

FILED: August 1, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6187 (L)
(6:25-cv-00645-MGL)

RICHARD VANDALE CLOWNEY

Plaintiff - Appellant

v.

WALKER MILLER; WALT WILKINS; ALAN WILSON; STATE OF SOUTH
CAROLINA; PEYTON SWANEY;

Defendants - Appellees

No. 25-6336
(6:25-cv-00645-MGL)

RICHARD VANDALE CLOWNEY

Plaintiff - Appellant

v.

WILLIAM WALTER WILKINS, III; ALAN WILSON; STATE OF SOUTH
CAROLINA; PEYTON SWANEY; WALKER MILLER

Defendants - Appellees

Before KING, WYNN, and BERNER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Richard Vandale Clowney, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richard Vandale Clowney appeals the district court's order adopting the recommendation of the magistrate judge and dismissing Clowney's 42 U.S.C. § 1983 action. On appeal, we confine our review to the issues raised in the informal brief. *See* 4th Cir. R. 34(b). Because Clowney's informal brief does not challenge the basis for the district court's disposition, he has forfeited appellate review of the court's order. *See Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief."). Accordingly, we deny Clowney's motion to appoint counsel and affirm the district court's order. *Clowney v. State of South Carolina*, No. 6:25-cv-00645-MGL (D.S.C. April 8, 2025). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: September 17, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6187 (L)
(6:25-cv-00645-MGL)

RICHARD VANDALE CLOWNEY

Plaintiff - Appellant

v.

WALKER MILLER; WALT WILKINS; ALAN WILSON; STATE OF SOUTH
CAROLINA; PEYTON SWANEY;

Defendants - Appellees

No. 25-6336
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RICHARD VANDALE CLOWNEY

Plaintiff - Appellant

v.

WILLIAM WALTER WILKINS, III; ALAN WILSON; STATE OF SOUTH
CAROLINA; PEYTON SWANEY; WALKER MILLER

Defendants - Appellees

MANDATE

The judgment of this court, entered August 1, 2025, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Nwamaka Anowi, Clerk

Other Orders/Judgments

6:25-cv-00645-MGL Clowney v. State of South Carolina, et al et al **CASE CLOSED**
on 03/05/2025

APPEAL,CLOSED,COLUMBIA,JURY,PJG-
Inmate,PROSE

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 4/8/2025 at 2:33 PM EDT and filed on 4/8/2025

Case Name: Clowney v. State of South Carolina, et al et al

Case Number: 6:25-cv-00645-MGL

Filer:

WARNING: CASE CLOSED on 03/05/2025

Document Number: 36

Docket Text:

AMENDED ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DISMISSING THE COMPLAINT WITHOUT PREJUDICE AND WITHOUT ISSUANCE AND SERVICE OF PROCESS:After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Clowney's objections, adopts the incorporates it herein. It is therefore the judgment of the Court the complaint is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process. Signed by Honorable Mary Geiger Lewis on 4/8/2025. (apsn)

6:25-cv-00645-MGL Notice has been electronically mailed to:

6:25-cv-00645-MGL Notice will not be electronically mailed to:

Richard Vandale Clowney
1263
Greenville County Detention Center
20 McGee St.
Greenville, SC 29601

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=4/8/2025] [FileNumber=12381554-0]
] [8cf2d5cf9d1fe93edec673cba39f19748873dd7d0adae0cb27df9bd7ef8f994d83a
08f2c4bc0636f0b0d28661df28f031da27ec8c465543d47d7fe8326ec9934]]

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

Richard Vandale Clowney,

Plaintiff,

v.

State of South Carolina; Walker Miller; Walt
Wilkins; Peyton Swaney; Alan Wilson,¹

Defendants.

C/A No. 6:25-645-MGL-PJG

**ORDER AND
REPORT AND RECOMMENDATION**

The plaintiff, Richard Vandale Clowney, a self-represented state pretrial detainee, brings this civil rights action pursuant to 42 U.S.C. § 1983. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.) for initial review pursuant to 28 U.S.C. § 1915 and § 1915A. Having reviewed the Complaint in accordance with applicable law, the court concludes that it should be summarily dismissed without prejudice and without issuance and service of process.²

¹ On February 6, 2025, Plaintiff moved to amend the caption in this case. (ECF No. 7.) Plaintiff's motion is granted. The Clerk of Court is directed to modify the caption to reflect the defendants' names as listed in this Order and Report and Recommendation.

² Plaintiff has submitted an Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240), which is construed as a motion for leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a)(1), (2). A review of the motion reveals that Plaintiff does not have the funds to pay the first installment of the filing fee. Therefore, the amount due from Plaintiff is currently \$350. Plaintiff's motion for leave to proceed *in forma pauperis* is granted. (ECF No. 2.)

I. Procedural Background

Plaintiff is currently a pretrial detainee at the Greenville County Detention Center with pending criminal charges.³ This is the fourth complaint Plaintiff has filed in this court concerning his state criminal proceedings in the past three months. See C/A Nos. 0:25-466, 6:24-7241, 6:24-7243. Here, Plaintiff sues the local prosecutors assigned to his criminal cases and the state Attorney General. Plaintiff alleges the prosecutors have unconstitutionally withheld evidence, that he has been denied bond for unreasonable periods of time, and that warrants supporting his detention are invalid. He seeks monetary damages.

II. Discussion

A. Standard of Review

Under established local procedure in this judicial district, a careful review has been made of the *pro se* Complaint pursuant to the procedural provisions of the Prison Litigation Reform Act (“PLRA”), Pub. L. No. 104-134, 110 Stat. 1321 (1996), including 28 U.S.C. § 1915 and 28 U.S.C. § 1915A. The Complaint has been filed pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit, and is also governed by 28 U.S.C. § 1915A, which requires the court to review a complaint filed by a prisoner that seeks redress from a governmental entity or officer or employee of a governmental entity. See McLean v. United States, 566 F.3d 391 (4th Cir. 2009). Section 1915A requires, and § 1915 allows, a district court to dismiss the case upon a finding that the action is frivolous, malicious, fails to state a claim on which relief may be granted, or seeks

³ According to the Greenville County Thirteenth Judicial Circuit Public Index, Plaintiff has fifteen pending criminal cases.

monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); 28 U.S.C. § 1915A(b).

To state a claim upon which relief can be granted, the plaintiff must do more than make mere conclusory statements. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). Rather, the complaint must contain sufficient factual matter, accepted as true, to state a claim that is plausible on its face. Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 570. The reviewing court need only accept as true the complaint's factual allegations, not its legal conclusions. Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 555.

This court is required to liberally construe *pro se* complaints, which are held to a less stringent standard than those drafted by attorneys. Erickson v. Pardus, 551 U.S. 89, 94 (2007); King v. Rubenstein, 825 F.3d 206, 214 (4th Cir. 2016). Nonetheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. See Weller v. Dep't of Soc. Servs., 901 F.2d 387 (4th Cir. 1990); see also Ashcroft v. Iqbal, 556 U.S. 662, 684 (2009) (outlining pleading requirements under Rule 8 of the Federal Rules of Civil Procedure for "all civil actions").

B. Analysis

Liberally construed, the Complaint purports to raise claims under the Fourth and Fifth Amendments. However, Plaintiff's claims for damages are barred by Heck v. Humphrey, 512 U.S. 477 (1994). In Heck v. Humphrey, the United States Supreme Court held that a state prisoner's claim for damages is not cognizable under § 1983 where success of the action would implicitly question the validity of the conviction or duration of the sentence, unless the prisoner can demonstrate that the conviction or sentence has been previously invalidated. Id. at 487; see also Wilkinson v. Dotson, 544 U.S. 74, 81-82 (2005) ("[A] state prisoner's § 1983 action is

barred (absent prior invalidation)—no matter the relief sought (damages or equitable relief), no matter the target of the prisoner’s suit (state conduct leading to conviction or internal prison proceedings)—if success in that action would necessarily demonstrate the invalidity of confinement or its duration.”). Plaintiff has provided no factual allegations to show that he successfully challenged his conviction or sentence, and the court takes judicial notice of Plaintiff’s court records. See Fusaro v. Cogan, 930 F.3d 241 n.1 (4th Cir. 2019); Colonial Penn Ins. Co. v. Coil, 887 F.2d 1236, 1239-40 (4th Cir. 1989). Thus, Plaintiff’s claims for damages associated with his allegedly unlawful arrest and detention are barred at this time by the holding in Heck.

In addition, in South Carolina, solicitors are state officials that are subject to Eleventh Amendment immunity if sued in their official capacity. See Curry v. South Carolina, 518 F. Supp. 2d 661, 668 (D.S.C. 2007) (“However, because the Charleston County Solicitor’s Office ‘is an integral part of the State of South Carolina, it has Eleventh Amendment immunity.’”) (quoting Williams v. South Carolina, No. 006-2590-CMC-BM, 2006 WL 3843608, at *5 (D.S.C. Dec. 22, 2006)); see also S.C. Const. art. V, § 24; S.C. Code § 1-7-310. The defendants are thus immune from Plaintiff’s claims against them in their official capacities. And, to the extent Plaintiff’s allegations concern the defendants’ duties as advocates for the State, the defendants are entitled to absolute immunity from suit. See Imbler v. Pachtman, 424 U.S. 409, 430 (1976) (“Solicitors are immune from § 1983 claims where their challenged actions are intimately associated with the judicial phase of the criminal process.”) (internal quotation marks omitted); Lyles v. Sparks, 79 F.3d 372, 377 (4th Cir. 1996) (explaining “the Imbler Court specified that absolute immunity protects prosecutors’ decisions whether and when to prosecute”) (internal quotation marks omitted); Nero v. Mosby, 890 F.3d 106, 118 (4th Cir. 2018) (“A prosecutor acts as an advocate when she professionally evaluates evidence assembled by the police, decides to seek an arrest

warrant, prepares and files charging documents, participates in a probable cause hearing, and presents evidence at trial.”) (internal citations omitted).

III. Conclusion

For the foregoing reasons, it is recommended that the Complaint be dismissed without prejudice and without issuance and service of process.

February 13, 2025
Columbia, South Carolina


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

*The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”*

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

FILED: September 9, 2025

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CAROLINA; PEYTON SWANEY; WALKER MILLER

Defendants – Appellees

O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 40. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk

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