT ATTORNEY AND  
FAMILY COURT SCBAR FORMER  
PRESIDENT RICHARD G. WHITING;  
FAMILY COURT PARALEGAL FOR  
ATTORNEY RICHARD G. WHITING  
KRISTIN CANNON; SC ASSISTANT  
DISCIPLINARY COUNSEL KELLY B.  
ARNOLD; COUNSELOR LARRY MEDLIN;  
CHRISTIAN COUNSELING CENTER FIRST  
PRESBYTERIAN CHURCH COLUMBIA SC;  
PSYCHIATRIST MARC HARARI;  
ATTORNEY JEWETT DOOLEY; DUTCH  
FORK HIGH SCHOOL STUDENT RECORDS  
MARY MUNDY; DUTCH FORK HIGH  
SCHOOL PSYCHIATRIST DR.  
SOBOTOWICA; OAK POINT  
ELEMENTARY SCHOOL CASSY  
PASCHAL; ATTORNEY WENDY LEVINE;  
WILLIAM T. WATLINGTON; NEIGHBOR  
DESTROYED TREES; AND RICHLAND  
COUNTY SHERRIFF DEPARTMENT  
ON TRUANCY ET AL.,  
Defendants.

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**ORDER ADOPTING THE REPORTS AND RECOMMENDATIONS,  
SUMMARILY DISMISSING THIS ACTION,  
AND AFFIRMING THE MAGISTRATE JUDGE'S ORDER**

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**I. INTRODUCTION**

Plaintiff Reverend Dr. Samuel T. Whatley (Whatley), proceeding pro se, filed a complaint against the above-named Defendants, alleging causes of action under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

This matter is before the Court for review of the two Reports and Recommendations (collectively, the Reports) of the United States Magistrate Judge each recommending this Court summarily dismiss this matter without issuance and service of process. She recommends the Court dismiss Defendants Family Court Judge Monet S. Pincus (Pincus), Family Court Judge Michelle M. Hurley Leevy-Johnson (Hurley), and Richland County Family Court with prejudice, and the remaining Defendants without prejudice.

Also before the Court is Whatley's appeal of the Magistrate Judge's order denying as moot Whatley's motion for exemption from the face mask requirement (the Mask Ruling) and denying Whatley's motions to seal (the Seal Ruling), among other things (the Magistrate Judge's Order). The Reports and the Magistrate Judge's Order were made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

**II. FACTUAL AND PROCEDURAL HISTORY**

The Magistrate Judge filed the first Report and Recommendation (First Report) on August 11, 2022. Whatley objected on August 25, 2022 (First Objections). His objections challenged the

First Report as well as the Mask Ruling and the Seal Ruling. He also moved to amend his complaint the same day. The Court referred the motion to amend to the Magistrate Judge.

The Magistrate Judge denied the motion in the second Report and Recommendation (Second Report) on November 9, 2022. Whatley again filed objections on November 18, 2022 (Second Objections). The Court has reviewed the objections, and holds them to be without merit. It will therefore enter judgment accordingly.

### III. THE REPORTS

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 Reports 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).

With several exceptions, addressed below, Whatley has largely failed to present any specific objections to the Reports.

This Court need not conduct a de novo review of the record “when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). The Court reviews the Reports only for clear error in the absence of specific objections. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in 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 to accept the recommendation.”) (citation omitted).

Many of Whatley’s objections amount to general contentions with the Reports’ findings, and merely repeat claims the Magistrate Judge properly considered and rejected. Inasmuch as the Court agrees with the Magistrate Judge’s detailed treatment of those issues in its well-written and comprehensive Report, repetition of that discussion is unnecessary here.

Consequently, to the extent Whatley neglects to make specific objections, and the Court has found no clear error, it need not make a de novo review of the record before overruling those objections and accepting the Magistrate Judge’s recommendation.

Further, inasmuch as the Magistrate Judge warned Whatley of the consequences of failing to file specific objections, First Report at 7; Second Report at 5, he has waived appellate review as to those objections. *See Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 508–09 (6th Cir. 1991) (holding general objections are insufficient to preserve appellate review).

Whatley, however, does make some specific objections that warrant brief discussion.

First, Whatley argues the Magistrate Judge has a conflict of interest. In his Second Objection, he also requests the Clerk’s Office reassign this matter to a new “set of judge(s).” Second Objections at 1.

The standard for judicial recusal is set out at 28 U.S.C. § 455. Under that statute, judges must disqualify themselves in “any proceeding in which [their] impartiality might reasonably be questioned,” or “[w]here [they] ha[ve] a personal bias or prejudice concerning a party.” *Id.* § 455 (a) and (b)(1). Importantly, for any alleged bias or prejudice to be disqualifying it “must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what



the judge[s] learned from [their] participation in the case.” *Shaw v. Martin*, 733 F.2d 304, 308 (4th Cir. 1984).

Whatley maintains the Magistrate Judge “appears to have rushed writing the [First Report].” First Objections at 4. But, “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” *Liteky v. United States*, 510 U.S. 540, 555 (1994). This argument thus fails to support recusal.

Whatley also insists the Magistrate Judge failed to disclose her “historical relationships with the intergovernmental fractions[,]” as well as her husband’s role with the South Carolina state senate. First Objections at 4. But, Whatley fails to support his contention that these relationships resulted in a “personal bias or prejudice[.]” 28 U.S.C. § 455(b)(1).

The Magistrate Judge’s impartiality in this case cannot reasonably be questioned. Nor, to the extent Whatley argues as much, can this Court’s. The Court will therefore overrule this objection.

Second, Whatley contends that the Magistrate Judge erred by determining Pincus, Hurley, and Richland County Family Court are immune from suit. He maintains the Constitution and other founding documents fail to immunize judges or governmental entities from “being prosecuted for crimes against the People, and or misconduct,” and references several cases involving judges as parties. First Objections at 10.

As explained by the Magistrate Judge, judges are absolutely immune from civil suit in federal court in cases arising out of their judicial actions. *See Mireles v. Waco*, 502 U.S. 9, 11 (1991) (“[J]udicial immunity is not overcome by allegations of bad faith or malice[.]”). None of the criminal and state cases Whatley references displace this rule.

In this case, because Whatley's allegations arise out of actions taken by Pincus and Hurley in their roles as family court judges during Whatley's divorce proceeding, they are immune.

Further, the Eleventh Amendment states "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." U.S. Const. Amend XI. "A State may waive its sovereign immunity at its pleasure, and in some circumstances Congress may abrogate it by appropriate legislation. But absent waiver or valid abrogation, federal courts may not entertain a private person's suit against a State." *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 253–54 (2011) (footnote omitted) (internal citations omitted).

The State of South Carolina has failed to consent to suit in federal court. *See* S.C. Code Ann § 15-78-20(e) ("Nothing in this chapter is construed as a waiver of the state's or political subdivision's immunity from suit in federal court under the Eleventh Amendment to the Constitution of the United States nor as consent to be sued in any state court beyond the boundaries of the State of South Carolina."). Nor has Congress abrogated immunity in this case. Therefore, Richland County Family Court, an arm of the state, must be dismissed as well.

Further, as the Magistrate Judge explained, Whatley's complaint is "generally subject to dismissal because it fails to state with any particularity what claims he raises, which defendants he brings those claims against, and what facts show that he is entitled to relief against each defendant." First Report at 3–4. Whatley's claims against these Pincus, Hurley, and Richland County Family Court thus fail in any case. The Court will therefore overrule this objection, too.

#### IV. THE MAGISTRATE JUDGE'S ORDER

Whatley also objects to the Mask Ruling and the Seal Ruling in the Magistrate Judge's Order. The Court must treat Whatley's challenges as an appeal of the Magistrate Judge's decision. *See* 28 U.S.C. § 636(b)(1)(A) (allowing Magistrate Judges to rule on nondispositive motions).

When a Magistrate Judge issues an order in a civil case, "[t]he district judge must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). The Court will reverse the Magistrate Judge's holdings only if it is "left with the definite and firm conviction that a mistake has been committed." *United States v. Harvey*, 532 F.3d 326, 337 (4th Cir. 2008) (quoting *In re Mosko*, 515 F.3d 319, 324 (4th Cir. 2008)) (internal quotation omitted).

First, Whatley maintains the Magistrate Judge's Mask Ruling will "force [him] to wear a facial mask in the federal courthouse." First Objections at 7.

As explained above, rather than deny Whatley's motion for exemption on the merits, the Magistrate Judge merely determined the motion was moot given her recommendation this matter be dismissed. In other words, if Whatley had no case pending, his request to refrain from wearing a mask during his case was unnecessary. Because the Court will adopt the Reports and dismiss this matter, it agrees with the Magistrate Judge's assessment.

Therefore, the Court determines the Mask Ruling is not clearly erroneous or contrary to law.

Second, Whatley appears to object that his tax form was filed on the public docket. The Court is unsure whether Whatley is challenging the Seal Ruling itself, or whether he contends the Clerk of Court failed to restrict the document as directed by the Magistrate Judge.

Currently, Whatley's IRS 1040 tax form is restricted to the Court and case participants, and Whatley's personal information is redacted. Therefore, Whatley's appeal of this ruling appears moot.

Accordingly, the Court will affirm the Mask Ruling and the Seal Ruling.

## V. CONCLUSION

After a thorough review of the Reports and the record in this case pursuant to the standard set forth above, the Court overrules Whatley's objections, adopts the Reports, and incorporates them herein. Therefore, it is the judgment of Court this matter is summarily dismissed without issuance and service of process. Defendants Pincus, Hurley, and Richland County Family Court are **DISMISSED WITH PREJUDICE** and the remaining Defendants are **DISMISSED WITHOUT PREJUDICE**. Finally, the Mask Ruling and Seal Ruling are **AFFIRMED**. All other pending motions are **DEEMED AS MOOT**.

**IT IS SO ORDERED.**

Signed this 31st day of March 2023, 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.

FILED: August 28, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 23-1449  
(3:22-cv-02119-MGL)

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REVEREND DR. SAMUEL T. WHATLEY

Plaintiff - Appellant

v.

RICHLAND COUNTY FAMILY COURT COLUMBIA SOUTH CAROLINA;  
PHOEBE WHATLEY; MONET S. PINCUS, Family Court Judge; MICHELLE  
M. HURLEY LEEVY-JOHNSON, Family Court Judge; THOMAS M. NEAL,  
III, Family Court Attorney GAL; RICHARD G. WHITING, Family Court  
Attorney and Family Court SCBAR Former President; KRISTIN CANNON,  
Family Court Paralegal for Attorney Richard G. Whiting; KELLY B. ARNOLD,  
SC Assistant Disciplinary Counsel; LARRY MEDLIN, Counselor; CHRISTIAN  
COUNSELING CENTER FIRST PRESBYTERIAN CHURCH COLUMBIA SC;  
MARC HARARI; JEWETT DOOLEY, Attorney; MARY MUNDY, Dutch Fork  
High School Psychiatrist; DR. SOBOTOWICA, Dutch Fork High School  
Psychiatrist; CASSY PASCHAL, Oak Point Elementary School; WENDY  
LEVINE, Attorney; WILLIAM T. WATLINGTON; NEIGHBOR DESTROYED  
TREES; RICHLAND COUNTY SHERIFF DEPARTMENT ON TRUANCY ET  
AL

Defendants - Appellees

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J U D G M E N T

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In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

FILED: April 26, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 23-1449  
(3:22-cv-02119-MGL)

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REVEREND DR. SAMUEL T. WHATLEY

Plaintiff - Appellant

v.

RICHLAND COUNTY FAMILY COURT COLUMBIA SOUTH CAROLINA;  
PHOEBE WHATLEY; MONET S. PINCUS, Family Court Judge; MICHELLE  
M. HURLEY LEEVY-JOHNSON, Family Court Judge; THOMAS M. NEAL,  
III, Family Court Attorney GAL; RICHARD G. WHITING, Family Court  
Attorney and Family Court SCBAR Former President; KRISTIN CANNON,  
Family Court Paralegal for Attorney Richard G. Whiting; KELLY B. ARNOLD,  
SC Assistant Disciplinary Counsel; LARRY MEDLIN, Counselor; CHRISTIAN  
COUNSELING CENTER FIRST PRESBYTERIAN CHURCH COLUMBIA SC;  
MARC HARARI; JEWETT DOOLEY, Attorney; MARY MUNDY, Dutch Fork  
High School Psychiatrist; WENDY LEVINE, Attorney; WILLIAM T.  
WATLINGTON; DR. SOBOTOWICA, Dutch Fork High School Psychiatrist;  
CASSY PASCHAL, Oak Point Elementary School; NEIGHBOR DESTROYED  
TREES; RICHLAND COUNTY SHERIFF DEPARTMENT ON TRUANCY ET  
AL

Defendants - Appellees

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ORDER

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The court grants leave to proceed in forma pauperis.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk



FILED: September 20, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 23-1449  
(3:22-cv-02119-MGL)

---

REVEREND DR. SAMUEL T. WHATLEY

Plaintiff - Appellant

v.

RICHLAND COUNTY FAMILY COURT COLUMBIA SOUTH CAROLINA;  
PHOEBE WHATLEY; MONET S. PINCUS, Family Court Judge; MICHELLE  
M. HURLEY LEEVY-JOHNSON, Family Court Judge; THOMAS M. NEAL,  
III, Family Court Attorney GAL; RICHARD G. WHITING, Family Court  
Attorney and Family Court SCBAR Former President; KRISTIN CANNON,  
Family Court Paralegal for Attorney Richard G. Whiting; KELLY B. ARNOLD,  
SC Assistant Disciplinary Counsel; LARRY MEDLIN, Counselor; CHRISTIAN  
COUNSELING CENTER FIRST PRESBYTERIAN CHURCH COLUMBIA SC;  
MARC HARARI; JEWETT DOOLEY, Attorney; MARY MUNDY, Dutch Fork  
High School Psychiatrist; DR. SOBOTOWICA, Dutch Fork High School  
Psychiatrist; CASSY PASCHAL, Oak Point Elementary School; WENDY  
LEVINE, Attorney; WILLIAM T. WATLINGTON; NEIGHBOR DESTROYED  
TREES; RICHLAND COUNTY SHERIFF DEPARTMENT ON TRUANCY ET  
AL

Defendants - Appellees

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M A N D A T E

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The judgment of this court, entered August 28, 2023, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule  
41(a) of the Federal Rules of Appellate Procedure.

/s/Nwamaka Anowi, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Reverend Dr. Samuel T. Whatley,	)	C/A No. 3:22-2119-SAL-PJG
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Richland County Family Court Columbia	)	
South Carolina; Phoebe S. Whatley; Monet S.	)	
Pincus; Michelle M. Hurley Leevy-Johnson;	)	
GAL Thomas M. Neal, III; Richard G.	)	
Whiting; Kristin Cannon; Kelly B. Arnold;	)	<b>REPORT AND RECOMMENDATION</b>
Larry Medlin; Christian Counseling Center	)	
First Presbyterian Church Columbia SC; Marc	)	
Harari; Jewett Dooley; Mary Mundy; Dr.	)	
Sobotowica; Cassy Paschal; Wendy Levine;	)	
William T. Watlington; Neighbor Destroyed	)	
Trees; Richland County Sheriff Department	)	
on Truancy et al.,	)	
	)	
Defendants.	)	
	)	

Plaintiff Samuel T. Whatley, proceeding *pro se*, purports to bring this action for civil rights violations pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). 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.) for initial review pursuant to 28 U.S.C. § 1915. Having reviewed the Complaint in accordance with applicable law, the court concludes that this action should be summarily dismissed without prejudice and issuance and service of process.

**I. Factual and Procedural Background**

Plaintiff indicates he was involved in a divorce proceeding in the Richland County Family Court in which he was treated unfairly. For instance, Plaintiff claims that in October 2016, Family Court Judge Michelle M. Hurley held a hearing the day after Hurricane Matthew, which Plaintiff

was unable to attend because he was trapped in a flooded city. Plaintiff also claims that Judge Hurley lacked jurisdiction over Plaintiff because Plaintiff lived out of state, and Plaintiff asserts that Judge Hurley's order that he pay alimony is unconstitutional. Further, Plaintiff believes that Judge Hurley's order regarding visitation of Plaintiff's children is unfair, and that Judge Hurley discriminated against Plaintiff on the basis of his religion because she did not recognize that Plaintiff has an honorary religious doctorate degree. As to Family Court Judge Monét S. Pincus, Plaintiff claims Judge Pincus signed a summons in October 2014 that did not provide Plaintiff with thirty days to prepare a defense in violation of Plaintiff's right to due process. Plaintiff also names his former spouse, Phoebe S. Whatley, and her attorney, Richard G. Whiting, as defendants in this action, who Plaintiff claims falsified evidence and presented it to the family court. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), seeking damages and equitable relief from the divorce decree.

## **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).

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 Complaint is filed pursuant to 42 U.S.C. § 1983, which " 'is not itself a source of substantive rights,' but merely provides 'a method for vindicating federal rights elsewhere conferred.' " Albright v. Oliver, 510 U.S. 266, 271 (1994) (quoting Baker v. McCollan, 443 U.S. 137, 144 n.3 (1979)). To state a claim under § 1983, a plaintiff must allege: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).<sup>1</sup>

Initially, the court notes that Plaintiff's Complaint is generally subject to dismissal because it fails to state with any particularity what claims he raises, which defendants he brings those claims

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<sup>1</sup> Plaintiff also expressly indicates he brings claims pursuant to Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), but Bivens applies only to claims of constitutional violations against federal officials, and Plaintiff does not name any federal officials as defendants.

against, and what facts show that he is entitled to relief against each defendant. 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). The Complaint makes it impossible to understand the precise nature of Plaintiff’s claims or relief he seeks because it includes general allegations of unfairness and discrimination without identifying the defendant who is responsible or a cognizable legal theory that would support Plaintiff’s claim for relief. See North Carolina v. McGuirt, 114 F. App’x 555, 558 (4th Cir. 2004) (affirming dismissal of a complaint under Rule 8 where “the complaint . . . does not permit the defendants to figure out what legally sufficient claim the plaintiffs are making and against whom they are making it”).

Most of Plaintiff’s allegations concern how Plaintiff was treated by Judge Hurley and Judge Pincus. But, to the extent Plaintiff seeks damages against Judge Hurley or Judge Pincus, these defendants are immune from suit. It is well settled that judges have absolute immunity from a claim for damages arising out of their judicial actions. See Mireles v. Waco, 502 U.S. 9, 11 (1991) (providing that judges are entitled to absolute immunity from suit, not just the ultimate assessment of damages, for judicial actions taken within their jurisdiction); Chu v. Griffith, 771 F.2d 79, 81 (4th Cir. 1985) (“It has long been settled that a judge is absolutely immune from a claim for damages arising out of his judicial actions.”). Judicial immunity is not pierced by allegations of corruption or bad faith, nor will a judge “be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority.” Stump v. Sparkman, 435 U.S. 349, 356-57 (1978). Here, Plaintiff’s allegations only concern actions taken by Judge Hurley and Judge Pincus in their adjudicative role as family court judges in Plaintiff’s divorce proceeding.

Therefore, Judge Hurley and Judge Pincus are immune from Plaintiff's claims for damages against them.<sup>2</sup>

Also, to the extent Plaintiff seeks equitable relief from his divorce decree, the Rooker-Feldman doctrine bars this court from granting such relief. See generally Friedman's, Inc. v. Dunlap, 290 F.3d 191, 197 (4th Cir. 2002) ("Under the Rooker-Feldman doctrine, lower federal courts may not consider either issues actually presented to and decided by a state court or constitutional claims that are inextricably intertwined with questions ruled upon by a state court.") (internal citations and quotations omitted); see also Am. Reliable Ins. Co. v. Stillwell, 336 F.3d 311, 316 (4th Cir. 2003) ("Under the Rooker-Feldman doctrine, a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court. We regard the doctrine as jurisdictional."). Thus, this court may not alter the terms of the divorce decree as Plaintiff requests in the relief section of the Complaint. (Compl., ECF No. 1 at 33-34.)

As to the remaining defendants, Plaintiff mostly fails to explain who they are, identify what claims he brings against them, or list a cause of action against them that would plausibly state a claim for relief. See Iqbal, 556 U.S. at 676 (providing that a plaintiff in a § 1983 action must plead that the defendant, through his own individual actions, violated the Constitution). Nor does Plaintiff provide any facts that could plausibly show that the other defendants are state actors amenable to suit pursuant to 42 U.S.C. § 1983. See generally West, 487 U.S. at 49 ("To constitute state action, 'the deprivation must be caused by the exercise of some right or privilege created by

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<sup>2</sup> To the extent Plaintiff seeks damages from the Richland County Family Court itself, a state court retains its sovereignty under the Eleventh Amendment and is not a "person" amenable to suit under § 1983. See, e.g., Shirley v. S.C. Family Court, C/A No. 9:10-2632-CWH-RSC, 2010 WL 5390123, at \*4 (D.S.C. 2010).

the State . . . or by a person for whom the State is responsible,’ and ‘the party charged with the deprivation must be a person who may fairly be said to be a state actor.’”) (quoting Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922, 936 n.18 (1982)). Therefore, Plaintiff fails to state a § 1983 claim against them upon which relief can be granted. See Iqbal, 556 U.S. at 676.

### III. Conclusion

Accordingly, the court recommends that the Complaint be summarily dismissed without issuance and service of process.<sup>3</sup>

August 11, 2022  
Columbia, South Carolina

  
Paige J. Gossett  
UNITED STATES MAGISTRATE JUDGE

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

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<sup>3</sup> To the extent Plaintiff seeks damages against defendants that are immune from suit, those claims must be dismissed with prejudice. See, e.g., Smith v. Swanson, Civil Action No. 9:18-251-RMG, 2018 WL 1225110, at \*1 (D.S.C. Mar. 7, 2018) (citing Ostrzenski v. Seigel, 177 F.3d 245, 253 (4th Cir. 1999)); see, e.g., Brown v. Daniel, 230 F.3d 1351, at \*4-5 (4th Cir. 2000) (unpublished table decision). The other claims should be dismissed without prejudice.



**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).

MIME-Version:1.0 From:SCDEfilingstat@scd.uscourts.gov To:scd\_ecf\_nef@localhost.localdomain  
Bcc: Message-Id:<11185850@scd.uscourts.gov>Subject:Activity in Case 3:22-cv-02119-MGL  
Whatley v. Richland County Family Court Columbia South Carolina et al Judgment Content-Type:  
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**U.S. District Court**

**District of South Carolina**

**Notice of Electronic Filing**

The following transaction was entered on 3/31/2023 at 9:37 AM EDT and filed on 3/31/2023

**Case Name:** Whatley v. Richland County Family Court Columbia South Carolina et al

**Case Number:** 3:22-cv-02119-MGL

**Filer:**

**WARNING: CASE CLOSED on 03/31/2023**

**Document Number:** 40

**Docket Text:**

**JUDGMENT dismissing Richland County Family Court Columbia South Carolina, Monet S.  
Pincus, Michelle M. Hurley Leevy-Johnson with prejudice; JUDGMENT dismissing Phoebe S.  
Whatley, Thomas M. Neal, III, Richard G. Whiting, Kristin Cannon, Kelly B. Arnold, Larry  
Medlin, Christian Counseling Center First Presbyterian Church Columbia SC, Marc Harari,  
Jewett Dooley, Mary Mundy, Dr. Sobotowica, Cassy Paschal, Wendy Levine, William T.  
Watlington, Neighbor Destroyed Trees, Richland County Sherriff Department on Truancy et al.  
without prejudice. (cbru, )**

**3:22-cv-02119-MGL Notice has been electronically mailed to:**

**3:22-cv-02119-MGL Notice will not be electronically mailed to:**

Samuel T. Whatley

PO Box 14254

Charleston, SC 29422

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

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091130295 [Date=3/31/2023] [FileNumber=11185848-0] [06967dbc1619e8c9e584f8ddcf2fd49e892b986baa9ea6d0b31aaaad44b16771480676f746f0644a39ceffc9c2be25bd7644266b2859f8b2e9aa463119a9ad37]]

UNITED STATES DISTRICT COURT

for the

District of South Carolina

Reverend Dr. Samuel T. Whatley,

*Plaintiff*

v.

Civil Action No. 3:22-cv-02119-MGL

Richland County Family Court Columbia South  
Carolina, Phoebe S. Whatley, Family Court Judge  
Monet S. Pincus, Family Court Judge Michelle M.  
Hurley Leevy-Johnson, Family Court Attorney GAL  
Thomas M. Neal, III, Family Court Attorney and  
Family Court SCBAR Former President Richard G.  
Whiting, Family Court Paralegal for Attorney  
Richard G. Whiting Kristin Cannon, SC Assistant  
Disciplinary Counsel Kelly B. Arnold, Counselor  
Larry Medlin, Christian Counseling Center First  
Presbyterian Church Columbia SC, Psychiatrist  
Marc Harari, Attorney Jewett Dooley, Dutch Fork  
High School Student Records Mary Mundy, Dutch  
Fork High School Psychiatrist Dr. Sobotowica, Oak  
Point Elementary School Cassy Paschal, Attorney  
Wendy Levine, William T. Watlington, Neighbor  
Destroyed Trees, and Richland County Sherriff  
Department on Truancy et al.,

*Defendants*

JUDGMENT IN A CIVIL ACTION

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

☒ the plaintiff, Reverend Dr. Samuel T. Whatley, take nothing of the defendants, Richland County Family Court Columbia South Carolina, Family Court Judge Monet S. Pincus, and Family Court Judge Michelle M. Hurley Leevy-Johnson, and this action is dismissed with prejudice as to those defendants.

☐ the plaintiff, Reverend Dr. Samuel T. Whatley, take nothing of the defendants, Phoebe S. Whatley; Family Court Attorney GAL Thomas M. Neal, III; Family Court Attorney and Family Court SCBAR Former President Richard G. Whiting; Family Court Paralegal for Attorney Richard G. Whiting Kristin Cannon; SC Assistant Disciplinary Counsel Kelly B. Arnold; Counselor Larry Medlin; Christian Counseling Center First Presbyterian Church Columbia SC; Psychiatrist Marc Harari; Attorney Jewett Dooley; Dutch Fork High School Student Records Mary Mundy; Dutch Fork High School Psychiatrist Dr. Sobotowica; Oak Point Elementary School Cassy Paschal; Attorney Wendy Levine; William T. Watlington; Neighbor Destroyed Trees; and Richland County Sherriff Department on Truancy et al., and this action is dismissed without prejudice as to those defendants.

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 Court, the Honorable Mary Geiger Lewis, US District Judge, presiding. The Court having adopted the Reports and Recommendations of US Magistrate Judge Paige J. Gossett, which recommended dismissal.

Date: March 31, 2023

*ROBIN L. BLUME, CLERK OF COURT*

s/Charles L. Bruorton

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*Signature of Clerk or Deputy Clerk*

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