

United States Court of Appeals for the Fifth Circuit

No. 23-50360
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
January 5, 2024

Lyle W. Cayce
Clerk

ANTHONY NORMAN,

Plaintiff—Appellant,

versus

U.S. ATTORNEY GENERAL, *for the Western District of Texas*; KIM OGG, *District Attorney, Harris County*; GLENN HEGAR, *Texas Comptroller of Public Accounts*; SHARON KELLER, *Judge, Texas Court of Criminal Appeals*; MARY LOU KEEL, *Judge, Texas Court of Criminal Appeals*; BERT RICHARDSON, *Judge, Texas Court of Criminal Appeals*; KEVIN YEARY, *Judge, Texas Court of Criminal Appeals*; SCOTT WALKER, *Judge, Texas Court of Criminal Appeals*; JESSE F. MCCLURE, *Judge, Texas Court of Criminal Appeals*; BARBARA HERVEY, *Judge, Texas Court of Criminal Appeals*; MICHELLE SLAUGHTER, *Judge, Texas Court of Criminal Appeals*; DAVID NEWELL, *Judge, Texas Court of Criminal Appeals*; DEANA WILLIAMSON, *Clerk, Texas Court of Criminal Appeals*; NATHAN HECHT, *Chief Justice, Supreme Court of Texas*; JAMES D. BLACKLOCK, *Justice, Supreme Court of Texas*; DEBRA H. LEHRMANN, *Justice, Supreme Court of Texas*; JOHN P. DEVINE, *Justice, Supreme Court of Texas*; REBECA A. HUDDLE, *Justice, Supreme Court of Texas*; JANE NENNIGER BLAND, *Justice, Supreme Court of Texas*; JEFFREY S. BOYD, *Justice, Supreme Court of Texas*; J. BRETT BUSBY, *Justice, Supreme Court of Texas*; EVAN A. YOUNG, *Justice, Supreme Court of Texas*; BLAKE HAWTHORNE, *Clerk, Supreme Court of Texas*; CHRISTOPHER A. PRINE, *Clerk, Texas Fourteenth Court of Appeals*; JEFFERY D. KYLE, *Clerk, Texas Third Court of Appeals*; JOHN DOES, *All person(s) whom allegedly are or were employed in the Texas Court of Criminal Appeals under the guise of a “staff writ attorney” and not being officially*

appointed as a Court Commissioner of the court from September 2012 to current; Lori Chambers Gray, Judge, 262nd District Court, Harris County, Texas; Tammy Chapman, Supervisor, Texas Department of Criminal Justice; Margarita Thomas, Administrative Assistant, Texas Department of Criminal Justice; Maria S. Cervantes, Administrative Assistant, Texas Department of Criminal Justice; Matthew Bender and Company, Incorporated; and Thompson Prometric, also known as West Law,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:21-CV-1024

Before ELROD, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:*

Anthony Norman, Texas prisoner # 01718789, appeals the district court's dismissal of his civil rights complaint against numerous defendants. In his complaint, Norman alleged that (1) the Texas Court of Criminal Appeals defendants and the Supreme Court of Texas defendants mishandled his various postconviction proceedings and other cases by failing to conduct those proceedings in accordance with the Texas Constitution and other Texas laws and rules such that his murder conviction has not been finalized under Texas law; (2) many of the defendants were engaged in a coordinated effort of racketeering activities to deny certain groups of citizens from accessing the courts; (3) the Texas Department of Criminal Justice (TDCJ) defendants were interfering with voting materials requested by Norman; (4) District Attorney Kim Ogg refused to produce exculpatory evidence

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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about Norman; (5) Texas Comptroller Glenn Hegar has been issuing paychecks to staff writ attorneys who were not lawful employees of the State of Texas; (6) Thompson Prometric and Matthew Bender and Company were disseminating Texas court decisions that were not official records; and (7) the United States Attorney for the Western District of Texas wrongfully failed to submit Norman's complaints of the other defendants' violations of federal law to a grand jury. The district court's dismissals were based on various grounds including lack of standing, various types of immunity, and failure to state a claim for relief. On appeal, Norman has filed a motion to expedite the appeal and a motion to strike one of the briefs filed by a specific group of defendants as untimely. We DENY both motions.

We conduct a *de novo* review of dismissals under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and dismissals under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. *Smith v. Hood*, 900 F.3d 180, 184 (5th Cir. 2018). Dismissal under Rule 12(b)(1) is proper when a claim is barred by a defendant's immunity or by a plaintiff's lack of standing. *See id.* at 184–85; *Crane v. Johnson*, 783 F.3d 244, 250–52 (5th Cir. 2015). Dismissal under Rule 12(b)(6) is proper if a complaint fails to set forth “sufficient facts to state a plausible claim for relief.” *Smith*, 900 F.3d at 184.

Norman argues that the district court erred by invoking the *Rooker-Feldman* doctrine¹ to dismiss his claims that were based on his assertions that the state courts did not comply with the state constitution or state rules. Though Norman contends that he was not challenging the propriety of the state court decisions, the basis for his assertion that the state courts did not

¹ See *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923).

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issue any official decisions in his cases requires a review of the propriety of those decisions. Because he has not shown that the state decisions were void, the district court correctly determined that the *Rooker-Feldman* doctrine barred review of his claims directed at those state decisions. *See United States v. Shepherd*, 23 F.3d 923, 925 & n.5 (5th Cir. 1994).

As to the U.S. Attorney for the Western District of Texas, the district court denied Norman’s request for mandamus relief because 18 U.S.C. § 3332—under which Norman alleged the U.S. Attorney should have presented his complaints to a grand jury—does not provide for a private right of action, such that Norman lacked standing to bring such a claim. Section 3332 states that an attorney for the United States who receives information concerning an alleged federal “offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney’s action or recommendation.” § 3332(a). However, “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973). Norman has not shown that he has a clear and indisputable right to mandamus relief regarding his § 3332 claim. *See In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987).

Contrary to Norman’s arguments on appeal, the district court appropriately construed his requests—to stop the defendants from violating federal criminal laws and to compel them to perform certain non-discretionary acts—as seeking mandamus relief. Because the district court lacked mandamus authority over state entities, the court properly dismissed those requests. *See Moye v. Clerk, DeKalb Cnty. Super. Ct.*, 474 F.2d 1275, 1276 (5th Cir. 1973) (holding that federal courts lack “the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought”).

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The district court dismissed Norman's RICO claims because he failed to establish standing and did not set forth any valid claim. Norman's initial brief does not challenge the district court's dismissal of his RICO claims based on lack of standing, thereby abandoning that issue. *See Yohey v. Collins*, 985 F.2d 222, 224–25 (5th Cir. 1993) (noting that, though *pro se* briefs are afforded liberal construction, even *pro se* litigants must adequately brief arguments to preserve them). Though he attempts to salvage this omission by arguing in his reply brief that he alleged the denial of a property right for purposes of RICO standing, we generally disregard arguments raised for the first time in a reply brief. *See Sahara Health Care, Inc. v. Azar*, 975 F.3d 523, 528 n.5 (5th Cir. 2020).

Although Norman seeks to challenge the district court's dismissal of his claims against Presiding Judge Sharon Keller and Chief Justice Nathan Hecht based on absolute judicial immunity, he has not adequately briefed this issue either. *See Yohey*, 985 F.2d at 225. The district court correctly dismissed Norman's claims of interference with his right to vote against TDCJ personnel Maria Cervantez, Tammy Chapman, and Margarita Thomas because, as a convicted felon, Norman is ineligible to vote. Contrary to his assertions on appeal that his conviction is not yet final, Norman's murder conviction was affirmed on direct appeal.

Norman's challenges to the district court's dismissal of his claims against District Attorney Ogg and the defendants who were employed as clerks in various Texas courts and as staff writ attorneys are inadequately briefed because they are conclusory, and he does not provide any legal citations supporting his assertions. *See Coleman v. Lincoln Par. Det. Ctr.*, 858 F.3d 307, 309 (5th Cir. 2017); *Yohey*, 985 F.2d at 224–25. Similarly, his arguments that the defendants relied on state court decisions that were invalid are conclusory and frivolous.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 
REPLTY

ANTHONY NORMAN, §
PLAINTIFF, §
§
§
§
V. §
§
§
§
U.S. ATTORNEY GENERAL, §
et al., §
DEFENDANTS. §

A-21-CV-1024-LY

ORDER

Before the court are Plaintiff Anthony Norman's original and amended complaints (ECF Nos. 1, 54).¹ Also before the court are numerous motions, responses, replies, objections, and pleadings. The court rules on the motions as set forth in this Order.

In his original complaint, Norman sues the following defendants in their official and individual capacities:

Harris County District Attorney Kim Ogg

Texas Comptroller of Public Accounts Glenn Hegar

Court of Criminal Appeals Presiding Judge Sharon Keller

Clerk of Court of the Court of Criminal Appeals Deana Williamson

Texas Supreme Court Chief Justice Nathan Hecht

Clerk of Court of the Texas Supreme Court Blake Hawthorne

¹ Norman paid the full filing fee for this case. Barring a showing of imminent danger of serious physical injury, Norman is no longer allowed to proceed without prepaying filing fees because he has accumulated at least three strikes. *See* 28 U.S.C. § 1915(g).

Clerk of Court of the Fourteenth Texas Court of Appeals Christopher A. Prine

Clerk of Court of the Third Texas Court of Appeals Jeffery D. Kyle

Tammy Chapman, Mail Supervisor at the Texas Department of Criminal Justice (TDCJ)

Maria S. Cervantes, Administrative Assistant at TDCJ

Norman sues the following defendants in their official capacities only:

U.S. Attorney General for the Western District of Texas

Court of Criminal Appeals Judge Mary Lou Keel

Court of Criminal Appeals Judge Bert Richardson

Court of Criminal Appeals Judge Kevin Yeary

Court of Criminal Appeals Judge Scott Walker

Court of Criminal Appeals Judge Mike Keasler²

Court of Criminal Appeals Judge Barbara Hervey

Court of Criminal Appeals Judge Michelle Slaughter

Court of Criminal Appeals Judge David Newell

Texas Supreme Court Justice James D. Blacklock

Texas Supreme Court Justice Debra Lehrmann

Texas Supreme Court Justice John Phillip Devine

Texas Supreme Court Justice Paul Green³

² In his amended complaint Norman substituted Judge Jesse F. McClure III for retired Judge Mike Keasler.

³ In his amended complaint Norman substituted Justice Rebeca A. Huddle for retired Justice Paul Green.

Texas Supreme Court Justice Jeff Brown⁴

Texas Supreme Court Justice Jeffrey S. Boyd

Texas Supreme Court Justice Brett Busby

Texas Supreme Court Justice Eva Guzman⁵

Harris County District Judge Lori Chambers Gray

Margarita Thomas, Administrative Assistant at TDCJ

Finally, Norman sues all Court of Criminal Appeals staff writ attorneys employed from September 2012 to present in their individual capacities. He also sues Thompson Prometric (Westlaw) and Matthew Bender & Company (Matthew Bender).

On June 16, 2022, the court dismissed Defendant United States Attorney for the Western District of Texas (ECF No. 52). The majority of the remaining defendants move to dismiss Norman's claims brought against them. However, some defendants have not made an appearance in the case.

Defendant Kim Ogg filed Motion to Dismiss (ECF No. 46) to which Norman responded (ECF No. 53). After consideration of the above-referenced pleadings, the court dismisses Norman's claims brought against Ogg.

Defendant Glenn Hegar filed a Motion to Dismiss (ECF No. 32) to which Norman filed an Objection and Second Motion to Issue Service (ECF No. 35). After consideration of the above-referenced pleadings, the court dismisses Norman's claims brought against Hegar.

⁴ In his original complaint Norman misidentified Justice Jeff Brown as John Brown and in his amended complaint substituted Justice Jane Bland as his replacement.

⁵ The court substitutes Justice Evan A. Young for former Justice Eva Guzman.

Defendants Texas Court of Criminal Appeals Presiding Judge Sharon Keller, Judges Mary Lou Keel, Bert Richardson, Kevin Yeary, Scott Walker, Jesse F. McClure III, Barbara Hervey, Michelle Slaughter, David Newell, and Clerk of Court Deana Williamson (Court of Criminal Appeals Defendants) filed a Motion to Dismiss (ECF No. 58). Norman filed an objection (ECF No. 60) to which the Court of Criminal Appeals Defendants replied (ECF No. 65). After consideration of these pleadings, the court dismisses Norman's claims brought against the Court of Criminal Appeals Defendants.

Defendants Chief Justice Nathan Hecht, Justices James D. Blacklock, Debra Lehrmann, John Phillip Devine, Paul Green, Jeff Brown, Jeffrey S. Boyd, Brett Busby, and Eva Guzman and Clerk of the Texas Supreme Court Blake Hawthorne (Supreme Court Defendants) filed a Motion to Dismiss (ECF No. 36). Norman filed an Objection thereto (ECF No. 42) to which the Supreme Court Defendants replied (ECF No. 48). After consideration of these pleadings, the court dismisses Norman's claims brought against Defendants Chief Justice Nathan Hecht, Justices James D. Blacklock, Debra Lehrmann, John Phillip Devine, Rebeca A. Huddle, Jane Bland, Jeffrey S. Boyd, Brett Busby, and Evan A. Young and Clerk of the Texas Supreme Court Blake Hawthorne.

Defendants Christopher Prine and Jeffrey D. Kyle filed Motions to Dismiss (ECF Nos. 37-38). Norman responded (ECF No. 43) to which Prine and Kyle replied (ECF Nos. 47, 49). Norman further objected to the replies (ECF No. 55). After consideration of these pleadings, the court dismisses Norman's claims brought against Defendants Prine and Kyle.

Also before the court are the Motion to Dismiss and Corporate Disclosure Statement filed by Defendant Matthew Bender (ECF Nos. 77-78), Norman's response (ECF No. 84), Matthew Bender's reply (ECF No. 85), and Norman's Objection thereto (ECF No. 91). After consideration

of the above-referenced pleadings, the court dismisses Norman's claims brought against Defendant Matthew Bender.

The court additionally dismisses Norman's claims against Westlaw, the staff writ attorneys, and Judge Lori Chambers Gray, who have not appeared in this case. The court issues a separate order with regard to Norman's claims against Defendants Tammy Chapman, Maria S. Cervantes, and Margarita Thomas.

I. BACKGROUND

At the time he filed his civil-rights complaint, Norman was confined in the LeBlanc Unit of the Texas Department of Criminal Justice - Correctional Institutions Division. Norman is serving a 22-year sentence for the murder of his wife. Norman was convicted following a jury trial in 2011, his conviction was affirmed on direct appeal by the Fourteenth Court of Appeals, and his petition for discretionary review was refused by the Texas Court of Criminal Appeals. *See Norman v. State*, No. 14-11-00433-CR, 2012 WL 4163498 at, *19, (Tex. App.—Houston [14th Dist.] Sept. 20, 2012, pet. ref'd) (*mem. op., not designated for publication*). Norman unsuccessfully challenged his conviction in several applications for *habeas corpus* relief and challenged the handling of those applications in other legal proceedings.

In the case at hand, Norman challenges how the state courts have processed his cases. Norman states it is impossible to receive a legitimate legally cognizable state court adjudication on the merits. Norman contends the Texas Supreme Court has not resolved his petition for review in cause number 21-0550 or his petition for writ of mandamus in cause number 20-0276. Similarly, he contends the Texas Court of Criminal Appeals has not resolved his petition for discretionary review in cause number PD-1488-12 or his applications for *habeas corpus* relief in cause numbers WR-76-

389-08, WR-76-389-10, WR-76-389-12. He also contends the 262nd Judicial District Court in Harris County has not resolved his motion to set aside void judgment in cause number 1248767, the Third Court of Appeals has not resolved cause number 03-19-00297-CV, and the Fourteenth Court of Appeals has not resolved cause number 14-11-00433-CR. Norman argues the courts refuse to issue an actual order by a quorum of judges as required by the Texas Constitution and Texas Statutes. He also takes issue of the use of "staff writ attorneys" by the Texas Court of Criminal Appeals. Norman asserts the staff writ attorneys are not legally authorized to review cases or receive compensation for their services. As a result of the alleged deficiencies in state court, Norman contends his murder conviction has not become a final felony under state law.

Norman alleges the majority of the defendants "have engaged in a criminal conspiracy falsely reporting alleged legal decisions from the Texas Court of Criminal Appeals, and Texas Supreme Court in a coordinated effort to deny certain groups of citizens thier [sic] legitimate right to use the adjudicative process of those courts. Using this scheme the defendant(s) have fraudulently embezeled [sic] significant state funds as compensation for individuals who aid the parties in carrying out the scheme. Primarily it appears the scheme is designed to target convicted individuals, and persons whom have not conducted business with known attorneys to the court." In furtherance of this conspiracy, Norman alleges defendants have "mailed via U.S. Mail, and electronically published alleged judicial decisions of each court which were not RENDERED via a majority of a quorum of judges of the various courts as required by law. Said electronic publication occurs via the internet, and or common carrier in interstate commerce." Norman continues that "the defendants involved in this scheme present thier [sic] false decisions in the various Federal and State courts as

official government records in an attempt to thwart the legitimate review of state decisions to the demise of like situated persons such as the Plaintiff."

Plaintiff seeks final disposition of all purportedly pending cases in each court, including the withdrawal of mandates allegedly not authorized by law to be issued. He further seeks an injunction prohibiting the publication and distribution of reported Texas cases which do not have a corresponding certified record indicating a quorum of judges participated and decided the issue presented with a majority concurrence of a panel or *en banc* court. Norman also seeks damages against the defendants he names in their individual capacities and the corporate defendants

Norman additionally alleges Ogg seeks to maintain an unknown wrongful conviction. Norman claims she refuses to produce exculpatory evidence, presumably related to Norman's conviction for murder. Norman seeks "full disclosure of all exculpatory [sic] evidence currently being held by Defendant [Ogg], or other government agencies under her controll [sic] or access."

In his amended complaint, Norman claims Ogg violated his civil rights by actively or negligently supporting RICO activities, refusing to produce exculpatory evidence, and rejected Norman's attempts to obtain exculpatory evidence. Norman seeks full disclosure of all exculpatory evidence currently being held by Ogg or other government agencies under her control or access. Norman does not make clear the amount of monetary damages he seeks against Ogg.

Norman alleges Hegar allows the unlawful scheme in state court to flourish and continue even after notification from Norman. In his amended complaint Norman complains Hegar has been issuing paychecks to "so-called Staff Writ Attorney(s) whom are not lawful employees of the State of Texas." Norman asserts he has made multiple attempts to have Hegar investigate the payments.

Norman asserts he has a state right to a Texas Comptroller's investigation and termination of payments per section 601.008 of the Texas Government Code.

Norman requests the court to prohibit Hegar from paying "non-state employees - persons without the certificate described in TX. Gov. Code § 601.005 on the Texas Court of Criminal Appeals" and requiring the exclusion of those employees from the "State Employees Retirement Fund for persons found to have been employed without such a certificate from the Governor - past, and present." He additionally seeks compensatory and nominal damages.

With respect to Matthew Bender and Westlaw Norman alleges they helped perpetrate and conceal what is occurring in the Texas courts by disseminating "so-called decisions across the Internet across state lines, and throughout the State when it is obvious that the records of which they publish are not official records and do not bear the Clerk's certification, or judicial signature."

A. Defendant Ogg

Defendant Ogg moves to dismiss Norman's complaint. She argues Norman failed to properly serve her, Norman cannot overcome Ogg's defense of absolute prosecutorial immunity, and Norman failed to allege sufficient facts to state claims for relief that are plausible on their face.

Norman contends the State of Texas made an appearance in this case when an answer was filed on behalf of Defendant Cervantes and Defendant Ogg cannot now challenge service of process because she is also represented by the State. Rather than seeking an extension of time to properly serve Ogg, he suggests she be given an additional ten days to answer. He also denies Ogg is entitled to prosecutorial immunity. He explains Ogg is only entitled to qualified immunity for post-conviction actions taken by a prosecutor.

B. Defendant Hegar

Hegar moves to dismiss Norman's complaint for insufficient process and service. Hegar asserts Norman failed to file proof of service. In addition, Hegar indicates Norman used non-certified U.S. mail and personally served him. Hegar concludes he was not timely served in this case.

Norman responds that he attempted to serve Hegar and other defendants by e-mail but no one responded. He asserts he mailed a copy of the summons and his complaint to Hegar on April 5, 2022. Norman contends it is impossible for him to perfect service because he is a state prisoner.

C. Court of Criminal Appeals Defendants

The Court of Criminal Appeals Defendants move to dismiss Norman's complaint. They argue Norman lacks standing to bring claims against the Court of Criminal Appeals, his claims are barred by the Eleventh Amendment, his claims are barred by judicial immunity and derived-judicial immunity, his claims are barred by the *Rooker-Feldman*⁶ doctrine or the *Younger*⁷ doctrine, and he fails to state a claim upon which relief may be granted. They additionally argue they were not properly served.

Norman responds the Court of Criminal Appeals Defendants avoid addressing whether it is lawful in the State of Texas for a court to allege a judgment when:

1. The court did not conduct an "Open Court" open to the public pursuant to the Texas Constitution;

⁶ *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

⁷ *Younger v. Harris*, 401 U.S. 37, 45 (1971).

2. The court failed to make an official record of the alleged adjudicatory proceeding showing that a quorum of judges of the court participated and decided in the majority exceeding five judges pursuant to the court's charter under the Texas Constitution;
3. The court failed to file a written transcription of such alleged decision sufficient to show any judge of the court legally decided any issue pursuant to the Texas Constitution;
4. The court violated the mandates of the Texas Supreme Court as applied to the uniform administration of the courts of Texas;
5. The court refused to follow the Texas Rules of Appellate Procedure which mandates that the court produce an order which can be certified by the clerk of the court;
6. The court refused to follow previously established procedures mandating that a quorum of a multi-panel court in Texas is required to produce an official judgment;
7. The court unlawfully disenfranchises a citizen or citizens by suspending the laws of the state and prohibiting a person to file a petition for redress of grievance via deception or fraud while allowing other similarly situated individuals the same rights; and
8. The court authorizes distribution of and promotion of alleged decisions which cannot be found in the court's official records in commerce through the U.S. Mail and Internet.

Among other things, Norman reasserts he has standing in this case. He also claims the Clerk of Court was acting in an ultra vires manner and is not eligible for immunity. In addition, Norman contends the *Rooker-Feldman* and *Younger* doctrines are inapplicable.

Norman further asserts he made multiple attempts to serve the Court of Criminal Appeals Defendants. He contends the only purpose of service and citation is to provide fair notice, and it is clear the defendants had notice of his complaint. He concludes the defendants can show no harm in the manner in which they were served.

D. Texas Supreme Court

The Supreme Court defendants similarly move to dismiss Norman's complaint. They also argue Norman lacks standing to bring claims against the Supreme Court, his claims are barred by the Eleventh Amendment, his claims are barred by judicial immunity and derived-judicial immunity, his claims are barred by the *Rooker-Feldman* doctrine or the *Younger* doctrine, and he fails to state a claim upon which relief may be granted.

Norman's response is consistent with his response to the Motion to Dismiss filed by the Court of Criminal Appeals Defendants.

E. Defendants Prine and Kyle

Prine and Kyle assert process and service were insufficient, Norman lacks standing, Norman's claims are barred by Eleventh Amendment Immunity, derived-judicial immunity or qualified immunity, Norman's claims are barred by the *Rooker-Feldman* doctrine or the *Younger* doctrine, and he fails to state a claim upon which relief may be granted.

Norman's response is consistent with his response to the Motion to Dismiss filed by the Court of Criminal Appeals Defendants.

F. Matthew Bender

Matthew Bender moves to dismiss Norman's complaint for insufficient service. It also moves to dismiss Norman's claims for failure to state a claim upon which relief can be granted.

Norman responds that he attempted to serve Matthew Bender. He believes Matthew Bender consented to the jurisdiction of this court by failing to make a special appearance. He additionally believes his allegations are sufficient to survive a Rule 12(b)(6) motion to dismiss.

II. LEGAL STANDARDS

A. 28 U.S.C. § 1915A

Although Norman paid the full filing fee for this case, his claims are subject to screening pursuant to 28 U.S.C. § 1915A. On review, the court must dismiss the complaint, or any portion of the complaint, if the complaint is frivolous, malicious, or fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. *See Martin v. Scott*, 156 F.3d 578 (5th Cir. 1998).

When reviewing a plaintiff's complaint, the court must construe plaintiff's allegations as liberally as possible. *Haines v. Kerner*, 404 U.S. 519 (1972). However, the plaintiff's pro se status does not offer him "an impenetrable shield, for one acting pro se has no license to harass others, clog the judicial machinery with meritless litigation and abuse already overloaded court dockets." *Ferguson v. MBank Houston, N.A.*, 808 F.2d 358, 359 (5th Cir. 1986).

B. Rule 12(b)(1)

Federal Rule of Civil Procedure 12(b)(1) allows a party to assert lack of subject-matter jurisdiction as a defense to suit. FED. R. CIV. P. 12(b)(1). Federal district courts are courts of limited jurisdiction and may only exercise such jurisdiction as is expressly conferred by the Constitution and federal statutes. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A federal court properly dismisses a case for lack of subject-matter jurisdiction when it lacks the statutory or constitutional power to adjudicate the case. *Home Builders Ass'n of Miss., Inc. v. City of Madison, Miss.*, 143 F.3d 1006, 1010 (5th Cir. 1998). "The burden of proof for a Rule 12(b)(1) motion to dismiss is on the party asserting jurisdiction." *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001). "Accordingly, the plaintiff constantly bears the burden of proof that jurisdiction does in

fact exist.” *Id.* In ruling on a Rule 12(b)(1) motion, the court may consider any one of the following: (1) the complaint alone; (2) the complaint plus undisputed facts evidenced in the record; or (3) the complaint, undisputed facts, and the court’s resolution of disputed facts. *Lane v. Halliburton*, 529 F.3d 548, 557 (5th Cir. 2008).

C. Rule 12(b)(5)

An action may be dismissed for insufficient service of process pursuant to Federal Rule of Civil Procedure 12(b)(5). A district court cannot exercise personal jurisdiction over a party without proper service of process. *Omni Capital Int’l, Ltd. v. Rudolf Wolf & Co.*, 484 U.S. 97, 104 (1987). A district court has “broad discretion to dismiss an action for ineffective service of process.” *Kreimerman v. Casa Veerkamp, S.A. de C.V.*, 22 F.3d 634, 645 (5th Cir. 1994). The party making service has the burden of demonstrating its validity when an objection to service is made. *Carimi v. Royal Caribbean Cruise Line, Inc.*, 959 F.2d 1344, 1346 (5th Cir. 1992).

Federal Rule of Civil Procedure 4(m) permits dismissal of a suit if a plaintiff fails to serve a defendant within 90 days of the filing of the complaint, but provides that “if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” Proof of good cause “requires at least as much as would be required to show excusable neglect, as to which simple inadvertence or mistake of counsel or ignorance of the rules usually does not suffice.” *Thrasher v. City of Amarillo*, 709 F.3d 509, 511 (5th Cir. 2013).

D. Rule 12(b)(6)

Pursuant to Rule 12(b)(6), a court may dismiss a complaint for “failure to state a claim upon which relief can be granted.” FED. R. CIV. P. 12(b)(6). In deciding a 12(b)(6) motion, a “court accepts ‘all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff.’”

In re Katrina Canal Breaches Litig., 495 F.3d 191, 205 (5th Cir. 2007) (quoting *Martin K. Eby Constr. Co. v. Dall. Area Rapid Transit*, 369 F.3d 464, 467 (5th Cir. 2004)). “To survive a Rule 12(b)(6) motion to dismiss, a complaint ‘does not need detailed factual allegations,’ but must provide the plaintiff’s grounds for entitlement to relief—including factual allegations that when assumed to be true ‘raise a right to relief above the speculative level.’” *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). That is, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570).

A claim has facial plausibility “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “The tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* A court ruling on a 12(b)(6) motion may rely on the complaint, its proper attachments, “documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” *Dorsey v. Portfolio Equities, Inc.*, 540 F.3d 333, 338 (5th Cir. 2008) (citations and internal quotation marks omitted). A court may also consider documents that a defendant attaches to a motion to dismiss “if they are referred to in the plaintiff’s complaint and are central to her claim.” *Causey v. Sewell Cadillac-Chevrolet, Inc.*, 394 F.3d 285, 288 (5th Cir. 2004). But because the court reviews only the well-pleaded facts in the complaint, it may not consider new factual allegations made outside the complaint. *Dorsey*, 540 F.3d at 338.

III. ANALYSIS

A. Eleventh Amendment Immunity

The Eleventh Amendment generally divests federal courts of jurisdiction to entertain suits directed against states. *Port Auth. Trans-Hudson Corp. v. Feeney*, 495 U.S. 299, 304 (1990). The Eleventh Amendment may not be evaded by suing state agencies or state employees in their official capacity because such an indirect pleading remains in essence a claim upon the state treasury. *Green v. State Bar of Tex.*, 27 F.3d 1083, 1087 (5th Cir. 1994).

Norman makes clear in his original and amended complaints that he only seeks monetary damages against the corporate defendants and the defendants he sues in their individual capacities.

B. Rooker-Feldman Doctrine

Rooker-Feldman precludes lower federal courts from exercising “appellate jurisdiction over final state-court judgments.” *Miller v. Dunn*, 35 F.4th 1007, 1010 (5th Cir. 2022) (quotation omitted). Under the *Rooker-Feldman* doctrine, federal district courts lack subject matter jurisdiction to consider cases where: (1) the federal court plaintiff lost in state court; (2) the plaintiff’s alleged injuries were caused by the state court judgment; (3) plaintiff’s claims invite the federal court to review and reject the state court judgment; and (4) the state court judgment was rendered before plaintiff filed proceedings in federal district court. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 291 (2005). “[I]n addition to the precise claims presented to the state court, *Rooker-Feldman* prohibits federal court review of claims that are ‘inextricably intertwined’ with a state court decision.” *Burciaga v. Deutsche Bank Nat'l Trust Co.*, 871 F.3d 380, 384-85 (5th Cir. 2017) (citation omitted). The Fifth Circuit has previously held that “issues are ‘inextricably intertwined’ when a plaintiff casts a complaint in the form of a civil rights action simply to

circumvent the *Rooker-Feldman* rule.” *Richard v. Hoechst Celanese Chem. Grp., Inc.*, 355 F.3d 345, 351 (5th Cir. 2003) (citing *Liedtke v. State Bar of Tex.*, 18 F.3d 315, 317 (5th Cir. 1994)).

Here, Norman’s claims center on his allegation that the state courts did not follow the state constitution or rules when ruling in several of his state actions. Because of the alleged deficiencies, Norman does not consider the state court rulings final. Despite Norman’s novel arguments to the contrary, his claims are “inextricably intertwined” with the validity of the state court’s orders. As such, this court lacks subject-matter jurisdiction over his claims.⁸

C. Mandamus

To the extent Norman seeks full disclosure of all exculpatory evidence currently being held by Ogg or other government agencies under her control or access his request is in the nature of mandamus. Similarly, his requests to prohibit Hegar from paying “non-state employees - persons without the certificate described in TX. Gov. Code § 601.005 on the Texas Court of Criminal Appeals” and exclude those employees from the “State Employees Retirement Fund for persons found to have been employed without such a certificate from the Governor - past, and present” are in the nature of mandamus. Finally, Norman’s requests for an order requiring the final disposition

⁸ Alternatively, if the state court rulings are not “final” and his cases are pending, as argued by Norman, his claims are barred by the *Younger* abstention doctrine. The *Younger* abstention doctrine discourages federal courts from interfering with state criminal proceedings except in extraordinary circumstances where the danger of irreparable loss is both great and immediate. *Younger v. Harris*, 401 U.S. 37, 45 (1971). The *Younger* doctrine requires that federal courts decline to exercise jurisdiction over a state criminal defendant’s claims when three conditions are met: “(1) the federal proceeding would interfere with an ongoing state judicial proceeding; (2) the state has an important interest in regulating the subject matter of the claim; and (3) the plaintiff has an adequate opportunity in the state proceedings to raise constitutional challenges.” *Bice v. La. Pub. Defender Bd.*, 677 F.3d 712, 716 (5th Cir. 2012). In the event Norman’s state cases are still “pending,” all prerequisites for abstention are met.

of all pending cases in each state court, including the withdrawal of mandates allegedly not authorized by law to be issued, and prohibiting the publication and distribution of reported Texas cases which do not have a corresponding certified record indicating a quorum of judges participated and decided the issue presented with a majority concurrence of a panel or *en banc* court are also in the nature of mandamus relief.

“The common-law writ of mandamus, as codified in 28 U.S.C. § 1361, is intended to provide a remedy for a plaintiff only if he has exhausted all other avenues of relief and only if the defendant owes him a clear nondiscretionary duty.”

“The common-law writ of mandamus, as codified in 28 U.S.C. § 1361, is intended to provide a remedy for a plaintiff only if he has exhausted all other avenues of relief and only if the defendant owes him a clear nondiscretionary duty.” *Heckler v. Ringer*, 466 U.S. 602, 616 (1984). Section 1361 provides that “[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” Federal courts lack “the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought.” *Moyle v. Clerk, Dekalb County Sup. Ct.*, 474 F.2d 1275, 1275–76 (5th Cir. 1973).

Defendants are not officers or employees of the United States or any federal agency. Consequently, this court is without power to order them to take particular action with regard to Norman’s requests. As such, Norman’s requests for mandamus relief are frivolous. *See Santee v. Quinlan*, 115 F.3d 355, 357 (5th Cir. 1997) (affirming dismissal of petition for writ of mandamus

as frivolous because federal courts lack power to mandamus state courts in the performance of their duties).

D. RICO

RICO claims require showing three elements: "(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise." *Word of Faith World Outreach Ctr. Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir. 1996)). A "pattern of racketeering activity" "requires at least two acts of racketeering activity," which the statute defines with a long laundry list of criminal acts that constitute "racketeering activity." See 18 U.S.C. §§ 1961(1), (5). Essentially, "racketeering activity" requires "two or more predicate criminal acts that are (1) related and (2) 'amount to or pose a threat of continued criminal activity.'" *Abraham v. Singh*, 480 F.3d 351, 355 (5th Cir. 2007) (quoting *Word of Faith*, 90 F.3d at 122).

To have standing under the RICO Act, a plaintiff must allege a tangible financial loss. *Price v. Pinnacle Brands, Inc.*, 138 F.3d 602, 607 (5th Cir.1998). "Injury to mere expectancy interests or to an intangible property interest is not sufficient to confer RICO standing." *Id.* (internal quotation marks omitted). Thus, "speculative damages are not compensable under RICO." *In re Taxable Mun. Bond Secs. Litig.*, 51 F.3d 518, 523 (5th Cir.1995).

Norman's allegations do not support a RICO claim against the defendants. In addition, his allegations are insufficient to establish standing.

E. Judicial Immunity

Norman's claims for monetary damages against Defendants Hecht and Keller in their individual capacities are barred by judicial immunity. It is well settled law that a judge enjoys absolute immunity from liability for damages for judicial acts performed within his jurisdiction. *Hale v. Harney*, 786 F.2d 688, 690 (5th Cir. 1986). The doctrine of absolute judicial immunity protects judges not only from liability, but also from suit. *Mireless v. Waco*, 502 U.S. 9, 11 (1991). Motive of the judicial officer is irrelevant when considering absolute immunity. *See Mitchell v. McBryde*, 944 F.2d 229, 230 (5th Cir. 1991) ("The judge is absolutely immune for all judicial acts not performed in clear absence of all jurisdiction, however erroneous the act and however evil the motive.").

Absolute judicial immunity is overcome in only two rather narrow sets of circumstances: first, a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity, and second, a judge is not immune for actions, though judicial in nature, taken in complete absence of all jurisdiction. *Mireless*, 502 U.S. at 11-12. "A judge's acts are judicial in nature if they are 'normally performed by a judge' and the parties affected 'dealt with the judge in his judicial capacity.'" *Boyd v. Biggers*, 31 F.3d 279, 285 (5th Cir. 1994) (quoting *Mireless*, 502 U.S. at 12). In the case at bar, Norman does not complain of any actions taken by Defendants Hecht or Keller that were nonjudicial in nature nor does he show that they were acting in the clear absence of all jurisdiction.

F. Quasi-Judicial Immunity

Norman's claims for monetary damages against Defendants Williamson, Hawthorne, Prine, Kyle, and the staff writ attorneys in their individual capacities are barred by quasi-judicial immunity.

It is a well-settled rule that court clerks and law clerks, which would include staff writ attorneys, “have absolute immunity from actions for damages arising from acts they are specifically required to do under court order or at a judge’s discretion.” *Clay v. Allen*, 242 F.3d 679, 682 (5th Cir. 2001); *Tubwell v. Almond*, 42 F.3d 641 (5th Cir. 1994); *Williams v. Wood*, 612 F.2d 982, 985 (5th Cir. 1980). Norman fails to identify any actions taken by Defendants Williamson, Hawthorne, Prine, Kyle, and the staff writ attorneys that fall outside the scope of the normal duties of their offices in their function as an extension of the judiciary.

G. Prosecutorial Immunity

Norman’s claims against Ogg in her individual capacity for monetary damages are barred by prosecutorial immunity. Prosecutors are absolutely immune from liability under the federal civil rights statutes with regard to actions taken by them within the course and scope of representing the governmental agencies and subdivisions in judicial proceedings. Under the doctrine of prosecutorial immunity, a prosecutor is absolutely immune in a civil rights lawsuit for any action taken in connection with a judicial proceeding. *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993); *Burns v. Reed*, 500 U.S. 478, 487-92 (1991); *Imbler v. Pachtman*, 424 U.S. 409, 427-31 (1976). “[A]cts undertaken by the prosecutor in preparing for the initiation of judicial proceedings or for trial, and which occur in the course of his role as an advocate for the State, are entitled to the protection of absolute immunity.” *Boyd*, 31 F.3d at 285 (quoting *Buckley v. Fitzsimmons*, 509 U.S. at 273). Prosecutorial immunity applies to the prosecutor’s actions in initiating the prosecution and in carrying the case through the judicial process. *Boyd*, 31 F.3d at 285. Thus, a prosecutor is immune from civil rights liability for actions taken in connection with a judicial proceeding, even if taken

maliciously. *Brummett v. Camble*, 946 F.2d 1178, 1181 (5th Cir. 1991); *Rykers v. Alford*, 832 F.2d 895, 897 (5th Cir. 1987).

The court recognizes that not all prosecutorial functions are protected. In *Imbler*, the Court declared that absolute immunity applied to a prosecutor's actions in "initiating a prosecution and in presenting the State's case." *Imbler*, 424 U.S. at 431. This immunity protected the alleged knowing use of false testimony at trial and the alleged deliberate suppression of exculpatory evidence. In *Imbler*, the Court left open the issue of whether absolute immunity applied to administrative or investigative acts. However, in *Burns*, the Court answered that question, stating that absolute immunity does not apply to investigative or administrative acts performed by prosecutors. *Burns*, 500 U.S. at 493.

The "failure to disclose exculpatory evidence is shielded by absolute immunity." *Wooten v. Roach*, 964 F.3d 395, 411 (5th Cir. 2020) (citing *Cousin v. Small*, 325 F.3d 627, 635 (5th Cir. 2003)); see *Prince v. Wallace*, 568 F.2d 1176, 1178-79 (5th Cir. 1978) (summarizing *Imbler v. Pachtman*, 424 U.S. 409 (1976), thusly: "immunity from liability was applicable even where the prosecutor knowingly used perjured testimony, deliberately withheld exculpatory information, or failed to make full disclosure of all facts casting doubt upon the state's testimony.").

In the case at hand, Norman challenges actions or inactions taken by the prosecutors in Harris County during Norman's post-conviction criminal proceedings which are protected by prosecutorial immunity. In this action Norman does not allege any actions taken by any of the defendant that were outside the course and scope of representing the Harris County District Attorney's Office in Norman's post-conviction criminal proceedings. Therefore, Norman's claims against Ogg in her individual capacity for monetary damages are barred by prosecutorial immunity.

H. Qualified Immunity

“Qualified immunity shields public officials sued in their individual capacities from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Kokesh v. Curlee*, 14 F.4th 382, 391 (5th Cir. 2021) (cleaned up). “The qualified immunity inquiry includes two parts. In the first we ask whether the officer’s alleged conduct has violated a federal right; in the second we ask whether the right in question was ‘clearly established’ at the time of the alleged violation, such that the officer was on notice of the unlawfulness of his or her conduct.” *Cole v. Carson*, 935 F.3d 444, 451 (5th Cir. 2019) (*en banc*). The court need not decide the first question before the second, and it may decide the case solely on the basis that the right was not clearly established. *Pearson v. Callahan*, 555 U.S. 223, 236–37 (2009).

Norman contends Ogg is only eligible for qualified immunity because her actions were taken post conviction. Even so, Ogg would be entitled to qualified immunity in this case. Norman fails to sufficiently allege Ogg violated his constitutional rights. Norman additionally fails to sufficiently allege Hegar, the court clerks or the staff writ attorneys violated his constitutional rights. Moreover, there is nothing to suggest that any reasonable official in their place would know their conduct would violate Norman’s clearly established constitutional rights.

I. Wrongful Conviction

Despite Norman stating he is not challenging his conviction, in his amended complaint, Norman alleges the State knows: (1) no murder occurred; (2) Norman was over 190 miles away at the time of injury and death; (3) the State took away Norman’s choice of counsel; (4) Norman had already paid and secured a licensed attorney; (5) the State hid and continues to hide exculpatory

evidence consisting of video records, audio recordings, and cell phone records; (6) the prosecutor had an actual conflict of interest and fabricated testimony; (7) the trial judge was a former prosecutor who had direct knowledge of the case in her previous employment; (8) the grand jury indictment was secured by the State fraudulently presenting false evidence; and (9) the State's choice of counsel allowed more than 85 out-of-record arguments to occur by the prosecutor during closing argument without objection. Norman contends the whole purpose of inventing a murder was to stop Norman from pursuing a civil cause of action against Harris County and the Harris County Sheriff's Department.

To the extent Norman challenges his conviction, his claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994) and the Fifth Circuit's application of *Heck* to state prisoner § 1983 lawsuits in *Boyd*, 31 F.3d 279. In *Heck*, the Supreme Court held:

[I]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus.

512 U.S. at 486-87.

In this case Norman does not allege that his conviction has been reversed, expunged, invalidated, or called into question by a federal court's issuance of writ of habeas corpus. Norman's recitation of the procedural history in this case indicates just the opposite. Accordingly, Norman's claims challenging his conviction are alternatively barred by *Heck*.

J. Insufficient Service

Norman filed his complaint on or about November 10, 2021. Norman paid the full filing fee on November 17, 2021. He subsequently requested the Clerk of Court to provide him summonses in order to serve the defendants. On February 25, 2022, the court directed the Clerk of Court to forward summons forms to Norman and instructed Norman to complete the forms and return them to the Clerk for issuance. The court warned Norman he was required to serve the defendants in a manner in compliance with Rule 4 of the Federal Rules of Civil Procedure. The court extended the time for Norman to serve the defendants until May 27, 2022.

Under federal law, a plaintiff must either have the defendants served personally or in accordance with the law of the state in which the district is located. FED. R. CIV. P. 4(e). Under Texas law, proper service can be delivered to a defendant in person, or a true copy of the citation with a copy of the petition attached can be mailed to the defendant by registered or certified mail, return receipt requested. TEX. R. CIV. P. 106(a)(1)-(2). However, Rule 4(c)(2) of the Federal Rules of Civil Procedure requires service be made by “[a]ny person who is at least 18 years old and *not a party.*” FED. R. CIV. P. 4(c)(2) (emphasis added). The state rules of civil procedure also do not allow a party to serve process. TEX. R. CIV. P. 103. A party’s *pro se* status and his ignorance of the law do not constitute cause or excuse his failure to effect service in compliance with the Rules of Federal Civil Procedure. *Kersh v. Derozier*, 851 F.2d 1509, 1512 (5th Cir. 1988).

Norman’s attempt to serve Ogg, Hegar, the Court of Criminal Appeals Defendants, Prine, Kyle, and Matthew Bender is insufficient because Norman did not use registered or certified mail, return receipt requested. In addition, he personally mailed the summonses and in some instances did not include a copy of the complaint. Contrary to Norman’s assertion, the appearance of an Assistant

Texas Attorney General on behalf of a co-defendant does not equate to an appearance for other state-employed defendants. In addition, Norman provides no support for his claim that he has no access to a third party to serve the defendants. This court has had multiple cases in which plaintiffs confined in TDCJ effectively performed service after they paid the full filing fee for their case and were responsible for service. Accordingly, the court concludes Norman failed to properly and timely serve Ogg, Hegar, the Court of Criminal Appeals Defendants, Prine, Kyle, and Matthew Bender.

K. Supplemental Jurisdiction

Norman may be attempting to assert state law claims. Pursuant to 28 U.S.C. § 1337, a district court generally has supplemental jurisdiction over claims that are so related to claims in the action over which it has original jurisdiction that they form part of the same case or controversy. However, a district court may decline to exercise supplemental jurisdiction over a claim if the court has dismissed all claims over which it has original jurisdiction. Because the court dismisses Norman's federal claims, the court declines to exercise supplemental jurisdiction over Norman's state law claims, if any.

IV. CONCLUSION

Norman's claims against the Court of Appeals Defendants, the Supreme Court Defendants, Prine, and Kyle are barred by the *Rooker-Feldman* doctrine or alternatively the *Younger* doctrine. Norman's requests for mandamus relief are frivolous because the defendants are not federal actors. Norman fails to state a valid RICO claim. To the extent Norman seeks monetary damages against Defendants Hecht and Keller, in their individual capacities, they are protected by judicial immunity. To the extent Norman seeks monetary damages against Defendants Williamson, Hawthorne, Prine, Kyle, and the staff writ attorneys, the defendants are protected by quasi-judicial immunity or

qualified immunity. Defendant Ogg is protected by prosecutorial immunity or qualified immunity. Defendant Hegar is protected by qualified immunity. Norman's challenge to his conviction is barred by *Heck*. Norman failed to properly serve the defendants. Finally, the court declines to exercise supplemental jurisdiction over Norman's state law claims, if any.

It is therefore **ORDERED** that the Motion to Dismiss (ECF No. 46), filed by Defendant Kim Ogg on June 6, 2022, is **GRANTED**.

It is further **ORDERED** that Plaintiff Anthony Norman's claims against Defendant Ogg in her official capacity are **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction. Norman's claims against Defendant Ogg in her individual capacity are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted. Alternatively, Norman's claims against Defendant Ogg are **DISMISSED WITHOUT PREJUDICE** for insufficient service.

It is further **ORDERED** that Plaintiff Anthony Norman's claims against Defendant Hegar in his official capacity are **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction. Norman's claims against Defendant Hegar in his individual capacity are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A.

Alternatively, it is **ORDERED** that the Motion to Dismiss for Insufficient Process and Service (ECF No. 32), filed by Defendant Glenn Hegar on April 27, 2022, is **GRANTED** and Norman's claims against Defendant Hegar are **DISMISSED WITHOUT PREJUDICE** for insufficient service.

It is further **ORDERED** that the Objection and Second Motion to Issue Service (ECF No. 35), filed by Plaintiff Norman on May 16, 2022, is **DISMISSED**.

It is further **ORDERED** that the Motion to Dismiss (ECF No. 58), filed by the Texas Court of Criminal Appeals Defendants on July 11, 2022, is **GRANTED**. Plaintiff Anthony Norman's claims against Defendants Presiding Judge Keller, Judges Keel, Richardson, Yeary, Walker, McClure, Hervey, Slaughter, Newell, and Clerk of Court Williamson in their official capacities are **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction. Norman's claims against Defendants Keller and Williamson in their individual capacities are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted.

Alternatively, Norman's claims against Defendants Presiding Judge Keller, Judges Keel, Richardson, Yeary, Walker, McClure, Hervey, Slaughter, Newell, and Clerk of Court Williamson are **DISMISSED WITHOUT PREJUDICE** for insufficient service.

It is further **ORDERED** that the Motion to Dismiss (ECF No. 36), filed by the Supreme Court Defendants on May 20, 2022, is **GRANTED**. Plaintiff Anthony Norman's claims against Defendants Chief Justice Hecht, Justices Blacklock, Lehrmann, Devine, Huddle, Bland, Boyd, Busby, and Young and Clerk of Court Hawthorne in their official capacities are **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction. Norman's claims against Defendants Hecht and Hawthorne in their individual capacities are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted.

It is further **ORDERED** that the Motions to Dismiss (ECF Nos. 37-38), filed by Defendants Christopher Prine and Jeffrey D. Kyle on May 24, 2022, are **GRANTED**. Plaintiff Anthony Norman's claims against Defendants Prine and Kyle in their official capacities are **DISMISSED**

WITHOUT PREJUDICE for want of jurisdiction. Norman's claims against Defendants Prine and Kyle in their individual capacities are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted. Alternatively, Norman's claims against Defendants Prine and Kyle are **DISMISSED WITHOUT PREJUDICE** for insufficient service.

It is further **ORDERED** that Plaintiff Anthony Norman's claims against all Court of Criminal Appeals staff writ attorneys employed from September 2012 to present in their individual capacities are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A.

It is further **ORDERED** that Plaintiff Anthony Norman's claims against Defendant Gray in her official capacity are **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction pursuant to 28 U.S.C. § 1915A.

It is further **ORDERED** that the Motion to Dismiss for Failure to State a Claim (ECF No. 77), filed by Defendant Matthew Bender and Company on November 17, 2022, is **GRANTED**. Plaintiff Anthony Norman's claims against Defendant Matthew Bender and Company are **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted.

Alternatively, it is **ORDERED** that the Motion to Dismiss for Insufficient Process and Service (ECF No. 77), filed by Defendant Matthew Bender and Company on November 17, 2022, is **GRANTED** and Norman's claims against Defendant Matthew Bender and Company are **DISMISSED WITHOUT PREJUDICE** for insufficient service.

It is further **ORDERED** that Plaintiff Anthony Norman's claims against Defendant Thompson Prometric (Westlaw) are **DISMISSED WITH PREJUDICE** as frivolous or for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A.

It is further **ORDERED** that Norman's Motion for Ruling, Motion to Take Judicial Notice, Motion to Take Judicial Notice of Fraudulent Presentation by Defense Attorney, Motion for Partial Summary Judgment, Request for Ruling, Motion to Adjudicate, Motion to Take Judicial Notice, Motion to Substitute Defendants and Corrections, and Motion to Substitute Identified Parties (ECF Nos. 27, 44, 55, 59, 61, 66, 71, 81, 93) are **DISMISSED**.

It is finally **ORDERED** that Norman's state law claims, if any, are **DISMISSED** **WITHOUT PREJUDICE**, as the court declines to exercise supplemental jurisdiction.

SIGNED this 13th day of March 2023.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE