

Exhibit 7

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-12971-A

MICHAEL A. MAPS,

Plaintiff-Appellant,

versus

JUDGE, 11TH JUDICIAL CIRCUIT, MIAMI DADE COUNTY,
Ellen Sue Venzer, in her official capacity,
PATRICK NALLY,
Assistant Public Defender, Miami dade County Public Defender's Office,
FRED J. MALDOVAN,

Assistant Regional Counsel, Office of Criminal Conflict and Civil Regional Counsel,
MATTHEW GRAY,
Assistant State Attorney, Miami Dade Office of The State Attorney,
STEPHEN TAYLOR,
Assistant Regional Counsel, Office of Criminal Conflict and Civil Regional Counsel,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

Before: WILSON, MARTIN and JILL PRYOR, Circuit Judges.

BY THE COURT:

Michael A. Maps, in the district court, filed a notice of appeal and a motion to proceed on appeal *in forma pauperis*. The district court denied *in forma pauperis* status, finding Maps's appeal was not taken in good faith. Thus, the district court did not assess the \$505.00 appellate filing fee, as is required under the Prison Litigation Reform Act of 1995, 28 U.S.C. § 1915.

Maps has consented to pay the \$505.00 filing fee, using the partial payment plan described under § 1915(b). Thus, the only remaining issue is whether the appeal is frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i). This Court now finds that the appeal is frivolous, DENIES leave to proceed, and DISMISSES the appeal.

Exhibit 9

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-21167-CIV-KING
MAGISTRATE JUDGE P. A. WHITE

SIR MICHAEL A. MAPS,

Plaintiff,

vs.

THE HONORABLE DENNIS J. MURPHS, et. al

Defendant(s).

REPORT OF
MAGISTRATE JUDGE

I. Introduction

~~Plaintiff, Sir Michael Alexander Maps, has instituted this pro~~
se civil rights proceeding pursuant to 42 U.S.C. §1983. He filed an
initial complaint (DE#1) and then a motion to supplement/amend his
initial complaint with an attached supplement (DE#7), which was
granted by this Court. (DE#8). Plaintiff is suing the following
Defendants: The Honorable Dennis J. Murphs, Circuit Court Judge
with the Eleventh Judicial Circuit Court of Florida; Ellen Sue
Venzer, Circuit Court Judge with the Eleventh Judicial Circuit
Court of Florida; The Honorable Jason E. Birch, Circuit Court Judge
with the Eleventh Judicial Circuit Court of Florida; The Honorable
Jason E. Boch, Circuit Court Judge with the Eleventh Judicial
Circuit Court of Florida; The Honorable Richard Hersh, Circuit
Court Judge with the Eleventh Judicial Circuit Court of Florida;
Steven Bustamante and Patrick Nally, Assistant Public Defenders
with the Miami-Dade Public Defender's Office; Amanda Newman, Alyssa
Delgado, Gray Matthew, and Rachel Kipnis, Assistant State Attorneys
with the Miami-Dade State Attorney's Office; Fred J. Moldovan and
Stephen Taylor, Assistant Regional Counsels with the Office of
Criminal Conflict and Civil Regional Counsel; and court appointed
attorney Ira W. Still. Plaintiff sought and was granted leave to

proceed *in forma pauperis* ("IFP"), and a debt to the Clerk of Court was established in the amount of \$350.00 for the filing fee. (DE#4; DE#5).

This case was referred to the undersigned for the issuance of all preliminary orders and any recommendations to the district court regarding dispositive motions. See 28 U.S.C. §636(b)(1)(B), (C); Fed.R.Civ.P. 72(b), S.D.Fla. Local Rule 1(f) governing Magistrate Judges, and S.D. Fla. Admin. Order 2003-19.

II. Standard of Review

Because Plaintiff is a prisoner proceeding *in forma pauperis* and seeks redress from a government entity, this case is subject to the judicial screening provisions of 28 U.S.C. §1915 and 1915A. Section 1915(e)(2) instructs in relevant part that:

Notwithstanding any filing fee, or any portion thereof, that may have been paid, **the court shall dismiss the case at any time** if the court determines that -

...
(B) the action or appeal --

- (i) is frivolous or malicious;
- (ii) fails to state a claim on which relief may be granted; or
- (iii) seeks monetary relief against a defendant who is immune from such relief.

28. U.S.C. §1915(e)(2)(B) (emphasis added).

In order to state a claim pursuant to 42 U.S.C. §1983, a plaintiff must establish that: (1) he was deprived of a right

secured by the Constitution or laws of the United States, and (2) the alleged deprivation was committed under color of state law. 42 U.S.C. 1983; see also Bingham v. Thomas, 654 F.3d 1171, 1175 (11th Cir. 2011) (per curiam) (citation omitted); Richardson v. Johnson, 598 F.3d 734, 737 (11th Cir. 2010) (per curiam) (citations omitted). Moreover, the Eleventh Circuit "'requires proof of an affirmative causal connection between the official's acts or omissions and the alleged constitutional deprivation' in §1983 cases." Rodriguez v. Secretary, Department of Corr., 508 F.3d 611, 625 (11th Cir. 2007) (quoting Zatler v. Wainwright, 802 F.2d 397, 401 (11th Cir. 1986)).

Revised { The standard for determining whether a complaint states a claim upon which relief may be granted is the same under Section 1915(e)(2)(B) and Federal Rule of Civil Procedure 12(b)(6) and (c). See Mitchell v. Farcass, 112 F.3d 1483, 1490 (11th Cir. 1997) ("The language of section 1915(e)(2)(B)(ii) tracks the language of Federal Rule of Civil Procedure 12(b)(6)"). A complaint need not contain detailed factual allegations. See Fed. R. Civ. P. 8(a)(2) (pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief....").

Pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers and can only be dismissed for failure to state a claim if it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" Estelle v. Gamble, 429 U.S. 97, 106 (1979) (quoting Haines v. Kerner, 404 U.S. 519, 520-21 (1972)). The allegations of the complaint are taken as true and are construed in the light most favorable to Plaintiff. Davis v. Monroe County Bd. Of Educ., 120 F.3d 1390, 1393 (11th Cir. 1997).

However, a plaintiff's obligation to provide the grounds for

his entitlement to relief requires more than labels and conclusions; a "formulaic recitation of the elements of a cause of action will not do...." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). The allegations must rise above the speculative level and "state a claim to relief that is plausible on its face." Twombly, 550 U.S. at 570. A complaint is "frivolous under section 1915(e) "where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989); see also Bilal v. Driver, 251 F.3d 1346, 1349 (11th Cir. 2001). Dismissals on this ground should only be ordered when the legal theories are "indisputably meritless," or when the claims rely on factual allegations that are "clearly baseless." Neitzke, 490 U.S. at 327.

To determine whether a complaint fails to state a claim upon which relief can be granted, the Court must engage in a two-step inquiry. See Twombly, 550 U.S. at 555; Ashcroft v. Iqbal, 556 U.S. 662 (2009). First, the court must identify the factual allegations in the complaint, which are entitled to an assumption of truth, and identify and reject the legal conclusions to which no assumption of truth applies. Iqbal, 556 U.S. at 678. Second, the court must determine whether these factual allegations, taken as true, plausibly suggest an entitlement to relief. Id. This is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." Iqbal, 556 U.S. at 679. If the well-pleaded facts do not permit the court to infer more than the "mere possibility of misconduct," the complaint is insufficient. Id. (clarifying the Twombly standard). When faced with alternative explanations for the alleged misconduct, the Court may exercise its judgment in determining whether plaintiff's proffered conclusion is the most plausible or whether it is more likely that no misconduct occurred. Iqbal, 556 U.S. 679, 682-83.

III. Facts Set Forth in the Operative Amended Complaint

Plaintiff's complaint (DE#1) and amendment (DE#7) are by far no models of clarity. As best as it can be discerned, and considering that Plaintiff is a *pro se* litigant, entitled to liberal construction pursuant to Haines v. Kerner, 404 U.S. 519 (1972), Plaintiff seems to be suing The Honorable Richard Hersh because he issued a search warrant in April of 1988 or 1989, authorizing Plaintiff's search pursuant to section 943.325, Florida Statutes, that Plaintiff claims came into effect only on May 11, 1989. He alleges a violation of the ex post facto clause and a due process violation. (DE#7).

Plaintiff further alleges that court appointed Attorney Ira Still and ASA Kipnis violated his constitutional rights during his prosecution for an offense he committed on April 1988. He appears to allege that their conduct also violated the ex post facto clause. (DE#1:18).

Plaintiff alleges that the Honorable Ellen Sue Venzer has violated his constitutional rights in a criminal proceeding initiated against him on August 12, 2015. (DE#1:13). A review of the state court docket reveals that Plaintiff has a pending criminal case before Judge Venzer, case number F15-008755.¹ Plaintiff alleges that he has requested three times that the judge disqualify herself, but she refused to do so, although she cannot be impartial. (DE#1:17-18). He alleges that the judge's actions are clearly outside her subject matter jurisdiction and she is not entitled to judicial immunity. (DE#1:18).

¹ The undersigned takes judicial notice of the state criminal trial docket, which is available on-line at <https://www2.miami-dadeclerk.com/cjis/>. See Fed.R.Evid. 201.

Plaintiff alleges that he is always ill, he suffers from dizziness, headaches, joint pain, major headaches, night sweats, and insomnia because of these court proceedings and all the stress. (DE#1: 12, 14, 16, 18, 22). He states that he has been going to the prison clinic irregularly due to high blood pressure, headache, and chest pain. (DE#1: 24). Plaintiff seeks injunctive relief and damages in the amount of 14.5 million dollars for each claim. (DE#1: 10, 12, 14, 16, 18, 20, 22, 24). He is also seeking release from incarceration. (DE1#1:20).

IV. Discussion

A. Timeliness of the complaint regarding Judge Hersh, ASA Kipnis, and Attorney Still

There is no specific statute of limitations period for actions brought under §1983. Owens v. Okure, 488 U.S. 235, 239, 109 S.Ct. 573, 576, 102 L.Ed.2d 594 (1989). Instead, the statute of limitations period for §1983 claims is determined by the state's statute of limitations for personal injury claims. Id. at 240-41, 109 S.Ct. 573. "Florida's four-year statute of limitations [period] applies to" §1983 claims. Chappell v. Rich, 340 F.3d 1279, 1283 (11th Cir. 2003). For purposes of determining when the statute of limitations period began to run, a cause of action accrues when the plaintiff knew or should have known of the injury that forms the basis of his complaint and who caused it. Id. Plaintiff's §1983 claims against Judge Hersh, ASA Kipnis, and Attorney Still arose at the latest in 1989, according to his complaint. Plaintiff was, or should have been, aware of all the facts necessary to timely file his complaint. However, he filed the instant §1983 complaint approximately twenty-eight years later. His claims are clearly time-barred. See, e.g., Baker v. City of Hollywood, 391 Fed.Appx.

819, 821 (11th Cir. 2010) (unpublished opinion) (finding that the district court correctly concluded that plaintiff's complaint, filed beyond the four-year period was barred by the statute of limitations, where it was apparent that plaintiff was aware of the underlying facts giving rise to the complaint at the time when they occurred).

"Equitable tolling is appropriate when a [plaintiff] untimely files because of extraordinary circumstances that are both beyond his control and unavoidable even with diligence." Arce v. Garcia, 434 F.3d 1254, 1261 (11th Cir.2006) (internal quotation marks and citations omitted). Similarly, Florida law allows for equitable tolling of a statute of limitations when the plaintiff has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum. Williams v. Albertson's, Inc., 879 So.2d 657, 659 (Fla. 5th DCA 2004). However, nothing herein suggests that Plaintiff is entitled to equitable tolling of the limitations period. Therefore, Plaintiff's complaint against Judge Herish, ASA Kipnis, and Attorney Still should be dismissed as time-barred.

The undersigned notes that even if the complaint as to these three Defendants were not time-barred, it fails to state a claim against them. Judge Hirsh and ASA Kipnis are entitled to absolute immunity. The law is well settled that "judges are entitled to absolute judicial immunity from damages for those acts taken while they are acting in their judicial capacity unless they acted in the clear absence of all jurisdiction. This immunity applies even when the judge's acts are in error, malicious, or were in excess of his or her jurisdiction." Sibley v. Lando, 437 F.3d 1067, 1070 (11th Cir. 2005); Bolin v. Story, 225 F.3d 1234, 1239 (11th Cir. 2000)

(quoting Stump v. Sparkman, 435 U.S. 349, 356-57, 98 S.Ct. 1099, 1105, 55 L.Ed.2d 331 (1978)). Absolute judicial immunity means "immunity from suit, not just from ultimate assessment of damages." Mireles v. Waco, 502 U.S. 9, 11, 112 S.Ct. 286, 288, 116 L.Ed.2d 9 (1991) (citations omitted). Similarly, a prosecutor is absolutely immune from suit for all actions that he takes while performing his function as an advocate for the state or government. Rehberg v. Paulk, 611 F.3d 828, 837-38 (11th Cir. 2010), affirmed by Rehberg v. Paulk, 132 S.Ct. 1497 (2012).

Attorney Still is not a state actor and is not subject to suit under §1983. See, e.g., West v. Atkins, 487 U.S. 42, 50, 108 S.Ct. 2250, 101 L.Ed.2d 40 (1988) (a "criminal lawyer's professional and ethical obligations require him to act in a role independent of and in opposition to the State"); Polk County v. Dodson, 454 U.S. 312, 102 S.Ct. 445, 70 L.Ed.2d 509 (1981) (holding that a criminal defense counsel "does not act under color of state law when performing the traditional functions of counsel to a criminal defendant"); Mills v. Criminal Dist. Court No. 3, 837 F.2d 677, 678 (5th Cir. 1988) ("[P]rivate attorneys, even court-appointed attorneys, are not official state actors and ... are not subject to suit under section 1983.").

B. Judge Venzer

Plaintiff's suit against Judge Venzer stems from a pending criminal prosecution in case number F15-008755.²

Federal courts do not generally interfere with ongoing state courts proceedings, in which the plaintiff is represented by an

² The undersigned takes judicial notice of the state criminal trial docket, which is available on-line at <https://www2.miami-dadeclerk.com/cjis/>. See Fed.R.Evid. 201.

attorney. Principles of equity, comity and federalism in certain circumstances require abstention in deference to ongoing state proceedings. See Younger v. Harris, 401 U.S. 37 (1971). "Younger abstention is required when: (1) the proceedings constitute an ongoing state judicial proceeding; (2) the proceedings implicate important state interests; and (3) there is an adequate opportunity in the state proceedings to raise constitutional challenges." Christman v. Crist, 315 Fed. Appx. 231, 232 (11th Cir. 2009) (citing 31 Foster Children v. Bush, 329 F.3d 1255, 1274 (11th Cir. 2003)).

Here, Plaintiff's criminal case is still pending and Plaintiff has provided no reason for this Court to overlook the principles of abstention. He has not alleged that he is not presented with adequate opportunity to raise his constitutional challenges in the state proceedings. See Turner v. Broward Sheriff's Office, 542 Fed.Appx. 764, 766 (11th Cir. 2013) (citing Christman v. Crist, 315 Fed.Appx. 231, 232 (11th Cir. 2009); 31 Foster Children v. Bush, 329 F.3d 1255, 1275-82 (11th Cir. 2003)).

To the extent that the relief the Plaintiff seeks would interfere with the state court's judicial process or overturn the state court's decision on the merits, this Court lacks jurisdiction under principles of abstention. See generally Younger v. Harris, 401 U.S. 37 (1971); Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983); see, e.g., Hollins v. Wessel, 819 F.2d 1073, 1074 (11th Cir. 1987) ("The jurisdiction possessed by district courts is strictly original ..., and review of final judgments of a state court in judicial proceedings is reserved to the Supreme Court of the United States....").

Plaintiff's complaint appears to challenge the actions taken by Judge Venzer who is presiding over proceedings in his state case number F15-008755 and her refusal to recuse herself. Although Plaintiff alleges that the court lacks jurisdiction, he has failed to specify any facts that could support the inference that the state court lacks jurisdiction over Plaintiff.

The law is well settled that "[J]udges are entitled to absolute judicial immunity from damages for those acts taken while they are acting in their judicial capacity unless they acted in the clear absence of all jurisdiction. This immunity applies even when the judge's acts are in error, malicious, or were in excess of his or her jurisdiction." Sibley v. Lando, 437 F.3d 1067, 1070 (11th Cir. 2005); Bolin v. Story, 225 F.3d 1234, 1239 (11th Cir. 2000). The Plaintiff has not alleged any facts that demonstrate that Judge Venzer acted in the absence of jurisdiction. Therefore, the claim against Judge Venzer should be dismissed pursuant to 28 U.S.C. §§1915(e)(2)(B)(ii), for failure to state a claim upon which relief may be granted and because the judge is immune from suit.

To the extent Plaintiff seeks to be released from jail, a §1983 action is not the proper means to obtain that relief. The Supreme Court has specifically held that a civil rights action is the appropriate course of relief for an inmate "who is making a constitutional challenge to the conditions of his prison life, but not to the fact or length of his custody." Preiser v. Rodriguez, 411 U.S. 475, 499-500, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973) ("when a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release ..., his sole federal remedy is a writ of habeas corpus").

C. The Remaining Defendants

Plaintiff has not pled any facts whatsoever as to the remaining Defendants and it is unclear why each remaining Defendant is being sued. Thus, his complaint is subject to dismissal for failure to state a claim as to any of the remaining Defendants.

In addition, Plaintiff's complaint against Judge Murphs, Judge Birch, and Judge Boch is also subject to dismissal because judges, as already discussed above, are absolutely immune from prosecution. Sibley v. Lando, 437 F.3d 1067, 1070 (11th Cir. 2005); Bolin v. Story, 225 F.3d 1234, 1239 (11th Cir. 2000). Similarly, Plaintiff's complaint against Assistant State Attorneys Amanda Newman, Alyssa Delgado, and Gray Matthew is also subject to dismissal because ~~prosecutors are absolutely immune from suit for all actions that~~ they take while performing their function as advocates for the state or government. Rehberg v. Paulk, 611 F.3d 828, 837-38 (11th Cir. 2010), affirmed by Rehberg v. Paulk, 132 S.Ct. 1497 (2012).

Assistant Public Defenders Steven Bustamante and Patrick Nally, and Assistant Regional Counsels Fred J. Moldovan and Stephen Taylor, are also immune from §1983 suit, because they are not state actors, as the statute requires. Polk County v. Dodson, 454 U.S. 312, 325, 102 S.Ct. 445, 70 L.Ed.2d 509 (1981) (public defenders do not act as state actors, and they are thus not suable under §1983). It is therefore recommended that the claims against these Defendants be dismissed for failure to state a claim upon which relief may be granted and because they are immune from suit.

Plaintiff's conclusory claims to the extent they can be viewed as requesting preliminary and injunctive relief, must also be dismissed. Plaintiff has not made a sufficient showing to grant the requested relief. Granting or denying a temporary restraining order

or preliminary injunction rests in the discretion of the district court. Carillon Importers, Ltd. v. Frank Pesce Intern. Grp. Ltd., 112 F.3d 1125, 1126 (11th Cir. 1997) (citing United States v. Lambert, 695 F.2d 536, 539 (11th Cir. 1983)). The four factors to be considered in determining whether temporary restraining or preliminary injunctive relief should be granted are whether the movant has established: (1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest. Schiavo ex rel. Schindler v. Schiavo, 403 F.3d 1223, 1225-26 (11th Cir. 2005) (citing Ingram v. Ault, 50 F.3d 898, 900 (11th Cir. 1995)). "A preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly establishes the burden of persuasion as to the four requisites." All Care Nursing Serv. v. Bethesda Mem'l Hosp., 887 F.2d 1535, 1537 (11th Cir. 1989) (quotations omitted). Here, Plaintiff has not satisfied his burden of persuasion on any of the four elements.

V. Conclusion and Recommendation

Based upon all of the foregoing, it is recommended as follows:

- (1) The claims against Judge Hersh, ASA Kipnis, and Attorney Still be dismissed as time-barred;
- (2) The claims against Judge Murphs; Judge Venzer; Judge Birch; Judge Boch; Assistant State Attorneys, Amanda Newman, Alyssa Delgado, and Gray Matthew be dismissed with prejudice pursuant to 28 U.S.C. §1915(e)(2)(b)(ii), for failure to state a claim upon which relief can be granted and because they are immune from suit;

(3) The claims against Assistant Public Defenders Steven Bustamante and Patrick Nally; and Assistant Regional Counsels Fred J. Moldovan and Stephen Taylor be dismissed with prejudice pursuant to 28 U.S.C. §1915(e)(2)(b)(ii), for failure to state a claim upon which relief can be granted; and

(4) The case be closed.

Dismissal with leave to amend would not be appropriate here because an amendment would be futile in that any amended complaint on the basis of the allegations now presented would still be subject to summary dismissal. See Judd v. Sec'y of Fla., 2011 WL 2784422, *2 (M.D.Fla. June 3, 2011) (recommending that Plaintiff not be permitted to file an amended complaint in light of the Eleventh Circuit's decision in Johnson in that any amended complaint would be frivolous). See generally Spaulding v. Poitier, 548 Fed.Appx. 587, 594 (11th Cir. 2013) (holding that magistrate judge did not abuse his discretion in denying Plaintiff leave to amend his complaint because such an amendment would have been futile) (citing Cockrell v. Sparks, 510 F.3d 1307, 1310 (11th Cir. 2007)).

Objections to this report may be filed with the District Judge within fourteen (14) days of receipt of a copy of the report. Failure to file timely objections shall bar plaintiff from a de novo determination by the district judge of an issue covered in this report and shall bar the parties from attacking on appeal factual findings accepted or adopted by the district judge except upon grounds of plain error or manifest injustice. See 28 U.S.C. §636(b)(1); Thomas v. Arn, 474 U.S. 140, 149 (1985); Henley v. Johnson, 885 F.2d 790, 794 (1989); LoConte v. Dugger, 847 F.2d 745 (11th Cir. 1988); RTC v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993).

Signed this 18th day of May, 2017.



UNITED STATES MAGISTRATE JUDGE

Cc: Michael A. Maps, pro se
Inmate#: 150018235
Metro-West Detention Center
Inmate Mail/Parcels
13850 N.W. 41 Street
Miami, FL 33178

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 17-21167-CIV-KING

SIR MICHAEL A. MAPS,

Plaintiff,

vs.

THE HONORABLE DENNIS J. MURPHS,
THE HONORABLE ELLEN S. VENZER,
PATRICK NALLY, FRED J. MALDOVAN,
MATTHEW GRAY, and STEPHEN TAYLOR,

Defendants.

FINAL ORDER OF DISMISSAL

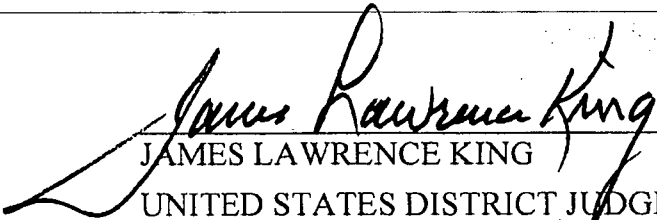
THIS CAUSE comes before the Court upon Magistrate Judge Patrick A. White's Report of Magistrate Judge (the "Report") (DE 9), filed May 19, 2017. The Court has additionally considered Plaintiff's Objections to the Report (DE 10), filed June 5, 2017.

The Report concludes the instant *pro se* action under the Civil Rights Act, 42 U.S.C. § 1983, should be dismissed as the acts complained of occurred outside the four-year statute of limitations for such claims. Indeed, in the thorough, well-written Report, Magistrate Judge White notes Plaintiff complains of actions taken during the prosecution of a criminal offense against him in 1988, and his claims arose, at the latest, in 1989. Thus, the limitations period expired over twenty years before the instant action was filed.

Based on the undersigned's *de novo* review of the record, the Court concludes the Report accurately states the facts and law of the case

Accordingly, it is **ORDERED, ADJUDGED, and DECREED** that the Complaint (DE 1) be, and the same is, hereby **DISMISSED WITH PREJUDICE** as time-barred, all pending motions are **DENIED AS MOOT**, and the Clerk of Court shall **CLOSE** this case.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 14th day of June, 2017.



JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge Patrick A. White
Clerk of Court
All counsel of record
Sir Michael A. Maps, *pro se*

Roman No. XII

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 17-CV-21167-KING

SIR MICHAEL A. MAPS,

Plaintiff,

vs.

THE HONORABLE ELLEN SUE VENZER,
PATRICK NALLY, FRED J. MALDOVAN,
MATTHEW GRAY, and STEPHEN TAYLOR,

Defendants.

ORDER DENYING MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS

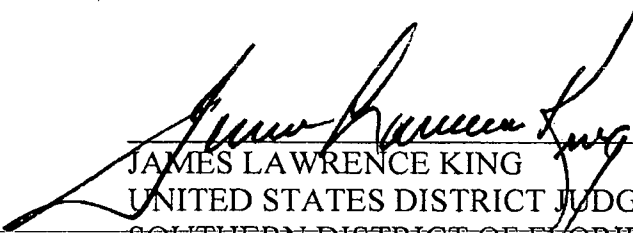
THIS MATTER comes before the Court upon Plaintiff's Motion for Leave to Appeal in Forma Pauperis (DE 15), filed June 29, 2017.

Motions for leave to appeal *in forma pauperis* are governed by 28 U.S.C. §1915 and Federal Rule of Appellate Procedure 24. According to 28 U.S.C. §1915, motions to proceed *in forma pauperis* may be denied, and cases may be dismissed, if the Court is satisfied that the action is frivolous. "[A]n IFP action is frivolous, and thus not brought in good faith, if it is 'without arguable merit either in law or fact.'" *Ghee v. Retailers Nat'l Bank*, 271 F. App'x 858, 860 (11th Cir. 2008) (citing *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001)); *see also Vale v. IRS*, 286 F. App'x 643, 647 (11th Cir. 2008).

Upon review of the record, the Court finds that Plaintiff's appeal of this matter is without arguable merit in the law or fact.

Accordingly, it is **ORDERED, ADJUDGED, and DECREED** that Plaintiff's Motion for Leave to Appeal in Forma Pauperis (**DE 15**) be, and the same is, hereby **DENIED**.

DONE AND ORDERED in Chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 5th day of July, 2017.



JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

cc: **Michael A. Maps, *pro se***
All counsel of record

Exhibit 2(a)

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 17-12971-A

MICHAEL A. MAPS,

Plaintiff-Appellant,

versus

JUDGE, 11TH JUDICIAL CIRCUIT, MIAMI DADE COUNTY,

Ellen Sue Venzer, in her official capacity,

PATRICK NALLY,

Assistant Public Defender, Miami dade County Public Defender's Office,

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MATTHEW GRAY,

Assistant State Attorney, Miami Dade Office of The State Attorney,

STEPHEN TAYLOR,

Assistant Regional Counsel, Office of Criminal Conflict and Civil Regional Counsel,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

Before: WILSON, MARTIN and JILL PRYOR, Circuit Judges.

BY THE COURT:

Michael A. Maps has filed a motion for reconsideration, pursuant to 11th Cir. R. 27-2, of this Court's November 15, 2017, order denying him leave to proceed and dismissing his appeal. Upon review, Maps's motion for reconsideration is DENIED because he has offered no new evidence or arguments of merit to warrant relief.

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