

Appendix
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**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2817

Saye Henry Gofan, Jr.

Plaintiff - Appellant

v.

Cameron C. Gustafson; Ryan Olson; William Aldrich; B. Bautch; Blair Buccicone; Evan Curtis Tsai; Anna L. Veit-Carter; Dyanna O. Street; Lori O'Brian; James Dehen; Anoka County Sheriff, #213 - Anoka County Jail; Anoka County Sheriff, #273 - Anoka County Jail; Anoka County Sheriff, #275 - Anoka County Jail; Anoka County Sheriff, #442 - Anoka County Jail; Anoka County Sheriff, #444 - Anoka County Jail; Judy L. Rolow; Tracy Ekberg; David S. Doty; Lexie Unknown; Brian Unknown; Jonothan Jasper; Vino Ambrose; R. Luckey, or Lucky; J. Haugen; Your Exchange, Columbia Heights; Your Exchange, Coon Rapids; Mike Whitaker, Sgt.; Mark E. Berglund; M. Theirl; A. Archer; Officer, Bergeron Badge #134; B. Gelle; Andrew Tolbert; Joseph J. Valento, #203; Management & Maintenance Men; Robb Olson; Sargeant Hager, or Hagen; Dominic Nzara; Yoko Mickey Enders; Tyler Sonie, Badge #K179; Andrew Olson, Badge #K166; Kevin Nochez, Badge #K181; Michelle Coffey, Badge #K089; M. Traffie; Trhas Michael; Christa Rutherford; Todd Schoffelman; Child Support Tax Offset Unit Mercer Probation; U.S. Department of the Treasury, Bureau of the Fiscal Service

Defendants - Appellees

Appeal from U.S. District Court for the District of Minnesota
(0:23-cv-00749-WMW)

JUDGMENT

Before COLLOTON, SHEPHERD, and KELLY, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

The motion for leave to proceed in forma pauperis is granted.

November 14, 2023

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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Appendix 11

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

No: 23-2817

Saye Henry Gofan, Jr.

Appellant

v.

Cameron C. Gustafson, et al.

Appellees

Appeal from U.S. District Court for the District of Minnesota
(0:23-cv-00749-WMW)

ORDER

The petition for rehearing by the panel is denied.

January 23, 2024

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Warren E. Burger Federal
Building and U.S. Courthouse
316 North Robert Street
Room 100
St. Paul, MN 55101

Diana E. Murphy
U.S. Courthouse
300 South Fourth Street
Room 202
Minneapolis, MN 55415

Gerald W. Heaney Federal
Building and U.S. Courthouse
and Customhouse
515 West First Street
Duluth, MN 55802

Edward J. Devitt U.S.
Courthouse and Federal
Building
118 South Mill Street
Fergus Falls, MN 56537

CIVIL NOTICE

The appeal filing fee is \$505.00. If you are indigent, you can apply for leave to proceed in forma pauperis, ("IFP").

The purpose of this notice is to summarize the time limits for filing with the District Court Clerk's Office a Notice of Appeal to the Eighth Circuit Court of Appeals or the Federal Circuit Court of Appeals (when applicable) from a final decision of the District Court in a civil case.

This is a summary only. For specific information on the time limits for filing a Notice of Appeal, review the applicable federal civil and appellate procedure rules and statutes.

Rule 4(a) of the Federal Rules of Appellate Procedure (Fed. R. App. P.) requires that a Notice of Appeal be filed within:

1. Thirty days (60 days if the United States is a party) after the date of "entry of the judgment or order appealed from;" or
2. Thirty days (60 days if the United States is a party) after the date of entry of an order denying a timely motion for a new trial under Fed. R. Civ. P. 59; or
3. Thirty days (60 days if the United States is a party) after the date of entry of an order granting or denying a timely motion for judgment under Fed. R. Civ. P. 50(b), to amend or make additional findings of fact under Fed. R. Civ. P. 52(b), and/or to alter or amend the judgment under Fed. R. Civ. P. 59; or
4. Fourteen days after the date on which a previously timely Notice of Appeal was filed.

If a Notice of Appeal is not timely filed, a party in a civil case can move the District Court pursuant to Fed. R. App. P. 4(a)(5) to extend the time for filing a Notice of Appeal. This motion must be filed no later than 30 days after the period for filing a Notice of Appeal expires. If the motion is filed after the period for filing a Notice of Appeal expires, the party bringing the motion must give the opposing parties notice of it. The District Court may grant the motion, but only if excusable neglect or good cause is shown for failing to file a timely Notice of Appeal.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Saye Henry Gofan, Jr.,

Case No. 23-cv-00749 (WMW/JFD)

Plaintiff,

ORDER OF DISMISSAL

v.

Cameron C. Gustafson; Ryan Olson;
William Aldrich; Benjamin Bautch; Blair
Buccicone; Evan C. Tsai; Anna Veit-
Carter; Dyanna Street; Lori O'Brien; James
Dehen; Anoka County Jail Badge #213,
Sheriff; Anoka County Jail Badge, #273,
Sheriff; Anoka County Jail Badge #275,
Sheriff; Anoka County Jail Badge #442,
Sheriff; Anoka County Jail Badge #444,
Sheriff; Judy L. Rolow; Tracy Ekberg;
David S. Doty; Lexie, Last name unknown;
Brian, Last name unknown; Jonothan
Jasper; Vino Ambrose; R. Luckey or
Lucky; J. Haugen; Your Exchange,
Columbia Heights; Your Exchange, Coon
Rapids; Mike Whitaker, Sgt.; Mark E.
Berglund; M. Theirl; A. Archer; Officer
Bergeron Badge #134; B. Gelle; Andrew
Tolbert; Joseph J. Valento #203;
Management & Maintenance Men; Robb
Olson; Sgt. Hager, or Hagen; Dominic
Nzara; Yoko Mickey Enders; Tyler Sonie,
Badge #K179; Andrew Olson, Badge
#K166; Kevin Nochez, Badge #K181;
Michelle Coffey, Badge #K089; M.
Traffie; Trhas Michael; Christa
Rutherford; Todd R. Schoffelman; Child
Support Tax Offset Unit Mercer Probation;
and U.S. Department of the Treasury,
Bureau of the Fiscal Service,

Defendants.

Before the Court is Plaintiff Saye Henry Gofan, Jr.'s civil complaint, (Dkt. 1), application to proceed *in forma pauperis* (IFP), (Dkt. 2), and Motion to Appoint Counsel, (Dkt. 4), pursuant to 28 U.S.C. § 1915(e)(2). For the reasons addressed below, this Court dismisses Gofan's Complaint without prejudice for failure to state a claim. 28 U.S.C. § 1915(e)(2)(B). In light of this ruling, Gofan's IFP Application, (Dkt. 2), and his Motion to Appoint Counsel, (Dkt. 4), are likewise denied.

Having reviewed the IFP application, the Court concludes that Gofan meets the financial qualifications. However, when an IFP application fails to state a cause of action on which relief may be granted, the IFP application will be denied, and an action will be dismissed. *See* 28 U.S.C. § 1915(e)(2)(B)(ii); *Atkinson v. Bohn*, 91 F.3d 1127, 1128 (8th Cir. 1996) (*per curiam*); *Carter v. Schafer*, 273 Fed. App'x 581, 582 (8th Cir. 2008) (*per curiam*) (“[C]ontrary to plaintiffs’ arguments on appeal, the provisions of 28 U.S.C. § 1915(e) apply to all persons proceeding IFP and are not limited to prisoner suits, and the provisions allow dismissal without service.”).

In determining whether a complaint states a claim on which relief may be granted, this Court must accept as true all of the factual allegations in the complaint and draw all reasonable inferences in the plaintiff's favor. *See Aten v. Scottsdale Ins. Co.*, 511 F.3d 818, 820 (8th Cir. 2008). Although the factual allegations in the complaint need not be detailed, they must be sufficient to “raise a right to relief above the speculative level” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The complaint must “state a claim to relief that is plausible on its face.” *Id.* at 570. When assessing the sufficiency of the complaint,

the court disregards legal conclusions that are couched as factual allegations. *See Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Although, a pro se party's complaint is to be construed liberally, it still must allege sufficient facts to support the claims advanced. *See Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004).

Gofan's 20-page complaint is generally devoid of factual detail. The exhibits—approximately 850 pages of handwritten affidavits and other documents—offer a meandering, difficult to follow, and often duplicative list of grievances against the Defendants.¹ The origin of Gofan's Complaint appears to stem from Gofan's encounter with Coon Rapids Police Officer Cameron Gustafson. (Dkt. 1-4 at 9). According to Gofan, on December 28, 2020, Officer Gustafson approached his parked vehicle—a 2014 Chrysler 300 black sedan—and requested Gofan's driver's license and registration. Gofan contends that even though he gave Officer Gustafson valid documentation, including his "1st Common Law Vehicular Judicial Notice Constitutional Driver's License," (Dkt. 1-4 at 10), a "picture I.D./community card with the same name that is on the Law Vehicular Judicial Notice Constitutional Driver's License," Officer Gustafson ignored these documents, accused Gofan of resisting arrest and grabbed Gofan by his arm, twisting it, and then illegally arrested him. (Dkt. 1-4 at 11). Gofan was subsequently charged with various state criminal offenses arising from this incident, including parking violations and obstructing

¹ While this matter was pending review pursuant to 28 U.S.C. § 1915(e)(2), Gofan filed no fewer than eight affidavits, including a "Default Affidavit," (Dkt. at 11), two letters to the Court, (Dkts. 7, 8), and two documents entitled "Notice," (Dkts. 9, 13).

legal process/interfere with a peace officer in violation of Minn. Stat. § 609.50 subd. 1(2).

See State v. Gofan, 02-CR-20-7458 (Minn. Dist. Ct.).

While Gofan's state criminal case was pending, he filed a civil rights action in this District, generally alleging that his arrest and the prosecution of those charges violated his federal constitutional rights. *Gofan v. Gustafson*, 21-cv-1249 (DSD/BRT), 2021 WL 4324559 (D. Minn. Sept. 23, 2021), *denying reh'g and reh'g en banc* 2022 WL 1037323 (8th Cir. Jan. 26, 2022) (*Gofan I*). With one exception, all the defendants named in *Gofan I* are identified as defendants to this case.² The Honorable David Doty, who is a Defendant in this action, dismissed Gofan's civil rights complaint as to defendants Judge Dehen and Judge Street, concluding they were entitled to judicial immunity. *Id.* at *2. In *Gofan I*, the court also concluded that Gofan failed to state a claim against Lori O'Brien, the Anoka County Court Administrator, and granted the remaining defendants' motion to dismiss, declining to exercise jurisdiction over Gofan's claims pursuant to the *Younger* abstention doctrine because the claims giving rise to the complaint stemmed from an ongoing state criminal case. *Id.*

Publicly accessible Minnesota state court records show that Gofan has been sentenced on those charges, *see Gofan*, 02-CR-20-7458 (Index # 189), his appeal was dismissed as untimely, *id.* (Index # 185), and his petition for further review was dismissed for failure to timely pay the filing fee or file an IFP application. *Id.* (Index # 248). Because

² North Star Towing—the company that towed his vehicle on December 28, 2020—was named as a defendant in Gofan's previous federal case but is not identified as a defendant in this matter. (Dkt. 1).

Gofan's state criminal case has been resolved, the principles underlying the *Younger* abstention doctrine no longer apply.

In this action, however, Gofan names the defendants identified in his first civil rights case, the defendants' counsel and the presiding judicial officer in that action, and many other individuals and entities. For example, Gofan also identifies Jonathan Jasper and Todd R. Schoffelman as defendants. (Dkt. 1). Minnesota case records show that Judge Todd Schoffelman sentenced Gofan in his state criminal case, *see Gofan*, 02-CR-20-7458 (Index #189), and granted his IFP application, *id.* (Index #237), and Judge Jonathan Jasper granted another one of Gofan's applications to proceed IFP in that case, *see id.* (Index # 216).

Gofan also names J. Haugen, Sgt. Mike Whitaker, and Mark E. Bergland as defendants, who relate to a separate state criminal case in which the State of Minnesota alleges that Gofan trespassed North Star Towing, on or about February 14, 2022, in violation of Minn. Stat. § 609.605 subd. 1(b)(8). *State of Minnesota v. Gofan*, 02-CR-22-1090 (Minn. Dt. Ct. May 4, 2022). (Dkt. 1-18 at 35). Gofan's Complaint takes a scattershot approach, listing a whole host of grievances against a number of different defendants.

Rule 20(a)(2) of the Federal Rules of Civil Procedure reflects the principle that "multiple claims against a single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2." *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). Gofan's claims that arise from his earlier federal civil rights action are wholly unrelated to the factual predicate underlying his trespassing charge. Although the Defendants related to his trespassing charge—J. Haugen, Sgt. Mike Whitaker, and

Mark E. Bergland—could be dismissed from this action pursuant to Rule 21 of the Federal Rules of Civil Procedure, the Court instead dismisses the claims for failure to state a claim in which relief can be granted. Fed. R. 12(b)(6). Indeed, the fundamental problem with Gofan’s Complaint is that the Defendants are either immune from suit or Gofan has failed to state a plausible claim for which relief can be granted.

A. Judicial Immunity

Gofan identifies several judicial officers as defendants: Judge Dyanna Street, Judge James Dehen, Judge David Doty, Judge Jonathan Jasper, and Judge Todd R. Schoffelman. These defendants are entitled to judicial immunity. The scope of judicial immunity has been addressed in an earlier lawsuit brought by Gofan. *See, e.g., Gofan I* at *2-3 (dismissing claims against judicial officers on the grounds that they are entitled to judicial immunity).

“A judge is immune from suit, including suits brought under section 1983 to recover for alleged deprivation of civil rights, in all but two narrow sets of circumstances.” *Justice Network Inc. v. Craighead County*, 931 F.3d 753, 760 (8th Cir. 2019). “First, a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge’s judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction.” *Id.* (citing *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991) (per curiam)).

“The factors determining whether an act by a judge is a ‘judicial’ one relate to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial

capacity.” *Justice Network, Inc.*, 931 F.3d at 760 (citing *Stump v. Sparkman*, 435 U.S. 349, 362 (1978)). Gofan appears to name the judicial officers as defendants because he disagrees with their orders. The judicial officers, however, took these actions in the normal course of their business as judicial officers. *See, e.g., Schottel v. Young*, 687 F.3d 370, 373 (8th Cir. 2012) (citing *Duvall v. Cnty. of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001) (“Ruling on a motion is a normal judicial function.”)). Gofan may believe that the judges’ rulings are incorrect or that the judges acted with malice in issuing them. But neither error nor malice deprives the judicial officers of immunity. *See Stump*, 435 U.S. at 356-57 (“[a] judge will not be deprived of immunity because the action he took was in error, done maliciously, or was in excess of his authority . . .”).

It is also clear that the judicial officers have subject matter jurisdiction over Gofan’s state court proceedings. Minnesota state district courts are courts of general jurisdiction, and criminal cases such as Gofan’s are within the subject matter jurisdiction of those courts. *See Minn. Const. Art. IV, § 3* (“[t]he district court has original jurisdiction in all civil and criminal cases and shall have appellate jurisdiction as prescribed by law”). Further, any claim that Judge Doty, a federal district court judge, acted outside of his authority by dismissing Gofan’s prior federal civil action is frivolous. Because the claims against Judge Street, Judge Dehen, Judge Doty, Judge Jasper and Judge Schoffelman pertain to actions that are within the scope of their judicial responsibilities in matters over which they had jurisdiction, these defendants are entitled to judicial immunity.

B. Failure to State a Claim

Gofan fails to state a claim against the remaining defendants. Citing various provisions of the federal criminal code, Gofan requests, among other things, that this Court initiate criminal prosecution against these Defendants. (Dkt. 1 at 15). This Court's authority, however, is limited to actual cases and controversies. *See* U.S. Const. art. III, § 2, cl. 1; *see Neighborhood Transp. Network, Inc. v. Pena*, 42 F.3d 1169, 1172 (8th Cir. 1994) (jurisdiction of federal courts extends only to actual cases and controversies). This Court has no authority to investigate or prosecute alleged violations of the federal criminal code. *See United States v. Wadena*, 152 F.3d 831, 846 (8th Cir. 1998) ("Courts repeatedly have held that there is no private right of action under § 241 even though the statute allows federal authorities to pursue criminal charges.") (citing *Cok v. Cosentino*, 876 F.2d 1, 2 (1st Cir. 1989) ("Only the United States as a prosecutor can bring a complaint under 18 U.S.C. §§ 241-242 . . . These statutes do not give rise to a civil action for damages.")). To the extent that Gofan asserts any claim against the defendants for violating provisions of the federal criminal code, such claims fail as a matter of law.

To the extent that Gofan intends to plead a civil cause of action, Rule 8 of the Federal Rules of Civil Procedure requires a plaintiff to plead "a short and plain statement of the claim" in their complaint. Fed. R. Civ. P. 8(a). Gofan's Complaint includes no factual allegations. Instead, the Complaint incorporates by reference nearly 850 pages of attached exhibits. (Dkt. 1). These exhibits fail to satisfy the requirements of Rule 8.

As the basis for the Court's jurisdiction in this matter, Gofan alleges violations of the Foreign Sovereign Immunities Act, 42 U.S.C. § 1986, the Eleventh Amendment to the United States Constitution, 42 U.S.C. § 1983, and Rule 55 of the Federal Rules of Civil Procedure, and Rule 55 of the Minnesota Rules of Civil Procedure. (Dkt. 1 at 3). Over the course of 850 pages of exhibits, Gofan further alleges the Defendants violated UCC provisions, (Dkt. 1-4 at 50), additional amendments to the United States Constitution, *see, e.g.*, (Dkt. 1-4 at 51, 54, 57, 60); and several other federal civil rights laws, including 42 U.S.C. § 2000a-2 (prohibiting deprivation of, interference with, and punishment for exercising rights and privileges), (Dkt. 1-4 at 18).

Gofan identifies Judy L. Rolow; Tracy Ekberg; Lexie last name unknown; Brian last name unknown; Vino Ambrose; R. Luckey; J. Haugen; Your Exchange Columbia Heights; Your Exchange Coon Rapids; Sgt. Mike Whitaker; Mark E. Berglund; M. Theirl; A. Archer; Officer Bergeron Badge #134; B. Gelle; Andrew Tolbert; Joseph J. Valento, #203; Management & Maintenance Men; Robb Olson; Sgt. Hager or Hagen; Dominic Nzara; Yoko Mickey Enders; Tyler Sonie, Badge #K179; Andrew Olson, Badge #K166; Kevin Nochez, Badge #K181; Michelle Coffee, Badge #K089; M. Traffie; Trhas Michael; Christa Rutherford; Child Support Tax Offset Unit Mercer Probation; and U.S. Department of the Treasury as defendants. (Dkt. 1). But his pleadings do not provide any factual allegations against these defendants. It is entirely unclear how these defendants relate to each other or to any alleged cause of action. To the extent that Gofan invites the Court to examine 850 pages of handwritten exhibits to identify a plausible cause of action pertaining

to these Defendants and factual allegations, the Court declines to do so. *Neubauer v. FedEx Corp.*, 849 F.3d 400, 404-05 (8th Cir. 2017) (the court “will not mine a [lengthy] complaint searching for nuggets that might refute obvious pleading deficiencies”) (quoting *Quintero Cmty. Ass’n Inc. v. F.D.I.C.*, 792 F.3d 1002, 1009 (8th Cir. 2015)).³

Similarly, Gofan names Evan Tsai and Anna Veit-Carter as Defendants to this action. The Court discerns that Tsai and Veit-Carter are the attorneys who represented the defendants in Gofan’s prior federal civil matter. *See Gofan I* at *1. Gofan makes vague allegations that these defendants “aided and abetted” a fraud against him. (Dkt. 1-4 at 25). But such conclusory allegations are insufficient to establish a plausible cause of action. “A pleading that offers labels and conclusions or a formulaic recitation of the elements of a cause of action is insufficient. Nor is a complaint sufficient if it tenders naked assertions devoid of further factual enhancement.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). To establish a fraud claim, “the circumstances constituting fraud . . . shall be stated with particularity.” Fed. R. Civ. P. 9(b). This “particularity requirement demands a higher degree of notice than that required for other claims and is intended to enable the defendant to respond specifically and quickly to

³ Gofan’s grievances against J. Haugen, Sgt. Mike Whitaker, and Mark E. Berglund might be related to his state criminal trespassing charge. *See* (Dkt. 1-18 at 35). But the specific claims against these defendants are not apparent. The Court will not sift through hundreds of pages of handwritten declarations and affidavits in an attempt to discern a plausible cause of action on Gofan’s behalf. *See* Fed. R. Civ. P. 8 (requiring pleadings to be simple, concise, and direct); *Cody*, 468 F. App’x at 645 (citing *Vicom, Inc. v. Harbrdge Merch. Servs., Inc.*, 20 F.3d 771, 775-76 (7th Cir. 1994) (primary purpose of Rule 8 is to allow court and opposing party to understand whether a valid claim is alleged and, if so, what it is)).

the potentially damaging allegations.” *U.S. ex re. Joshi v. St. Luke’s Hosp., Inc.*, 441 F.3d 552, 556 (8th Cir. 2006) (quoting *United States ex rel. Costner v. URS Consultants, Inc.*, 317 F.3d 883, 888 (8th Cir. 2003)). Here, Gofan offers only conclusory allegations that these defendants “aided and abetted” a “fraud.” (Dkt. 1 at 25). To the extent that Gofan asserts additional factual details in his 850 pages of exhibits, the allegations are not properly presented for the Court’s consideration. Accordingly, Gofan’s claims against Defendants Tsai and Veit-Carter fail as a matter of law.

The remaining defendants—Cameron C. Gustafson, Ryan Olson, William Aldrich, Benjamin Bautch, Blair Buccicone, Lori O’Brien, Anoka County Jail Badge #213, Anoka County Jail Badge #273, Anoka County Jail Badge #275, Anoka County Jail Badge #442, and Anoka County Jail Badge #444—were also named as defendants in *Gofan I*.

In that case, the claims against Lori O’Brien were dismissed for failure to state a claim. *Gofan I* at *3. Gofan fares no better here. Gofan asserts no specific, particularized facts, which, taken as true, establish any cause of action against O’Brien.⁴ *See Iqbal*, 556 U.S. at 678 (concluding that the court need not accept as true “threadbare recitals of the elements of a cause of action, supported by mere conclusory statements”). Gofan similarly fails to allege any particularized facts against Defendants Ryan Olson and William Aldrich.

⁴ As the Court noted in *Gofan I*, Lori O’Brien, the Anoka County Court Administrator, may also be entitled to quasi-judicial immunity. *Gofan I* at *3. But the Court cannot discern whether quasi-judicial immunity applies, because, as explained *supra*, Gofan fails to plead sufficient facts to establish *any* claim against this Defendant as a matter of law.

For this reason, the claims against Defendants Lori O'Brien, Ryan Olson and William Aldrich also fail as a matter of law.

Next, the Court addresses Gofan's claims against Anoka County Jail Badge #213, Anoka County Jail Badge #273, Anoka County Jail Badge #275, Anoka County Jail Badge #442, Anoka County Jail Badge #444, (collectively "Anoka County Jail defendants"), and Benjamin Bautch.

Gofan contends that, after he was arrested on December 28, 2020, he did not "consent" to the "booking process" at the Anoka County jail and he "expressed a valid reservation of right per Uniform Commercial Code 1-308 formally known as UCC 1-207 performance or Acceptance under Reservation of Rights" to Anoka County "Jail Badge #213," Anoka County "Jail Badge #273," Anoka County "Jail Badge #275," Anoka County "Jail Badge #442," Anoka County "Jail Badge #444". (Dkt. 1-4 at 13).⁵ Gofan asserts that

⁵ According to Gofan, he was then "placed in a cell without shoes or any type of protection for feet besides . . . [his] socks, and the cell had all types of human green and red blood type mucus in the sink area around the toilet and dry/dried up green mucus on the floor." (Dkt. 1-4 at 14). He contends that when he requested to be moved, his request was denied "because [he] refused the booking process." *Id.* According to Gofan, he was released the next day. (*Id.* at 15.) To the extent that Gofan asserts an unconstitutional conditions-of-confinement claim, such a claim fails.

As a pretrial detainee, Gofan's conditions of confinement claims are considered under the Fourteenth Amendment's Due Process Clause. *Stearns v. Inmate Services Corporation*, 957 F.3d 902, 906 (8th Cir. 2020) (citing *Bell v. Wolfish*, 441 U.S. 520, 525 n.16 (1979)). The government may detain defendants pretrial and "may subject them to the restrictions and conditions of a detention facility so long as those conditions and restrictions do not amount to punishment, or otherwise violate the Constitution." *Wolfish*, 441 U.S. at 536-37. Consistent with this standard, pretrial detainees "are entitled to reasonably adequate sanitation, personal hygiene, particularly over a lengthy course of time." *Beaulieu v. Ludeman*, 690 F.3d 1017, 1045 (8th Cir. 2012). However, "[n]ot every disability imposed during pretrial detention amounts to punishment in the constitutional sense." *Smith v. Copeland*, 87 F.3d 265, 268 (8th Cir. 1996). "There is a *de minimis* level

when he later went to retrieve his vehicle from the impound lot, Officer B. Bautch refused to release it to him because Gofan did not provide proof of insurance even though he provided “proof of ownership such as certificate of title for 2014 Chrysler 300, common law vehicular judicial notice, constitutional drivers license, copy of community card picture ID, jurisdictional challenge/jurisdictional demand.” (Dkt. 1-4 at 19).

Gofan identifies himself as a sovereign citizen. *See, e.g.*, (Dkt. 1-4 at 10, 19). “Sovereign citizens are a loosely-affiliated group who believe government in the United States operates illegitimately and outside the bounds of its jurisdiction.” *Waters v. Madson*, 921 F.3d 725, 732 n.4 (8th Cir. 2019). Courts in this Circuit have rejected as frivolous so-called “sovereign citizen” claims challenging motor vehicle registration, driver’s license, and proof of insurance laws. *See King v. Moody*, 4:21CV3119, 2021 WL 5395893, at *2 (D. Neb. Nov. 17, 2021) (listing cases). Gofan’s purported claims that reciting provisions of the UCC should excuse him from the booking process and that state laws requiring proof of insurance do not apply to him, likewise are frivolous “sovereign citizen” claims. *See Yisrael-Bey v. O’Toole*, 2018 WL 10425462, No. 4:17-CV-2631 SPM (E.D. Mo. Feb. 5, 2018). Accordingly, the Court dismisses such claims as frivolous. *See United States v.*

of imposition with which the Constitution is not concerned.” *Id.* Gofan’s claim that he was housed in a dirty cell for one day is simply *de minimis*. Gofan does not allege that these conditions of confinement caused him to suffer any injury. *See Smith v. Copeland*, 87 F.3d 265 (8th Cir. 1996) (pretrial detainee’s claim that he was exposed to raw sewage in his isolation cell for four days did not rise to the level of constitutional significance where detainee failed to establish that he suffered any injury from the exposure, and he declined an opportunity to clean the mess himself); *Ellis v. Norris*, 179 F.3d 1078, 1079 (8th Cir. 1999) (affirming dismissing of § 1983 complaint where plaintiff failed to allege any injury). Accordingly, Gofan fails to establish a claim for unconstitutional conditions of confinement under the Fourteenth Amendment.

Jagim, 978 F.2d 1032, 1036 (8th Cir. 1992) (referring to the sovereign citizen argument as “completely without merit, patently frivolous and . . . rejected without expending any more of this Court’s resource”).

The Court next addresses Gofan’s claims against Blair Buccicone, a prosecutor in Gofan’s state criminal case. *See generally Gofan*, 02-CR-20-7458. “Prosecutors are entitled to absolute immunity from civil liability under 18 U.S.C. § 1983 when they are engaged in prosecutorial functions that are ‘intimately associated with the judicial process.’” *Schenk v. Chavis*, 461 F.3d 1043, 1046 (8th Cir. 2006) (quoting *Anderson v. Larson*, 327 F.3d 762, 768 (8th Cir. 2003)). The scope of prosecutorial immunity is broad, and “actions connected with initiation of prosecution, even if those actions are patently improper” are entitled to immunity. *Id.* (quoting *Williams v. Hartje*, 827 F.2d 1203, 1208 (8th Cir. 1987)). A conspiracy claim “requires a complaint with enough factual matter (taken as true) to suggest that an agreement was made.” *Bell Atl. Corp.*, 550 U.S. at 556. Gofan fails to assert any facts that Buccicone was engaged in anything other than functions related to the prosecution of Gofan’s case. To the extent that Gofan asserts that Buccicone was involved in a “conspiracy” or “fraud,” such allegations are merely conclusory. *See, e.g.*, Exhibit 3 of the Complaint, (Dkt. 1-4 at 29). Gofan’s allegations are not sufficient to establish a cause of action against Buccicone or any other defendant. *See Faulk v. City of St. Louis, Missouri*, 30 F.4th 739, 748 (8th Cir. 2022).

C. Claims Against Cameron Gustafson

Gofan’s claims against Cameron Gustafson present a closer question. When liberally construed, as pro se complaints require, Gofan alleges that Cameron Gustafson

unlawfully arrested him on December 28, 2020, and used excessive force in conducting the arrest. (Dkt. 1-4 at 10-12). The Court construes these claims as allegations that Defendant Cameron Gustafson violated Gofan's constitutional rights, giving rise to a claim under 42 U.S.C. § 1983. But because Gofan does not specifically allege whether Defendant Gustafson is being sued in his individual or official capacity (or both), this claim fails.

"A clear statement or a specific pleading" indicating that Gofan, the plaintiff, is suing the defendants in their individual capacities, is required. *Remington v. Hoopes*, 611 F. App'x 883, 885 (8th Cir. 2015) (citing *Andrus ex rel. Andrus v. Arkansas*, 197 F.3d 953, 955 (8th Cir. 1999)). In a case such as this where there is no such clear statement, a federal court must "presume that the plaintiff brings suit against the defendants in only their official capacities." *Id.* (quoting *Johnson v. Outboard Marine Corp.*, 172 F.3d 531, 535 (8th Cir. 1999)); *see also Egerdahl v. Hibbing Cmty. Coll.*, 72 F.3d 615, 619-20 (8th Cir. 1995).

Gofan's official capacity claim against Gustafson fails. "Official-capacity liability under 42 U.S.C. § 1983 occurs only when a constitutional injury is caused by a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy." *Id.* (quoting *Gladden v. Richbourg*, 759 F.3d 960, 968 (8th Cir. 2014)). Here, Gofan offers no specific facts about Gustafson to suggest that Gustafson was acting pursuant to any custom or policy during the purportedly unlawful arrest or in the alleged use of excessive force during that arrest. For this reason, Gofan's Section 1983 claim against Gustafson fails as a matter of law.

To the extent that Gofan seeks to assert any other cause of action against Gustafson, the Court declines to search Gofan's 850-page submission for it. *See Carlson v. Ameriprise Fin.*, 08-cv-5303 (MJD/JJK), 2009 WL 10678283 at *17 (D. Minn. May 21, 2009) ("[A] scattershot approach of listing statutes and causes of action with no articulated bases is insufficient to state a claim."). Because the Court identifies no federal cause of action, the Court declines to exercise jurisdiction over any cause of action arising under Minnesota state law against Gustafson or any other defendant that Gofan may assert. *See Hervey v. Cnty. of Koochiching*, 527 F.3d 711, 726-27 (8th Cir. 2008) (directing the district court to dismiss state-law claims so that they may be considered by the state courts where the federal causes of action were dismissed before trial).

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Plaintiff's Complaint, (Dkt. 1), is **DISMISSED WITHOUT PREJUDICE**, pursuant to 28 U.S.C. § 1915(e)(2)(B).
2. Plaintiff's IFP Application, (Dkt. 2), is **DENIED**.
3. Plaintiff's Motion to Appoint Counsel, (Dkt. 4), is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 23, 2023

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge

UNITED STATES DISTRICT COURT
District of Minnesota

Saye Henry Gofan, Jr.,

JUDGMENT IN A CIVIL CASE

Plaintiff,

v.

Case Number: 23-cv-749 WMW/JFD

Cameron C. Gustafson, Ryan Olson, William Aldrich, Benjamin Bautch, Blair Buccicone, Evan C. Tsai, Anna Veit-Carter, Dyanna Street, Lori O'Brien, James Dehen, Anoka County Jail Badge #213, Anoka County Jail Badge #273, Anoka County Jail Badge #275, Anoka County Jail Badge #442, Anoka County Jail Badge #444, Judy L. Rolow, Tracy Ekberg, David S. Doty, Lexie, Biran, Jonothan Jasper, Vino Ambrose, R. Luckey, J. Haugen, Your Exchange, Your Exchange, Mike Whitaker, Mark E. Berglund, M. Theirl, A. Archer, Officer Bergeron Badge #134, B. Gelle, Andrew Tolbert, Joseph J. Valento, Management & Maintenance Men, Robb Olson, Sgt Hager, Dominic Nzara, Yoko Mickey Enders, Tyler Sonie, Andrew Olson, Kevin Nochez, Michelle Coffey, M. Traffie, Trhas Michael, Christa Rutherford, Todd R. Schoffelman, Child Support Tax Offset Unit Mercer Probation, U.S. Department of the Treasury,

Defendants.

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

1. Plaintiff's Complaint, (Dkt. 1), is DISMISSED WITHOUT PREJUDICE, pursuant to 28 U.S.C. § 1915(e)(2)(B).
2. Plaintiff's IFP Application, (Dkt. 2), is DENIED.
3. Plaintiff's Motion to Appoint Counsel, (Dkt. 4), is DENIED.

Date: 6/23/2023

KATE M. FOGARTY, CLERK

Appendix 13

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 23-2817

Saye Henry Gofan, Jr.

Appellant

v.

Cameron C. Gustafson, et al.

Appellees

Appeal from U.S. District Court for the District of Minnesota
(0:23-cv-00749-WMW)

ORDER

Appellant's motion for extension of time to file his brief is construed as a motion for extension of time to file a petition for rehearing and is granted. Appellant may have until December 12, 2023 to file a petition for rehearing.

Electronically-filed petitions for rehearing must be received in the clerk's office on or before the due date.

The three-day mailing grace under Fed.R.App.P. 26(c) does not apply to petitions for rehearing.

November 29, 2023

Order Entered Under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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Appendix A4

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

No: 23-2817

Saye Henry Gofan, Jr.

Appellant

v.

Cameron C. Gustafson, et al.

Appellees

Appeal from U.S. District Court for the District of Minnesota
(0:23-cv-00749-WMW)

MANDATE

In accordance with the judgment of November 14, 2023, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

January 30, 2024

Clerk, U.S. Court of Appeals, Eighth Circuit

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