UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7077

CORVIN J. YOUNG,

Plaintiff - Appellant,

v.

SPARTANBURG COUNTY DETENTION FACILITY; SPARTANBURG COUNTY, SOUTH CAROLINA; SHERIFF CHUCK WRIGHT, County Sheriff; KATHERINE M. SIEBER, Esq., Public Defender; MOLLY H. CHERRY, Federal Magistrate Judge; DEPUTY MEDVEDEV, Spartanburg County Sheriff's Office,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Mary G. Lewis, District Judge. (6:23-cv-02378-MGL)

Submitted: February 27, 2024 Decided: March 1, 2024

Before WILKINSON, WYNN, and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Corvin J. Young, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Corvin Young appeals the district court's order dismissing his 42 U.S.C. § 1983 action. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended that relief be denied and advised Young that failure to file timely, specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017); *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140, 154-55 (1985). Young has waived appellate review by failing to file objections to the magistrate judge's recommendation after receiving proper notice. Accordingly, we affirm the judgment of the district court. 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

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF SOUTH CAROLINA

GREENVILLE DIVISION

Corvin J. Young, Plaintiff, vs. Spartanburg County Detention Facility, Spartanburg County SC, Sheriff Chuck Wright, Katherine M. Sieber, Molly H. Cherry, Deputy Medvedev, Defendants.	C/A No. 6:23-cv-02378-MGL-KFM **REPORT OF MAGISTRATE JUDGE**

The plaintiff, a pretrial detainee proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. Pursuant to the provisions of 28 U.S.C. § 636(b), and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), this magistrate judge is authorized to review all pretrial matters in cases filed under 42 U.S.C. § 1983 and submit findings and recommendations to the district court.

The plaintiff's complaint was entered on the docket on February 24, 2023, in the United States District Court for the Northern District of Ohio (doc. 1). On May 31, 2023, the instant matter was transferred to this court (doc. 3). On July 19, 2023, the undersigned issued an order informing the plaintiff that his complaint was subject to dismissal as drafted and providing him with time to file an amended complaint to correct the deficiencies noted in the order (doc. 16). The plaintiff was informed that if he failed to file an amended complaint or cure the deficiencies outlined in the order, the undersigned would recommend that his claims be dismissed (*id.* at 17–18). The plaintiff has failed to file an amended complaint within the time provided; accordingly, the undersigned recommends that the instant matter be dismissed.

ALLEGATIONS

This is a § 1983 action filed by the plaintiff, a pretrial detainee, regarding his pending criminal charges as well as conditions of confinement at the Spartanburg County Detention Center ("the Detention Center") (doc. 1). The court takes judicial notice of the plaintiff's pending charges in the Spartanburg County General Sessions Court for one count of shoplifting, one count of throwing bodily fluids by a prisoner, one count of financial transaction card fraud, one count of receiving stolen goods, and one count of 2nd degree harassment.[1] *See* Spartanburg County Public Index, https://publicindex.sccourts.org/Spartanburg/PublicIndex/PISearch.aspx (enter the plaintiff's name and 2020A4210204363, 2020A4210204364, 2021A4210203231, 2021A4210203232, 2021A4210203409) (last visited August 14, 2023). The plaintiff's charges have all been indicted. *Id.*

The plaintiff alleges violations of his due process rights, access to the courts, the inability to subpoena witnesses, and inadequate representation by his attorney in relation to Case Number 9:22-cv-02562-MGL-MHC (doc. 1 at 6). The plaintiff also alleges violations of his First, Fifth, Sixth, Eighth, and Fourteenth Amendment rights as well as his rights under the United Nations treaty denoting the minimum standards for the treatment of prisoners (*id.* at 7). The plaintiff also contends that the defendants have violated several federal and state laws, including 15 U.S.C. § 788 and S.C. Code §§ 16-5-10, 16-5-140, 40-81-190 (*id.*).

The plaintiff alleges that the Detention Center has become overcrowded, continues to be understaffed, and has not been properly maintained (*id.* at 8–9). The plaintiff contends that there are four detainees to a cell in the Detention Center (*id.* at 10). He further contends that the overcrowding has caused him to become infected twice with

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[1] *Phillips v. Pitt Cnty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009) (courts "may properly take judicial notice of matters of public record."); *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989) ("We note that '[t]he most frequent use of judicial notice . . . is in noticing the content of court records.'").

COVID-19 since June 2021 (*id.*). The plaintiff also alleges that Detention Center staff do not complete incident reports when things happen and that detainees are being provided sham disciplinary hearings (*id.* at 11).

The plaintiff alleges that Deputy Medvedev is a foreign agent who makes detainees' mail or other communications disappear (*id.* at 12, 22–23). The plaintiff alleges that detainees are provided with a steel bed, toilet/sink, and some toilet paper, as well as that detainees have to kneel on the floor for count twice a day (*id.* at 13). The plaintiff also contends that officers retaliate against detainees who cause them "stress" as well as that Detention Center employees also falsely label troublesome detainees as suffering from mental illness (*id.* at 13–14). The plaintiff has also been denied access to phone privileges (*id.* at 23).

The plaintiff further contends that the defendants eavesdrop on detainees' private conversations (*id.* at 14). He contends that the defendants have to communicate with their attorneys through a Detention Center monitored communication system (*id.* at 19). He contends that there is a conspiracy between Detention Center employees and others to keep sovereign citizens, such as the plaintiff, from investigating criminal acts being committed against him (*id.* at 15). The plaintiff alleges that he was denied postage and hygiene in March 2021 (*id.* at 18). He also contends that he was wrongfully transferred to the mental health unit by Sheriff Wright (*id.* at 20–21).

The plaintiff also alleges that Ofc. Hayes illegally arrested him after he reported someone else for receiving stolen goods (*id.* at 16, 23–24). The plaintiff also alleges that he has been denied access to legal materials while a pretrial detainee, which prevents him from assisting his attorney in defending his criminal charges (*id.* at 17–18). He further contends that the clerk of court is illegally disposing of his pretrial motions (*id.* at 20). The plaintiff also contends that Ms. Sieber, the public defender assigned to his case, is working with the state to prevent the plaintiff from exercising his rights by having

him mentally evaluated (*id.* at 21). He contends that the Honorable Molly H. Cherry, United States Magistrate Judge for the United States District Court for the District of South Carolina, is helping the Detention Center employees deny his rights by not ruling in his favor in Case Number 9:22-cv-02562-MGL-MHC (*id.* at 22).

The plaintiff's injuries are that his rights have been violated (*id.* at 24). For relief, the plaintiff seeks an order preventing the Detention Center from denying him access to the court and requiring the appointment of competent counsel as well as money damages (*id.*).

STANDARD OF REVIEW

The plaintiff filed this action pursuant to 28 U.S.C. § 1915, the *in forma pauperis* statute. This statute authorizes the District Court to dismiss a case if it is satisfied that the action "fails to state a claim on which relief may be granted," is "frivolous or malicious," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). Further, the plaintiff is a prisoner under the definition of 28 U.S.C. § 1915A(c), and "seeks redress from a governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a). Thus, even if the plaintiff had prepaid the full filing fee, this Court is charged with screening the plaintiff's lawsuit to identify cognizable claims or to dismiss the complaint if (1) it is frivolous, malicious, or fails to state a claim upon which relief may be granted, or (2) seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A.

As a *pro se* litigant, the plaintiff's pleadings are accorded liberal construction and held to a less stringent standard than formal pleadings drafted by attorneys. *See Erickson v. Pardus*, 551 U.S. 89 (2007) (*per curiam*). 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, 391 (4th Cir. 1990).

This 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)). A civil action under § 1983 "creates a private right of action to vindicate violations of 'rights, privileges, or immunities secured by the Constitution and laws' of the United States." *Rehberg v. Paulk*, 566 U.S. 356, 361 (2012). To state a claim under § 1983, a plaintiff must allege two essential elements: (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).

DISCUSSION

As noted above, the plaintiff filed the instant action pursuant to § 1983, seeking damages from the defendants. However, the plaintiff's complaint is subject to summary dismissal. As an initial matter, it appears that the plaintiff purports to file the instant action on behalf of himself and other pretrial detainees at the Detention Center (doc. 1). However, to the extent the plaintiff purports to file such an action, his request is denied because a prisoner cannot file or maintain a lawsuit on behalf of others. *See Hummer v. Dalton*, 657 F.2d 621, 625–26 (4th Cir. 1981) (a prisoner cannot act as a "knight-errant" for others); *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975) ("it is plain error to permit [an] imprisoned litigant who is unassisted by counsel to represent his fellow inmates in a class action."). As such, the plaintiff is instructed that this action is proceeding with respect to his claims against the defendants *only*.

Spartanburg County Detention Facility

The Detention Center is not a "person" as defined by § 1983, thus, it is entitled to summary dismissal. It is well settled that only "persons" may act under color of state law; thus, a defendant in a § 1983 action must qualify as a "person." As this defendant is not

a person, it is not subject to suit under 42 U.S.C. § 1983. *See Harden v. Green*, 27 F. App'x 173, 178 (4th Cir. 2001); *Nelson v. Lexington Cnty. Det. Ctr.*, C/A No. 8:10-cv-2988-JMC, 2011 WL 2066551, at *1 (D.S.C. May 26, 2011) (finding that a building – the detention center – is not amenable to suit under § 1983). Accordingly, the Detention Center is entitled to summary dismissal.

Spartanburg County

The plaintiff has named Spartanburg County as a defendant in this action – although it is unclear what his allegations against it are. As an initial matter, Spartanburg County is entitled to Eleventh Amendment immunity as a subdivision of the state of South Carolina. *See Alden v. Maine*, 527 U.S. 706, 712–13 (1999); *Alabama v. Pugh*, 438 U.S. 781, 781–82 (1978); *see also* S.C. Code Ann. § 15-78-20(e) (noting that the State of South Carolina has not consented to suit in federal court); *Quern v. Jordan*, 440 U.S. 332, 342–43 (1979) (holding that congress has not abrogated the state's sovereign immunity in § 1983 actions). Additionally, Spartanburg County is also subject to dismissal because it is not a person subject to suit under § 1983. As noted above, only "persons" may act under color of state law; thus, a defendant in a § 1983 action must qualify as a "person." *See Harden*, 27 F. App'x at 178; *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989) (holding that "neither a State nor its officials acting in their official capacities are 'persons' under § 1983."). Accordingly, Spartanburg County is also entitled to summary dismissal.

Judge Cherry

The plaintiff alleges that Judge Cherry has erred in her handling of a separate case he filed in this district because she has not granted him relief (doc. 1 at 6, 22). It is well-settled that judges have absolute immunity from a claim for damages arising out of their judicial actions unless they acted in the complete absence of all jurisdiction. *See Mireles v. Waco*, 502 U.S. 9, 11–12 (1991); *Stump v. Sparkman*, 435 U.S. 349, 356–64 (1978); *Chu v. Griffith*, 771 F.2d 79, 81 (4th Cir. 1985) (explaining that if a challenged

judicial act was unauthorized by law, the judge still has immunity from a suit seeking damages). Whether an act is judicial or non-judicial relates to the nature of the act, such as whether it is a function normally performed by a judge and whether the parties dealt with the judge in his judicial capacity. *Mireles*, 502 U.S. at 12. Immunity applies even when the judge's acts were in error, malicious, or in excess of her authority. *Id.* at 12–13. Absolute immunity is "an immunity from suit rather than a mere defense to liability." *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985) (emphasis omitted). The allegations as to Judge Cherry concern her judicial actions; as such, judicial immunity squarely applies and any claims against her should be dismissed.

Katherine M. Sieber, Esquire

Ms. Sieber, a public defender who previously represented the plaintiff as part of his pending Spartanburg County charges (doc. 1 at 21), is subject to summary dismissal because she does not act under color of state law. It is well-settled that "[a]nyone whose conduct is 'fairly attributable to the state' can be sued as a state actor under § 1983." *Filarsky v. Delia*, 566 U.S. 377, 383 (2012) (internal citation omitted). To determine whether state action is present, no single factor is determinative and the "totality of the circumstances" must be evaluated. *See Goldstein v. Chestnut Ridge Volunteer Fire Co.*, 218 F.3d 337, 341–43 (4th Cir. 2000). However, purely private conduct, no matter how wrongful, is not actionable under 42 U.S.C. § 1983 and the United States Constitution. *See Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936 (1982); *Mentavlos v. Anderson*, 249 F.3d 301, 310 (4th Cir. 2001).

The law is well-established that appointed defense counsel, such as Ms. Sieber, is not a state actor for purposes of § 1983 claims because the public defender acts not on behalf of the state; rather, the public defender "is the State's adversary." *Polk Cnty. v. Dodson*, 454 U.S. 312, 322–23 & n.13 (1981); *see Mahaffey v. Sumter Cnty. Pub. Defender's Corp.*, C/A No. 3:06-3557-SB, 2007 WL 3001675, at *4 (D.S.C. Oct. 9, 2007)

("[T]he Sumter County Public Defender's Corp. did not act under color of state law and is entitled to summary dismissal."); *see also Hall v. Quillen*, 631 F.2d 1154, 1155–56 (4th Cir. 1980) (finding no state action under § 1983, even where the plaintiff's attorney was court-appointed). Public defenders, such as Ms. Sieber, are not immune from § 1983 liability when they conspire with state officials to deprive their client of federal rights. *Jordan v. Doe*, C/A No. 0:21-cv-02834-BHH-KFM, 2021 WL 9217649, at *4 (D.S.C. Sept. 21, 2021), *Report and Recommendation adopted by* 2022 WL 3141955 (D.S.C. Aug. 5, 2020) (internal citations omitted). Here, however, the plaintiff's conclusory allegations that Ms. Sieber is conspiring with the state to have him mentally evaluated, does not plausibly allege a conspiracy between Ms. Sieber and the state to violate his rights. As referenced above, the employment relationship between a public defender and the state is insufficient to establish that a public defender acts under color of state law for purposes of § 1983. Accordingly, the plaintiff's complaint fails to state a claim for relief against Ms. Sieber and she is subject to summary dismissal.

Clerk of Court Claim

To the extent the plaintiff alleges that the Spartanburg County Clerk of Court has violated his rights by disposing of his motions (although the plaintiff has not named the Clerk of Court as a defendant) (doc. 1 at 20), his request is subject to dismissal. The plaintiff's allegations against the Clerk of Court involve the Clerk's role as the Clerk of Court under the direction of judicial officers; thus, the Clerk of Court has immunity and should be dismissed. *See Holcomb v. Greenville Cnty. Clerk of Ct.*, C/A No. 6:17-cv-02001-MGL-SVH, 2017 WL 4023128, at *3 (D.S.C. Aug. 23, 2017), *Report and Recommendation adopted by* 2017 WL 4012389 (D.S.C. Sept. 12, 2017) (noting that immunity was extended to court support personnel because "disappointed litigants, blocked by the doctrine of absolute immunity from suing the judge directly, will vent their wrath on clerks, court reporters, and other judicial adjuncts" (internal citation and quotation marks

omitted)). Indeed, the plaintiff is currently represented by counsel in his state criminal proceedings; thus, because he is not entitled to hybrid representation (wherein he may submit filings along with his attorney), his claim that pretrial motions are being rejected is subject to summary dismissal. *See e.g.*, *McKaskle v. Wiggins*, 465 U.S. 168, 183 (1984). As such, the plaintiff's claim against the Clerk of Court is subject to summary dismissal.

Conditions of Confinement Claims

The plaintiff's condition of confinement claims are also subject to summary dismissal. The plaintiff's complained-of conditions include being transferred to the mental health unit, overcrowding, catching COVID-19, sham disciplinary hearings, no telephone access, having to talk to his attorney on the phone that is monitored, and being denied hygiene on one occasion (doc. 1 at 8–9, 10, 11, 12, 18, 20–21, 22–23). At all relevant times herein, the plaintiff was a pretrial detainee; thus, his claims are evaluated under the Fourteenth Amendment rather than the Eighth Amendment (which is used to evaluate conditions of confinement claims for individuals convicted of crimes). *See City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 243–44 (1983). In any event, "[the] due process rights of a pretrial detainee are at least as great as the [E]ighth [A]mendment protections available to the convicted prisoner." *Martin v. Gentile*, 849 F.2d 863, 870 (4th Cir. 1988). To state a claim that conditions of confinement violate constitutional requirements, a plaintiff must show that he was deprived of a basic human need and that prison officials were deliberately indifferent to that deprivation. *Strickler v. Waters*, 989 F.2d 1375, 1379 (4th Cir. 1993). The first prong of the *Strickler* analysis requires an objective showing that the deprivation was sufficiently serious, such that significant physical or emotional injury resulted from it, while the second prong is a subjective test requiring evidence that prison officials acted with a sufficiently culpable state of mind. *Id.* (citing and partially quoting *Wilson v. Seiter*, 501 U.S. 294, 298 (1991)).

Here, the plaintiff's complained-of conditions (being transferred to the mental health unit, overcrowding, catching COVID-19, sham disciplinary hearings, no telephone privileges, monitored phone calls with his attorney, and being denied hygiene on one occasion) do not rise to the level of a constitutional violation. *See Shakka v. Smith*, 71 F.3d 162, 166 (4th Cir. 1995) (quoting *Wilson*, 501 U.S. at 298) (noting that the Constitution does not mandate comfortable prisons, and only deprivations which deny the minimal civilized measure of life's necessities are sufficiently grave to provide the basis of a § 1983 claim); *Thompson v. Brown*, C/A No. 3:11-cv-318-TMC-JRM, 2011 WL 6012592, at *1–2 (D.S.C. Nov. 8, 2011) (rejecting conditions of confinement claim where the plaintiff claimed "his mattress and blanket were confiscated for six days, he was not allowed to have any toilet tissue for six days, his clothes were taken away from him for six days, his cell was cold, he had no running water in his cell, and he was forced to sleep on a steel cot for six days"), *Report and Recommendation adopted by* 2011 WL 6012550 (D.S.C. Dec. 2, 2011). Indeed, the plaintiff has failed to allege facts showing that the defendants are personally involved in the complained-of conditions – or that he suffered from many of the purported deprivations (instead alleging that other detainees suffered from the complained-of conditions). *See Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) ("[A] plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution."); *Vinnedge v. Gibbs*, 550 F.2d 926, 928 (4th Cir. 1997) (holding that an official must be personally involved in the alleged deprivation before liability may be imposed).

Additionally, the plaintiff's claim that he should not have been transferred to the mental health unit fails because prisoners generally do not have a constitutionally recognized liberty interest in a particular security classification or prison placement. *Hewitt v. Helms*, 459 U.S. 460, 468 (1983) (finding no constitutional right under the due process clause to a particular security classification or prison placement), *overruled in part on other*

grounds by Sandin v. Conner, 515 U.S. 472 (1995). Moreover, detainees have no constitutional right to use the telephone and the plaintiff's claims that he is forced to use a monitored phone line not only contradict his assertions regarding phone privileges, but also fails to provide a basis for relief because he has not alleged an inability to communicate with his attorney by other methods that are not monitored, such as through the use of legal mail. *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 461 (1989) (finding no liberty interest in canteen, telephone, or visitation privileges); *Thomas v. Drew*, 365 F. App'x 485, 488 (4th Cir. 2010) (unpublished per curiam opinion) (finding no constitutional violation when inmate challenged "'de facto' ban" on telephone privileges). Further, the plaintiff's claims regarding overcrowding are subject to dismissal because being housed in a cell with three other inmates is not *per se* unconstitutional. *See Williams v. Griffin*, 952 F.2d 820, 824 (4th Cir. 1991) (citing *Rhodes v. Chapman*, 452 U.S. 337, 348 (1981); *Hite v. Leek*, 564 F.2d 670, 673–74 (4th Cir. 1977)); *see also Strickler*, 989 F.2d at 1380–81 (finding no cognizable Eighth Amendment deprivation for double bunking absent proof of unsanitary or dangerous conditions which cause deprivation of an identifiable human need). Here, the plaintiff has not alleged serious deprivations of basic human needs based upon being housed with three other inmates. In light of the foregoing, the plaintiff's various conditions of confinement claims are subject to summary dismissal.

Violations of South Carolina Law and Federal Law

The plaintiff, in passing, also seeks damages based on one provision of the United States Code, Title 15 U.S.C. § 788, and on various provisions of the South Carolina Code, S.C. Code §§ 16-5-10, 16-5-140, 40-81-190 (doc. 1 at 7). However, 15 U.S.C. § 788, which sets forth the use of commercial standards by the United States Department of Energy, cannot be used as a vehicle for civil prosecution. *See* 15 U.S.C. § 788. One of the South Carolina Code sections cited by the plaintiff is for proceedings involving the State Athletic Commission, unrelated to the plaintiff's incarceration; thus, it likewise does not

provide a basis for relief for the plaintiff. *See* S.C. Code § 40-81-190. The remaining South Carolina Code sections are criminal statutes that cannot be used to seek damages in a civil action. As such, the plaintiff's claims relating to violations of Federal and South Carolina Law are subject to summary dismissal.

Supervisory Liability

To the extent the plaintiff's complaint can be construed as seeking damages based upon supervisory liability against Sheriff Wright, his claims are subject to summary dismissal because the doctrines of vicarious liability and *respondeat superior* are generally not applicable to § 1983 suits. *Iqbal*, 556 U.S. at 676 ("Because vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution."); *Polk Cnty.*, 454 U.S. at 325 (noting that "Section 1983 will not support a claim based on a *respondeat superior* theory of liability" (emphasis in original)). Indeed, to allege a plausible claim requires a showing that the supervisor (1) had actual or constructive knowledge that his/her subordinates engaged in conduct posing a pervasive or unreasonable risk of constitutional injury; (2) the supervisor's response to the knowledge was "so inadequate as to show deliberate indifference to or tacit authorization of the alleged offensive practices;" and (3) an affirmative causal link between the inaction by the supervisor and the particular constitutional injury suffered by the plaintiff. *Green v. Beck*, 539 F. App'x 78, 80 (4th Cir. 2013). Here, the plaintiff alleges that Sheriff Wright is responsible for the acts of his subordinates (specifically sham disciplinary hearings and lack of incident reports), but the plaintiff has not alleged how Sheriff Wright was aware of these acts nor alleged a causal link between Sheriff Wright's knowledge of these matters and the plaintiff's alleged injury. Indeed, the plaintiff has not alleged that he personally had a sham disciplinary hearing or that an incident in which he was involved did not have an incident report completed. As such, the plaintiff's complaint fails to state a supervisory liability claim against Sheriff Wright.

See Ford v. Stirling, C/A No. 2:17-02390-MGL, 2017 WL 4803648, at *2 (D.S.C. Oct. 25, 2017); *London v. Maier*, C/A No. 0:10-00434-RBH, 2010 WL 1428832, at *2 (D.S.C. Apr. 7, 2010).

Retaliation Claim

To the extent the plaintiff's passing indication that the defendants retaliate against inmates who cause "stress" alleges a retaliation claim (doc. 1 at 13–14), his claim is subject to dismissal. Where a plaintiff alleges that an act was taken in response to the exercise of a constitutionally protected First Amendment right, the plaintiff must allege that (1) he engaged in "protected First Amendment activity, (2) [the defendant] took some action that adversely affected [his] First Amendment rights, and (3) there was a causal relationship between [his] protected activity and [the defendant's] conduct." *Martin v. Duffy*, 858 F.3d 239, 249 (4th Cir. 2017) (quoting *Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 499 (4th Cir. 2005)). Because conduct that "tends to chill the exercise of constitutional rights might not itself deprive such rights," a plaintiff can plausibly allege a retaliation claim without alleging an actual deprivation of his First Amendment rights. *Constantine*, 411 F.3d at 500. With respect to causation, a plaintiff must plausibly allege knowledge by the defendant of a plaintiff's protected activity as well as that the retaliation took place within some "temporal proximity" of that activity. *Id.* at 501; *see Germain v. Bishop*, C/A No. TDC-15-1421, 2018 WL 1453336, at *14 (D. Md. Mar. 23, 2018). A prisoner must present more than conclusory accusations of retaliation, and must provide facts that show the exercise of his constitutional right was a substantial factor motivating the retaliation. *See e.g.*, *Adams v. Rice*, 40 F.3d 72, 74–75 (4th Cir. 1994), *cert. denied*, 514 U.S. 1022 (1995); *Cochran v. Morris*, 73 F.3d 1310, 1318 (4th Cir. 1996).

Here, it is unclear whether the plaintiff himself has ever been retaliated against or which of the defendants he contends were involved in the retaliation. Although the plaintiff's allegations must be liberally construed, the plaintiff must provide more than

general and conclusory statements to allege a plausible claim for relief. *Adams*, 40 F.3d at 74–75; *see Iqbal*, 556 U.S. at 676 (noting that liability under § 1983 "requires personal involvement"). Moreover, as recently reiterated by the Fourth Circuit, general, conclusory, and collective allegations against groups of defendants fail to allege a plausible claim. *See Langford v. Joyner*, 62 F.4th 122, 124–25 (4th Cir. 2023) (recognizing that the plaintiff's complaint failed to meet the plausibility standard when it did not set forth who the defendants were beyond being employees where he was incarcerated or in what capacity the defendants interacted with the plaintiff). As such, the plaintiff's retaliation claim is also subject to dismissal.

Mail Interference Claims

The plaintiff's mail interference claims – that Deputy Medvedev interfered with detainees' mail (doc. 1 at 12, 22–23) – are also subject to summary dismissal. Inmates enjoy a First Amendment right to send and receive mail. *Thornburgh v. Abbott*, 490 U.S. 401, 407 (1989). As such, interference with an inmate's mail may state a cognizable claim under § 1983. *Id.*; *see Corey v. Reich*, C/A No. 0:02-2801-12, 2004 WL 3090234, at *10 (D.S.C. Mar. 9, 2004) (internal citation omitted). Nevertheless, the Supreme Court has recognized that prisoners only retain First Amendment rights not "inconsistent with [their] status as . . . prisoner[s] or with the legitimate penological objectives of the corrections system." *Hudson v. Palmer*, 468 U.S. 517, 523 (1984) (alteration in original) (internal citation and quotation marks omitted). Here, the plaintiff's claims fail because he has not alleged that his mail was destroyed by Deputy Medvedev or that he was injured by the destruction of mail. Moreover, an occasional, negligent delay or interference with personal (or legal) mail, without more, does not impose a deprivation of Constitutional proportions. *See Pink v. Lester*, 52 F.3d 73, 75 (4th Cir. 1995); *Pearson v. Simms*, 345 F. Supp. 2d 515, 519 (D. Md. 2003), *aff'd* 88 F. App'x 639 (4th Cir. 2004). As such, the plaintiff's mail interference claim is subject to summary dismissal.

Denial of Access to the Courts Claims

The plaintiff's claims – that his rights have been violated because he was denied postage on one occasion and has been denied access to legal materials while a pretrial detainee – are subject to summary dismissal. As an initial matter, pretrial detainees, temporarily held in a county facility while awaiting trial, do not have a constitutional right to a law library, as the Constitution guarantees a right to reasonable access to the courts, not to legal research or a law library. *See Lewis v. Casey*, 518 U.S. 343, 351 (1996). Additionally, a claim for denial of access to the courts must be pled with specificity. *Cochran v. Morris*, 73 F.3d 1310, 1317 (4th Cir. 1996). Further, in order to state a constitutional claim for denial of access to the courts, a prisoner must show actual injury. *Id.*; *see Lewis*, 518 U.S. at 349. The actual injury requirement can be satisfied by demonstrating that a non-frivolous legal claim was frustrated or impeded by some actual deprivation of access to the court. *Lewis*, 518 U.S. at 352–53. Here, the plaintiff's conclusory allegation that he has been denied the ability to prepare a defense in his pending criminal proceedings, even liberally construed, fails to "demonstrate" actual injury or state a claim for relief. Similarly, the plaintiff's filings in this court as well as in the United States District Court of the Northern District of Ohio belie the plaintiff's claim that he lacks access to the court. *See Young v. Jones, et al*, C/A No. 7:23-cv-02172-MGL-MHC (D.S.C.) (pending after transfer from the United States District Court for the Northern District of Ohio); *Young v. Wright*, C/A No. 9:22-cv-02562-MGL-MHC (D.S.C.) (pending). As such, the plaintiff's denial of access to the courts claims are subject to summary dismissal.

False Arrest Claim

The plaintiff also alleges that he was wrongfully arrested by Ofc. Hayes, although Ofc. Hayes is not mentioned as a defendant in the plaintiff's complaint. Nevertheless, § 1983 actions premised on malicious prosecution, false arrest, and/or false imprisonment are analyzed as actions claiming unreasonable seizures in violation of the

Fourth Amendment. *See, e.g.*, *Brown v. Gilmore*, 278 F.3d 362, 367–68 (4th Cir. 2002) (recognizing that a plaintiff alleging a § 1983 false arrest claim needs to show that the officer decided to arrest him without probable cause to establish an unreasonable seizure under the Fourth Amendment); *Rogers v. Pendleton*, 249 F.3d 279, 294 (4th Cir. 2001) (stating claims of false arrest and false imprisonment "are essentially claims alleging a seizure of the person in violation of the Fourth Amendment").

However, "an indictment, fair upon its face, returned by a properly constituted grand jury, conclusively determines the existence of probable cause." *Durham v. Horner*, 690 F.3d 183, 189 (4th Cir. 2012) (internal citation and quotation marks omitted); *see Provet v. State of S.C.*, C/A No. 6:07-cv-01094-GRA-WMC, 2007 WL 1847849, at *5 (D.S.C. June 25, 2007) (section 1983 claims of false arrest and malicious prosecution were precluded because of indictment). This Court, as noted above, has taken judicial notice of the plaintiff's pending charges in the Spartanburg County General Sessions Court, including grand jury indictments on all five of his pending charges. *See* Spartanburg County Public Index (enter the plaintiff's name and 2020A4210204363, 2020A4210204364, 2021A4210203231, 2021A4210203232, 2021A4210203409) (last visited August 14, 2023). The indictments act as a bar to the plaintiff's false arrest claim; as such, it is subject to summary dismissal.

Sovereign Citizen Claims

To the extent the plaintiff contends that the defendants have violated his rights as a sovereign citizen (doc. 1 at 15), his claims are subject to dismissal. Adherents to the "sovereign citizen" theory "believe that the state and federal governments lack constitutional legitimacy and therefore have no authority to regulate their behavior." *United States v. Ulloa*, 511 F. App'x 105, 106 n.1 (2d Cir. 2013); *see also Presley v. Prodan*, C/A No. 3:12-3511-CMC-JDA, 2013 WL 1342465, at *2 (D.S.C. Mar. 11, 2013) (collecting cases describing the "sovereign citizen" movement and its common features), *Report and*

Recommendation adopted by 2013 WL 1342539 (D.S.C. Apr. 2, 2013). These theories have repeatedly been rejected as baseless. *See, e.g.*, *United States v. Benabe*, 654 F.3d 753, 767 (7th Cir. 2011) ("Regardless of an individual's claimed status . . . as a 'sovereign citizen' . . . that person is not beyond the jurisdiction of the courts. These theories should be rejected summarily, however they are presented."); *United States v. Jagim*, 978 F.2d 1032, 1036 (8th Cir. 1992) (explaining claim by party that he was "outside" the jurisdiction of the United States to be "completely without merit" and "patently frivolous" and rejecting it "without expending any more of this Court's resources on their discussion"); *Glover v. South Carolina*, C/A No. 5:16-cv-00969-JMC, 2017 WL 1836982, at *1 n.1 (D.S.C. May 8, 2017), *appeal dismissed sub nom.*, 700 F. App'x 306 (4th Cir. 2017). As such, the plaintiff's sovereign citizen claims are subject to summary dismissal.

RECOMMENDATION

By order issued July 19, 2023, the undersigned provided the plaintiff an opportunity to correct the defects identified in his complaint and further warned the plaintiff that if he failed to timely file an amended complaint or failed to cure the identified deficiencies, the undersigned would recommend to the district court that the action be dismissed *with prejudice* and without leave for further amendment (doc. 16). The plaintiff failed to file an amended complaint within the time provided. Accordingly, in addition to the reasons discussed herein, this action should be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with a court order. Therefore, the undersigned recommends that the district court dismiss this action *with prejudice*, without further leave to amend, and without issuance and service of process.[2] *See Britt v. DeJoy*, 45 F.4th 790, 2022 WL 3590436 (4th Cir. Aug. 17, 2022) (mem.) (published) (noting that "when a district

[2] The plaintiff is warned that if the United States District Judge assigned to this matter adopts this report and recommendation, the dismissal of this action for failure to state a claim could later be deemed a strike under the three-strikes rule. *See Pitts v. South Carolina*, 65 F.4th 141 (4th Cir. 2023).

court dismisses a complaint or all claims without providing leave to amend . . . the order dismissing the complaint is final and appealable"). **The attention of the parties is directed to the important notice on the following page.**

IT IS SO RECOMMENDED.

s/Kevin F. McDonald
United States Magistrate Judge

August 14, 2023
Greenville, South Carolina

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 committees 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
250 East North Street, Room 2300
Greenville, South Carolina 29601

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).

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

CORVIN J. YOUNG, Plaintiff,	§	
vs.	§	Civil Action No. 6:23-02378-MGL
SPARTANBURG COUNTY DETENTION CENTER, SPARTANBURG COUNTY, CHUCK WRIGHT, *County Sheriff*, KATHERINE M. SIEBER ESQ., *Spartanburg County Public Defender*, MOLLY H. CHERRY, *Federal Magistrate Court Judge*, and DEPUTY MEDVEDEV, *Spartanburg County Sheriff's Office*, Defendants.	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DISMISSING ACTION WITH PREJUDICE, WITHOUT FURTHER LEAVE TO AMEND, AND WITHOUT ISSUANCE AND SERVICE OF PROCESS

Plaintiff Corvin J. Young (Young) filed this civil rights action against the above-named Defendants.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court dismiss this action with prejudice, without further leave to amend and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

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 Report 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).

The Magistrate Judge filed the Report on August 14, 2023. To date, Young has failed to file any 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, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court this action is **DISMISSED WITH PREJUDICE**, without further leave to amend, and without issuance and service of process.

IT IS SO ORDERED.

Signed this 20th day of September 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 sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

FILED: April 30, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7077
(6:23-cv-02378-MGL)

CORVIN J. YOUNG

Plaintiff - Appellant

v.

SPARTANBURG COUNTY DETENTION FACILITY; SPARTANBURG COUNTY, SOUTH CAROLINA; SHERIFF CHUCK WRIGHT, County Sheriff; KATHERINE M. SIEBER, Esq., Public Defender; MOLLY H. CHERRY, Federal Magistrate Judge; DEPUTY MEDVEDEV, Spartanburg County Sheriff's Office

Defendants - Appellees

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk