Appendix A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-2055

WESLEY-KEITH MULLINGS, Holder in due course of WESLEY KEITH MULLINGS and holder in due course of [redacted] sui juris, and Trustee of Wesley Keith Mullings Trust.
Appellant

v.

HARRIET ELAINE RAGHNAL, Bar # 006762006; AISHA MARGARET SMITH; STATE OF NEW JERSEY; THOMAS JOSEPH WALSH, Bar # 033311990; LISA FRAN CHRYSTAL, Bar # 018081982; DAVID BRIAN KATZ, Bar # 021921987

On Appeal from the
United States District Court for the District of New Jersey
(D.N.J. Civil Action No. 2:22-cv-01294)
District Judge: Honorable Madeline C. Arleo

Submitted Pursuant to Third Circuit LAR 34.1(a)
on November 7, 2024

Before: BIBAS, FREEMAN, and NYGAARD, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit LAR 34.1(a) on November 7, 2024.

[Redacted per FRCP 5.2(a)]

On consideration whereof, it is now hereby **ORDERED** and **ADJUDGED** by this Court that the judgment of the District Court entered May 16, 2024, be and the same hereby is **AFFIRMED**. Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: November 25, 2024

Certified as a true copy and issued in lieu of a formal mandate on February 4, 2025

Teste: Patricia S. Dodszuweit
Clerk, U.S. Court of Appeals for the Third Circuit

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-2055

WESLEY-KEITH MULLINGS, Holder in due course of WESLEY KEITH MULLINGS and holder in due course of [redacted] [redacted]M[redacted], sui juris, and Trustee of Wesley Keith Mullings Trust,
Appellant

v.

HARRIET ELAINE RAGHNAL, Bar # 006762006; AISHA MARGARET SMITH; STATE OF NEW JERSEY; THOMAS JOSEPH WALSH, Bar # 033311990; LISA FRAN CHRYSTAL, Bar # 018081982; DAVID BRIAN KATZ, Bar # 021921987

On Appeal from the United States District Court
for the District of New Jersey
(D.N.J. Civil Action No. 2:22-cv-01294
District Judge: Honorable Madeline C. Arleo

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
on November 7, 2024

Before: BIBAS, FREEMAN, and NYGAARD, Circuit Judges

(Opinion filed: November 25, 2024)

[Redacted per FRCP 5.2(a)]

OPINION*

PER CURIAM

Pro se appellant Wesley-Keith Mullings appeals the District Court's dismissal of his claims regarding a custody dispute. For the reasons that follow, we will affirm the District Court's decision.

I.

In March 2022, Mullings filed a complaint stemming from the legal custody and adoption proceedings by his ex-wife, Aisha Margaret Smith, for his now-adult son. He brought claims against Smith and Smith's attorney Harriet Elaine Raghnal, as well as the State of New Jersey, Judge Lisa Fran Chrystal, Judge Thomas Joseph Walsh, and Judge David Brian Katz. These judges each made rulings in Mullings's state court custody matter; Mullings claimed that their decisions were based on falsified documents by Smith and Raghnal. In an amended complaint, Mullings raised state law claims and claims pursuant to 42 U.S.C. §§ 1981, 1983, 1985, and 1986.

On a motion by the judges and the State, the District Court dismissed Mullings's claims against them. Mullings appealed, but we dismissed his appeal for lack of appellate jurisdiction because the District Court had not yet disposed of Mullings's claims against Smith and Raghnal. *See Mullings v. Raghnal*, No. 23-2470 (order entered Jan. 4, 2024). Mullings

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

then filed a motion pursuant to Federal Rule of Civil Procedure 54(b), seeking a default judgment. The District Court denied the motion to the extent that Mullings sought a default judgment and dismissed his remaining claims. Mullings timely appealed.

II.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We exercise plenary review over the District Court's dismissal of Mullings's claims. *See Fowler v. UPMC Shadyside*, 578 F.3d 203, 206 (3d Cir. 2009); *see also Gallas v. Sup. Ct.*, 211 F.3d 760, 768 (3d Cir. 2000). Dismissal is appropriate "if, accepting all well-pleaded allegations in the complaint as true and viewing them in the light most favorable to the plaintiff, a court finds that [the] plaintiff's claims lack facial plausibility." *Warren Gen. Hosp. v. Amgen Inc.*, 643 F.3d 77, 84 (3d Cir. 2011).

III.

We agree with the District Court's dismissal of Mullings's claims. First, Mullings's claims against the judges are barred by absolute judicial immunity, a ruling Mullings does not challenge in his appellate brief. *See In re Wettach*, 811 F.3d 99, 115 (3d Cir. 2016) (explaining that any issue an appellant fails to develop in an opening brief is forfeited); *see also Figueroa v. Blackburn*, 208 F.3d 435, 443 (3d Cir. 2000) (explaining that "[a] judge will not be deprived of immunity because the action he took is in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the clear absence of all jurisdiction") (citations and internal quotation marks omitted). Similarly, Mullings does not challenge the District Court's conclusion that his

claims against the State are barred by sovereign immunity.[1] *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984).

Mullings makes no arguments challenging the District Court's dismissal of his remaining claims against Smith and Raghnal. In any event, he did not allege the existence of a contractual relationship with either defendant to support a claim under 42 U.S.C. § 1981. *See Domino's Pizza, Inc. v. McDonald*, 546 U.S. 470, 476 (2006). He also did not make factual allegations of racial or class-based discriminatory animus by these defendants to support a § 1985 or § 1986 claim.[2] *See Farber v. City of Paterson*, 440 F.3d 131, 135 (3d Cir. 2006); *Rogin v. Bensalem Township*, 616 F.2d 680, 696 (3d Cir. 1980).

Accordingly, we will affirm the judgment of the District Court.

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[1] Although Mullings challenges the District Court's alternative conclusion that his claims against the judges and the State are barred by the *Rooker-Feldman* doctrine, we need not address this alternative ground for dismissal. Mullings also does not address the District Court's ruling declining to exercise supplemental jurisdiction over his state law claims and has thus forfeited that issue. *See Wettach*, 811 F.3d at 115. In any event, the District Court did not abuse its discretion in dismissing those claims. *See Doe v. Mercy Cath. Med. Ctr.*, 850 F.3d 545, 567 (3d Cir. 2017) ("A court may [dismiss state law claims] under 28 U.S.C. § 1367(c)(3) when it dismisses all claims over which it has original jurisdiction."); *Maher Terminals, LLC v. Port Auth.*, 805 F.3d 98, 104 (3d Cir. 2015) (reviewing such dismissals for abuse of discretion).

[2] Mullings has not clarified his claims in any of his filings to suggest that he could offer additional factual allegations to overcome these barriers to relief. Because Mullings already had an opportunity to amend his complaint, granting him further leave to amend would have been futile and dismissal with prejudice was appropriate. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108 (3d Cir. 2002).

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-2055

WESLEY-KEITH: MULLINGS, Holder in due course of
WESLEY KEITH MULLINGS and holder in due course of
I[redacted] K[redacted] M[redacted], sui juris,
and Trustee of Wesley Keith Mullings Trust,
Appellant

v.

HARRIET ELAINE RAGHNAL, Bar # 006762006;
AISHA MARGARET SMITH; STATE OF NEW JERSEY;
THOMAS JOSEPH WALSH, Bar # 033311990;
LISA FRAN CHRYSTAL, Bar # 018081982;
DAVID BRIAN KATZ, Bar # 021921987

(D.N.J. No. 2:22-cv-01294)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, and JORDAN*, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, and NYGAARD**, Circuit Judges

The petition for rehearing filed by Appellant in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred

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* The Honorable Kent A. Jordan retired from the Court on January 15, 2025, after the voting period expired for this petition for rehearing, but before the Clerk's Office filed the order.
** Judge Nygaard's vote is limited to panel rehearing only.

[Redacted per FRCP 5.2(a)]

in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc is **DENIED**.

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: January 27, 2025
CJG/cc: Wesley-Keith Mullings
Andrew D. Spevack, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WESLEY-KEITH: MULLINGS, ***Plaintiff,*** **v.** **HARRIET ELAINE RAGHNAL, et al.,** ***Defendants.***	**Civil Action No. 22-01294** **ORDER**

THIS MATTER comes before the Court by way of Defendants' State of New Jersey (the "State"), Hon. Lisa Fran Chrystal, P.J.F.P. ("Judge Chrystal"), Hon. Thomas Joseph Walsh, J.S.C. ("Judge Walsh"), and Hon. David Brian Katz, P.J.F.P. ("Judge Katz") (collectively, "Judiciary Defendants") Motion to Dismiss the First Amended Complaint ("FAC") pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and 9(b), ECF No. 35; [1]

[1] Under Rule 12(b)(1), Plaintiff bears the burden of persuading the Court that subject matter jurisdiction exists. Kehr Packages, Inc. v. Fidelcor, Inc., 926 F.2d 1406, 1409 (3d Cir. 1991). In resolving a Rule 12(b)(1) motion, a court must first determine whether the motion presents a "facial" or "factual" attack. See Const. Party of Pa. v. Aichele, 757 F.3d 347, 357 (3d Cir. 2014). A facial attack argues that a claim on its face "is insufficient to invoke the subject matter jurisdiction of the court," id. at 358, "without disputing the facts alleged in the complaint," Davis v. Wells Fargo, 824 F.3d 333, 346 (3d Cir. 2016). A court reviewing a facial attack must "consider the allegations of the complaint and documents referenced therein and attached thereto, in the light most favorable to the plaintiff." Const. Party of Pa., 757 F.3d at 358. Here, Defendants' Motion to Dismiss is a facial attack because they assert that the Court lacks subject matter jurisdiction over Plaintiff's claims as pleaded.

In considering a motion to dismiss under Rule 12(b)(6), the Court accepts as true all of the facts in the complaint and draws all reasonable inferences in favor of the nonmoving party. Phillips v. County of Allegheny, 515 F.3d 224, 233 (3d Cir. 2008). The facts alleged must be "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). A complaint will survive a motion to dismiss if it provides a sufficient factual basis such that it states a facially plausible claim for relief. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

Finally, since Plaintiffs are proceeding pro se, the Court must construe their pleadings liberally and hold them to a less stringent standard than those filed by attorneys, Haines v. Kerner, 404 U.S. 519, 520 (1972), but the "Court need not . . . credit a pro se plaintiff's 'bald assertions' or 'legal conclusions,'" Mestman v. Escandon, No. 14-3880, 2014 WL 11398143, at *1 (D.N.J. June 25, 2014) (internal citations omitted).

and it appearing that Plaintiff Wesley-Keith: Mullings ("Plaintiff") opposes the Motion, ECF Nos. 36, 39;[2]

and it appearing that this matter arises out of a custody dispute concerning Plaintiff's son, see generally FAC, ECF No. 33;

and it appearing that Plaintiff had custody of his son until he was incarcerated in May of 2018, FAC ¶ 4, Mullings Affidavit ¶ 5;[3]

and it appearing that while Plaintiff was incarcerated, his ex-wife and non-moving Defendant Aisha Margaret Smith ("Smith") applied for temporary custody of his son without his consent, FAC ¶ 5, id. Ex. C;

and it appearing that Judge Chrystal granted Smith temporary custody, id.;

and it appearing that when Plaintiff was released from prison, he sought to terminate Smith's temporary custody through litigation in Union County Family Court before Judge Walsh and Judge Chrystal, see FAC, Exhibits E-I;[4]

and it appearing that when that litigation was unsuccessful, Plaintiff sought, also unsuccessfully, to vacate Smith's 2015 adoption of his son before Judge Katz, see FAC, Exhibit J, M;

and it appearing that Plaintiff's FAC seeks redress for the Orders of the Judiciary Defendants;

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[2] Plaintiff styled his opposition at ECF No, 36 as a motion for "Temporary Injunction."

[3] Plaintiff has attached an Affidavit to his Complaint starting at ECF No. 33 page 12. The Court will refer to this document by paragraph number.

[4] During this litigation, Plaintiff was held in contempt of court for refusing to abide by Judge Walsh's Order and Smith was again granted temporary custody pending Plaintiff's further proceedings. FAC, Ex. F at 29. Judge Walsh also ordered Plaintiff to have no contact with his son. Id. In apparent violation of that order, Plaintiff took his son from Smith's home, and as a result Judge Chrystal again granted Smith temporary custody and ordered Plaintiff to have no contact with his son. FAC, Ex. G at 8-10. Judge Chrystal also issued a warrant for Plaintiff's arrest. Id. At a hearing concerning Plaintiff's contempt, Judge Chrystal released Plaintiff from custody but continued the Court's order conferring temporary custody to Smith and preventing Plaintiff from contacting his son. FAC, Ex. I at 11. See also Mulltings Affidavit ¶¶ 9-17.

and it appearing that the FAC asserts violations of 42 U.S.C. §§ 1981, 1983, and 1986, and also asserts a common law intentional infliction of emotional distress claim against the State and the Judiciary Defendants, FAC ¶¶ 13-23;

and it appearing that Plaintiff seeks damages, declaratory relief and injunctive relief enjoining the Judiciary Defendants from prohibiting contact with his son, id. ¶¶ 13-26;

and it appearing that Defendants contend that Plaintiff's FAC should be dismissed because: (1) the Judiciary Defendants are entitled to absolute Judicial Immunity; (2) the State and the Judiciary Defendants are entitled to sovereign immunity; and (3) the Rooker-Feldman[5] doctrine divests the Court of subject matter jurisdiction over Plaintiff's claims;

and it appearing that "as a general rule, judges acting in their judicial capacity are absolutely immune (in both their individual and official capacities) from suit for monetary damages under the doctrine of judicial immunity," Ingram v. Twp. of Deptford, 858 F. Supp. 2d 386, 390 (D.N.J. 2012) (citing Mireles v. Waco, 502 U.S. 9, 9 (1991));

and it appearing that judicial immunity applies when the alleged conduct involves "the function of resolving disputes between parties, or of authoritatively adjudicating private rights," Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 435-36 (1993) (internal quotation marks and citations omitted);

and it appearing that "judicial immunity can be overcome only for actions not taken in a judicial capacity or for actions taken in a complete absence of all jurisdiction," Ingram, 858 F. Supp. 2d at 390 (internal citations omitted);[6]

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[5] Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983).

[6] Plaintiff's argument that the Judiciary Defendants acted without jurisdiction by conducting ex parte hearings is unavailing. See Gallas v. Sup. Ct. of Pa., 211 F.3d 760, 769 (3d Cir. 2000) ("Immunity will not be forfeited because a judge has committed "grave procedural errors," or because a judge has conducted a proceeding in an "informal and ex parte" manner.") (internal citations omitted).

and it appearing that Plaintiff seeks redress for official conduct by the Judiciary Defendants, namely the Custody Orders they entered in their capacities as Union County Family Court Judges;

and it appearing that the Judiciary Defendants are entitled to judicial immunity, and Plaintiff's claims against them must be dismissed;[7]

and it appearing that the State seeks dismissal based on sovereign immunity;

and it appearing the Eleventh Amendment provides that "[t]he judicial power of the United States shall not be construed to extend any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state," U.S. Const. amend. XI, see also Acosta v. Democratic City Comm., 288 F. Supp. 3d 597, 626 (E.D. Pa. 2018) (finding that the Ex parte Young doctrine that permits sanctions and injunctive relief against state officers is inapplicable to the State and state agencies);

and it appearing that the State must also be dismissed because it is entitled to sovereign immunity;

and it appearing that even if the State and the Judiciary Defendants were not immune, the Court would dismiss Plaintiff's claims against them under the Rooker-Feldman Doctrine;

and it appearing that Rooker-Feldman "bars federal district courts from exercising appellate jurisdiction over state court actions," Nat'l R.R. Passenger Corp. v. Pa. Pub. Util. Comm'n, 342 F.3d 242, 256 (3d Cir. 2003), or, in other words, prohibits federal courts from

[7] Although judicial immunity primarily applies to claims for damages, injunctive relief cannot be awarded against a judge "unless a declaratory decree was violated or declaratory relief was unavailable." Azubuko v. Royal, 443 F.3d 302, 304 (3d Cir. 2006) (providing that "injunctive relief shall not be granted" in an action brought against "a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable") (quoting 42 U.S.C. § 1983). Here, although Plaintiff requests declaratory relief against the Judiciary Defendants, the Court finds no allegations in the FAC that would vitiate the Judicial Defendants' immunity. See Gallas,211 F.3d at 769.

hearing "controversies that are essentially appeals from state-court judgments," Williams v. BASF Catalysts LLC, 765 F.3d 306, 315 (3d Cir. 2014) (quotation marks and citation omitted);

and it appearing that this narrow doctrine bars a successive federal action only where "(1) the federal plaintiff lost in state court, (2) the plaintiff complains of injuries caused by the state-court judgment, (3) that judgment issued before the federal suit was filed, and (4) the plaintiff invites the district court to review and reject the state-court judgment," Geness v. Cox, 902 F.3d 344, 360 (3d Cir. 2018);

and it appearing that because the FAC and attached exhibits make clear that Plaintiff seeks review of the Judiciary Defendants' Family Court orders—and an order from this Court specifically contradicting those Orders—this Court declines to exercise such jurisdiction;

and it appearing that the Court is satisfied that the elements of Geness are met because Plaintiff lost in the state family court matters commenced prior to the instant suit, and Plaintiff "can not prevail on [his] federal claim without obtaining an order that would negate the state court[s'] judgment[s]," In re Knapper, 407 F.3d 573, 581 (3d Cir. 2005) (internal quotation omitted);

and it appearing that because the Rooker-Feldman doctrine further bars Plaintiff's claims that the Judiciary Defendants' custody orders and Order declining to vacate Smith's adoption were improper Plaintiffs' FAC must therefore be dismissed;

and it appearing that to the extent any state law claims remain, the Court declines to exercise supplemental jurisdiction where the federal claims have been dismissed, Mattern v. City of Sea Isle, 131 F. Supp. 3d 305, 320 (D.N.J. 2015) ("Where the federal claims are dismissed at an early stage in the litigation, courts generally decline to exercise supplemental jurisdiction over state claims.");

[8] The Court also notes that to the extent Plaintiff separately seeks injunctive relief, ECF No. 36, that request is also denied for the reasons explained above.

CLOSING

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WESLEY-KEITH: MULLINGS, ***Plaintiff,*** **v.** **HARRIET ELAINE RAGHNAL, et al.,** ***Defendants.***	**Civil Action No. 22-01294** **ORDER**

THIS MATTER comes before the Court by way of pro se Plaintiff Wesley-Keith: Mullings's ("Plaintiff") Motion for Final Judgment (the "Motion"), ECF No. 47;

and it appearing that the Motion is unopposed;

and it appearing that this action arises out of a custody dispute concerning Plaintiff's son, see generally Am. Compl., ECF No. 33;

and it appearing that in May 2015, Plaintiff's ex-wife Aisha Margaret Smith ("Smith"), through her attorney Harriet Elaine Raghnal ("Raghnal," and collectively, "Defendants"), was granted adoption of the child, see id. Ex. A;

and it appearing that upon Plaintiff's incarceration in May 2018, Smith obtained temporary custody of the child, see id. ¶¶ 1–4; see also id. Ex. C;

and it appearing that Plaintiff brings this cause of action against Smith, Raghnal, and several other defendants, see generally id.;

and it appearing that on July 10, 2023, the Court dismissed Plaintiff's Amended Complaint with prejudice with respect to the "State and Judiciary Defendants," which included all defendants except Smith and Raghnal, see ECF No. 42 (the "July Order");

and it appearing that the Court did not address Smith and Raghnal in its July Order because on November 15, 2022, the Clerk of the Court entered default against them for failure to plead or otherwise defend, see Docket;

and it appearing that following the July Order, Plaintiff appealed to the United States Court of Appeals for the Third Circuit, see ECF No. 44;

and it appearing that the appellate court dismissed Plaintiff's appeal because, given the status of Smith and Raghnal, there had not yet been a final judgment in this action, see ECF No. 49 ("Since the District Court has not entered an order finally adjudicating claims against Defendants Raghnal and Smith and has not directed the entry of a final judgment pursuant to Federal Rule of Civil Procedure 54(b), we lack jurisdiction and dismiss this appeal.");

and it appearing that Plaintiff now moves for entry of a final judgment pursuant to Federal Rule of Civil Procedure 54(b) and requests that the Court address Plaintiff's remaining claims and the status of Defendants, see Mot.;

and it appearing that, because Smith and Raghnal have not responded to the Amended Complaint and have not opposed the Motion, the Court will treat Plaintiff's Motion as a motion for default judgment;

and it appearing that, before entering a default judgment, the Court must determine whether it has jurisdiction over the action and the parties, see Animal Sci. Prods., Inc. v. China Nat'l Metals & Minerals Imp. & Exp. Corp., 596 F. Supp. 2d 842, 848 (D.N.J. 2008), and whether Plaintiff properly served Defendants, see E.A. Sween Co., Inc. v. Deli Express of Tenafly, LLC, 19 F. Supp. 3d 560, 567 (D.N.J. 2014);

and it appearing that the Court has subject matter jurisdiction because Plaintiff brings claims pursuant to federal statutes 42 U.S.C. §§ 1981, 1985, and 1986, see Am. Compl., and thus there is a federal question before the Court, see 28 U.S.C. § 1331;

and it appearing that the Court has personal jurisdiction over Defendants because they appear to be citizens of New Jersey, see Am. Compl. at 3; see also Affs. of Service, ECF Nos. 24, 28;

and it appearing that venue is proper in the district of New Jersey pursuant to 28 U.S.C. § 1391;

and it appearing that service and notice to Defendant Raghnal was proper per N.J. Ct. R. 4:4-4(a)(1), see ECF No. 24, but service and notice to Defendant Smith was not, see ECF No. 28;[1]

and it appearing that before entering a default judgment, a court must also determine whether the plaintiff's complaint sufficiently pleads a cause of action and whether the plaintiff has proved damages, Chanel, Inc. v. Gordashevsky, 558 F. Supp. 2d 532, 536, 538 (D.N.J. 2008);

and it appearing that first, Plaintiff does not bring a viable 42 U.S.C. § 1981 claim because he has not alleged any contractual relationship with Defendants such that a section 1981 claim would be permissible, see Domino's Pizza, Inc. v. McDonald, 546 U.S. 470, 476 (2006) ("[a]ny claim brought under § 1981 . . . must initially identify an impaired contractual relationship . . . under which the plaintiff has rights.") (internal quotation marks omitted);[2]

[1] The proof of service indicates that the materials were left "at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein." ECF No. 28. However, it does not include the "name . . . [or] description of the individual upon whom service was made" as required by N.J. Ct. R. 4:4-7. Even if Defendant Smith was properly served, Plaintiff does not state any viable claims against her. See infra.

[2] A plaintiff bringing a section 1981 claim must plausibly allege, in addition to a contractual relationship, the following: "(1) [that plaintiff] is a member of a racial minority; (2) intent to discriminate on the basis of race by the defendant; and (3) discrimination concerning one or more of the activities enumerated in the statute[,] which includes the right to make and enforce contracts." Brown v. Philip Morris Inc., 250 F.3d 789, 797 (3d Cir. 2001) (internal quotation marks and citations omitted). Plaintiff does not properly allege these elements.

and it appearing that second, Plaintiff cannot bring a 42 U.S.C. § 1985 claim because Plaintiff does not allege racial or other class-based discriminatory animus to support such a claim, see Farber v. City of Paterson, 440 F.3d 131, 135 (3d Cir. 2006) (explaining "that because § 1985(3) requires the 'intent to deprive of equal protection, or equal privileges and immunities,' a claimant must allege 'some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action,' in order to state a claim.") (quoting Griffin v. Breckenridge, 403 U.S. 88, 102 (1971));

and it appearing that third, Plaintiff's claim under 42 U.S.C. § 1986 cannot survive because he does not properly allege a section 1985 claim, see Brookhart v. Rohr, 385 Fed App'x. 67, 70 (3d Cir. 2010) ("In order to maintain a cause of action under 42 U.S.C. § 1986, a plaintiff must show the existence of a section 1985 conspiracy.");

and it appearing that Plaintiff also asserts a common law intentional infliction of emotional distress claim, see Am. Compl. ¶¶ 17–20;

and it appearing that because the Court dismissed all federal claims, it declines to exercise supplemental jurisdiction over Plaintiff's common law claim, see 28 U.S.C. § 1367(c)(3); see also July Order at 5 ("[T]o the extent any state law claims remain, the Court declines to exercise supplemental jurisdiction where the federal claims have been dismissed.");

IT IS on this 16th day of May, 2024;

ORDERED that Plaintiff's Motion for Final Judgment, ECF No. 47, is **DENIED** insofar as it requests default judgment with respect to Defendants Smith and Raghnal;

ORDERED that Defendants Smith and Raghnal are **DISMISSED**; and it is further;

ORDERED that in light of this Order and the Court's July Order, this action is hereby **CLOSED**.

s/ Madeline Cox Arleo
MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

Appendix B

ALD-046

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **23-2470**

WESLEY-KEITH: MULLINGS, Holder in due course of Wesley Keith Mullings and holder in due course of Isaiah Keishon Mullings, sui juris, and Trustee of Wesley Keith Mullings Trust,

Appellant

VS.

HARRIET ELAINE RAGHNAL, Bar #006762006, ET AL.

(D.N.J. Civ. No. 2-22-cv-01294)

Present: HARDIMAN, MONTGOMERY-REEVES, and NYGAARD, Circuit Judges

Submitted are:

(1) By the Clerk for possible dismissal due to jurisdictional defect; and

(2) Appellees Chrystal, Katz, Walsh, and State of New Jersey's response to Legal Division letter

in the above-captioned case.

Respectfully,

Clerk

ORDER

The Court has jurisdiction over final decisions of the district courts. 28 U.S.C. § 1291. An order entered by a district court that resolves fewer than all of the claims against all of the parties is not immediately appealable, unless the district court directs the entry of a final judgment pursuant to Federal Rule of Civil Procedure 54(b). Sulima v. Tobyhanna Army Depot, 602 F.3d 177, 183 (3d Cir. 2010). Additionally, an entry of default is not considered a final judgment. See Symantec Corp. v. Glob. Impact, Inc.,

559 F.3d 922, 923 (9th Cir. 2009); United States v. $23,000 in U.S. Currency, 356 F.3d 157, 163 (1st Cir. 2004); Enron Oil Corp. v. Diakuhara, 10 F.3d 90, 95 (2d Cir. 1993). Therefore, since the District Court has not entered an order finally adjudicating claims against Defendants Raghnal and Smith and has not directed the entry of a final judgment pursuant to Federal Rule of Civil Procedure 54(b), we lack jurisdiction and dismiss this appeal.

By the Court,

s/ *Thomas M. Hardiman*
Circuit Judge

Dated: January 4, 2024
cc: Wesley-Keith Mullings
Jae K. Shim, Esq.

A True Copy:

Patricia S. Dodszuweit, Clerk
Certified Order Issued in Lieu of Mandate

DLD-062

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-3170

IN RE: WESLEY-KEITH MULLINGS,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to D.C. Civil No. 2:22-cv-01294)

Submitted Pursuant to Rule 21, Fed. R. App. P.
January 25, 2024
Before: JORDAN, PORTER, and PHIPPS, Circuit Judges

ORDER

PER CURIAM:

This cause came to be considered on a petition for writ of mandamus submitted on January 25, 2024. On consideration whereof, it is now hereby

ORDERED by this Court that the petition for writ of mandamus be, and the same is, denied. All of the above in accordance with the opinion of the Court.

Dated: February 7. 2024

A True Copy:

Patricia A. Dodszuweit

Patricia S. Dodszuweit. Clerk

Appendix 4b

DLD-062 **NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-3170

IN RE: WESLEY-KEITH MULLINGS,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to D.C. Civil No. 2:22-cv-01294)

Submitted Pursuant to Rule 21, Fed. R. App. P.
January 25, 2024
Before: JORDAN, PORTER, and PHIPPS, Circuit Judges

(Opinion filed: February 7, 2024)

OPINION*

PER CURIAM

Wesley-Keith Mullings, proceeding pro se, has filed a petition for a writ of mandamus concerning a civil case currently pending in the United States District Court for the District of New Jersey. For the reasons set forth below, we will deny the petition.

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* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

I.

In March 2022, Mullings filed a complaint regarding the legal custody and adoption proceedings by his ex-wife for his now-adult son. Mullings thereafter filed an Amended Complaint and named as defendants his ex-wife, her former attorney, the State of New Jersey, and several state judges. Mullings' Amended Complaint asserted various state law claims and additionally accused the State and the Judiciary Defendants of violations of 42 U.S.C. §§ 1981, 1983, 1985, and 1986. The State and Judiciary Defendants moved to dismiss, arguing that sovereign immunity, judicial immunity, and the Rooker-Feldman doctrine required the dismissal of the Amended Complaint. The District Court agreed and dismissed with prejudice the claims against the State and Judiciary Defendants. Mullings appealed, and we dismissed for lack of jurisdiction, concluding that the case was not final because the District Court had not disposed of Mullings' claims against her ex-wife and her attorney. Mullings v. Harriet Raghnal, et al., No. 23-2470 (order entered Jan. 4, 2024). On October 5, 2023, Mullings filed a motion pursuant to Federal Rule of Civil Procedure 54(b). As of the date of this opinion, the District Court has yet to rule on the motion.

On December 18, 2023, Mullings filed the instant mandamus petition. In it, Mullings claims that the District Court's failure to adjudicate all claims against all parties demonstrates an abuse of discretion and abandonment of its judicial obligation and that the District Court has unduly delayed the adjudication of his Rule 54(b) motion.

II.

Mandamus is a drastic remedy available only in extraordinary circumstances. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005). A mandamus petitioner must establish that he has "no other adequate means" to obtain the requested relief, and that he has a "clear and indisputable" right to issuance of the writ. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996), superseded in part on other grounds by 3d Cir. L.A.R. 24.1(c). Mullings has not made this showing.

III.

A mandamus petition is not a substitute for an appeal; if a petitioner can obtain relief by an ordinary appeal, a court will not issue the writ. See In re Ford Motor Co., 110 F.3d 954, 957 (3d Cir. 1997). Here, Mullings' challenges to the District Court's July 10, 2023 order are not proper for mandamus relief; rather, he has an alternative means to raise these challenges in the form of a proper appeal. See In re Nwanze, 242 F.3d 521, 524 (3d Cir. 2001) (noting that, "[g]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal") (citation omitted). The appeal may be commenced after the District Court has entered a final and appealable order.

To the extent Mullings alleges undue delay in the District Court adjudication of his Rule 54(b) motion, we likewise reject this claim. As a general rule, the manner in which a court disposes of cases on its docket is within its discretion. In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982). Indeed, given the discretionary nature

of docket management, there can be no "clear and indisputable" right to have the district court handle a case on its docket in a certain manner. See generally Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 36 (1980) (per curiam). Nonetheless, mandamus may be warranted where a district court's delay "is tantamount to a failure to exercise jurisdiction." Madden, 102 F.3d at 79. This case, however, does not present such a situation. A delay of approximately three months "does not yet rise to the level of a denial of due process," and thus does not justify our intervention at this time. Id. We are confident that the District Court will rule on Mullings' motion in due course.

Accordingly, we will deny the petition for a writ of mandamus.