

FILED: September 30, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6546
(2:22-cv-00172-AWA-LRL)

FRANK PAUL FERRARA

Plaintiff - Appellant

v.

COMMONWEALTH OF VIRGINIA; DIRECTOR, VIRGINIA DEPARTMENT
OF CORRECTIONS; DIRECTOR, PAROLE AND PROBATION
DEPARTMENT; ATTORNEY GENERAL OF THE COMMONWEALTH OF
VIRGINIA

Defendants - Appellees

JUDGMENT

In accordance with the decision of this court, the judgment of the district
court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in
accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

PER CURIAM:

Frank Paul Ferrara appeals the district court's order dismissing his 42 U.S.C. § 1983 action for failure to state a claim. On appeal, we confine our review to the issues raised in the informal brief. *See* 4th Cir. R. 34(b). Because Ferrara'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 affirm the district court's judgment. 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: October 22, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6546
(2:22-cv-00172-AWA-LRL)

FRANK PAUL FERRARA

Plaintiff - Appellant

v.

COMMONWEALTH OF VIRGINIA; DIRECTOR, VIRGINIA DEPARTMENT
OF CORRECTIONS; DIRECTOR, PAROLE AND PROBATION
DEPARTMENT; ATTORNEY GENERAL OF THE COMMONWEALTH OF
VIRGINIA

Defendants - Appellees

M A N D A T E

The judgment of this court, entered September 30, 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

FILED: August 8, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6546
(2:22-cv-00172-AWA-LRL)

FRANK PAUL FERRARA

Plaintiff - Appellant

v.

COMMONWEALTH OF VIRGINIA; DIRECTOR, VIRGINIA DEPARTMENT
OF CORRECTIONS; DIRECTOR, PAROLE AND PROBATION
DEPARTMENT; ATTORNEY GENERAL OF THE COMMONWEALTH OF
VIRGINIA

Defendants - Appellees

O R D E R

The court grants leave to proceed in forma pauperis.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION,**

FRANK PAUL FERRARA,

Plaintiff,

v.

CASE NO. 2:22-CV-00172

COMMONWEALTH OF VIRGINIA, et al,

Defendants.

JUDGMENT IN A CIVIL CASE

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

Decision by the Court. This action came for decision by the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that Defendant Director, Parole and Probation Department is **DISMISSED** from this action, and the moving Defendants' Motion to Dismiss is **GRANTED**. All of Plaintiff's claims relating to his criminal conviction and civil commitment are **DISMISSED** for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1),3 and Plaintiff's First Amendment retaliation claims are **DISMISSED** for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). This civil action is **DISMISSED**.

DATED: May 28, 2025

**FERNANDO GALINDO
Clerk of Court**

/s/

By _____
J.L. Meyers
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FRANK PAUL FERRARA,

Plaintiff,

v.

ACTION NO. 2:22cv172

COMMONWEALTH OF VIRGINIA, *et al.*,

Defendants.

DISMISSAL ORDER

Plaintiff, an individual who is civilly committed to the Virginia Center for Behavioral Rehabilitation (“VCBR”), submitted this *pro se* action to redress alleged violations of his rights. Am. Compl., ECF No. 12. This matter is before the Court to address a Motion to Dismiss filed by Defendants Commonwealth of Virginia; Director, Virginia Department of Corrections; and Attorney General of the Commonwealth of Virginia (collectively, the “moving Defendants”). Mot. Dismiss, ECF No. 24. This matter is also before the Court to address Plaintiff’s Response to an Order of the Court directing Plaintiff to show cause why Defendant Director, Parole and Probation Department should not be dismissed from this action. *See* Order at 2–3, ECF No. 26; Resp. at 3, ECF No. 30.

For the reasons set forth below, Defendant Director, Parole and Probation Department is **DISMISSED** from this action; the moving Defendants’ Motion to Dismiss, ECF No. 24, is **GRANTED**; and this civil action is **DISMISSED**.

I. Relevant Background and Procedural History

The Court reviewed Plaintiff's initial Complaint in this matter pursuant to the Court's inherent authority to assess the frivolity of cases on its docket. *See* Order at 1–2, ECF No. 11 (noting that the screening provisions of 28 U.S.C. §§ 1915(e)(2) and 1915A did not apply in this case because Plaintiff paid the filing fee and was not a prisoner at the time he filed his initial Complaint). Upon such review, the Court found that Plaintiff's Complaint failed to set forth any cognizable claim for relief and was therefore "subject to dismissal as frivolous pursuant to the inherent authority of the Court." *Id.* at 4. Among other deficiencies, the Court noted that Plaintiff's claims were "barred under *Heck v. Humphrey*, 512 U.S. 477 (1994), and related cases." *Id.* at 3. In addition, the Court noted that Plaintiff's initial Complaint sought review by this Court of judgments rendered by state courts, and that such review is prohibited under the *Rooker-Feldman* doctrine. *Id.* at 4. Although dismissal of this action was warranted, the Court provided Plaintiff with an opportunity to file an Amended Complaint. *See id.* at 4–5. Thereafter, Plaintiff filed his Amended Complaint, ECF No. 12.

Upon review of Plaintiff's Amended Complaint, the Court noted that it remained skeptical as to the viability of Plaintiff's claims. Order at 2, ECF No. 16. Nevertheless, in deference to Plaintiff's *pro se* status, the Court directed that service be made upon the Defendants. *Id.* On May 31, 2024, counsel for the moving defendants filed Waivers of Service on behalf of the moving Defendants. Waivers of Service, ECF Nos. 19, 20, 21. Counsel also filed a Notice of Declination of Service for

Defendant Director, Parole and Probation Department, wherein counsel asserts that no such position exists. *See* Notice Declination Serv., ECF No. 22.

On July 2, 2024, the moving Defendants filed a Motion to Dismiss. Mot. Dismiss, ECF No. 24; Mem. Supp., ECF No. 25. Plaintiff did not initially respond to the dismissal motion and mailings from the Court to Plaintiff were returned as undeliverable. *See* Order at 1–2, ECF No. 26. By Order entered on October 16, 2024, the Court ordered Plaintiff to update his address within twenty-one days. *Id.* at 2. The Court also ordered Plaintiff to show cause why Defendant Director, Parole and Probation Department should not be dismissed from this action based on defense counsel's prior representation that no such position exists in Virginia. *Id.* at 2–3. Finally, the Court ordered Plaintiff to file any intended response to the moving Defendants' pending dismissal motion within twenty-one days and warned Plaintiff of the consequences of failing to do so. *Id.* at 1–2; *see* Notice, ECF No. 26-1. The Court's October 16, 2024 Order was returned as undeliverable. Notice Undeliverable Mail, ECF No. 27.

Plaintiff subsequently notified the Court that he had been incarcerated in the Piedmont Regional Jail since July 9, 2024, but would be returning to the VCBR on approximately December 18, 2024. *See* Submission, ECF No. 28. Accordingly, by Order entered on January 8, 2025, the Court directed the Clerk to resend a copy of the Court's October 16, 2024 Order to Plaintiff. Order at 2, ECF No. 29. The Court again ordered Plaintiff to file any intended response to the moving Defendants' dismissal motion within twenty-one days and again advised Plaintiff of the consequences of failing to do so. *See id.* The Court also again ordered Plaintiff to show

cause why Defendant Director, Parole and Probation Department should not be dismissed from this action. *Id.*

Plaintiff timely filed a Response on January 22, 2025, ECF No. 30. Upon review of Plaintiff's Response, it appeared to the Court that Plaintiff may have been requesting an extension of time to file an additional response. *See Order at 1, ECF No. 32.* In an abundance of caution, the Court, by Order entered on February 12, 2025, ordered Plaintiff to file any intended additional response within thirty days. *Id.* at 2. On March 20, 2025, Plaintiff filed a submission clarifying that he intended his January 22, 2025 Response to be his complete response. *See Submission at 1, ECF No. 34.* The moving Defendants' dismissal motion is now ripe for disposition.

II. Defendant Director, Parole and Probation Department

Plaintiff named Director, Parole and Probation Department as a Defendant in this action. *See Am. Compl. at 1.* Counsel for the moving Defendants, however, filed a Notice of Declination of Service indicating that no such position exists. *See Notice Declination Serv., ECF No. 22.* Accordingly, the Court ordered Plaintiff to show cause why Defendant Director, Parole and Probation Department should not be dismissed from this action based upon counsel's representation that no such position exists. *See Order at 2–3, ECF No. 26; Order at 1–2, ECF No. 29.*

In response, Plaintiff asserts that “the ‘Department of Parole and Probation’ does exist and, by extension, there must be an individual that leads the direction of that department.” Resp. at 3. The Court finds Plaintiff's response unavailing. Under Virginia law, the Director of the Department of Corrections “direct[s] and supervise[s] the work of all probation and parole officers.” Va. Code Ann. § 53.1-140 (2025). The

Director of the Department of Corrections is already a Defendant in this action. *See* Am. Compl. at 1. Accordingly, Defendant Director, Parole and Probation Department is terminated from this action.

III. Plaintiff's Amended Complaint

Plaintiff alleges in his Amended Complaint that on April 11, 2017, he “was arrested for exercising his right to practice his chosen religion” after attending “worship services at the Kingdom Hall of Jehovah’s Witnesses.”¹ Am. Compl. at 2. Plaintiff states that his probation was revoked on July 14, 2017, for failing to comply with the instructions of his probation officer. *Id.* A judge of the Fauquier County Circuit Court sentenced Plaintiff to an active sentence of one year and three months incarceration for the probation violation. *Id.* “On or about December 5, 2017, the Director of the VDOC submitted the Plaintiff’s name to the Civil Review Committee (CRC) for review for civil commitment.” *Id.* Plaintiff was subsequently civilly committed as a sexually violent predator. *See id.* at 3. The Virginia Supreme Court rejected Plaintiff’s appeal of the circuit court’s commitment order. *See id.* at 3–4; *Ferrara v. Commonwealth*, 854 S.E.2d 652 (Va. 2021), *cert. denied*, 142 S. Ct. 814 (2022).

Plaintiff asserts that his First Amendment rights were violated in relation to his initial arrest for violating his probation. Am. Compl. at 2, 10. The Court construes this claim as a First Amendment retaliation claim. Plaintiff also claims that his

¹ The Court employs the pagination assigned to the Amended Complaint by the CM/ECF docketing system. In addition, unless otherwise noted, the Court corrects any capitalization, punctuation, and grammatical errors in its references to the Amended Complaint.

constitutional rights under the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments were violated in relation to his prosecution for violating his probation as well as his subsequent commitment as a sexually violent predator. *See id.* at 1–10. Plaintiff also claims that various provisions of Virginia’s Sexually Violent Predator Act (“SVPA”) were violated during his civil commitment proceedings. *See id.*; *see also* Va. Code Ann. § 37.2-900, *et seq.* (2025) (provisions of Virginia Code governing the civil commitment of sexually violent predators). Plaintiff states that he is requesting “federal review” of the “abuse of discretion by the [Fauquier County] Circuit Court” and the Virginia Supreme Court. Am. Compl. at 1. As relief, Plaintiff seeks “a new civil commitment trial”; “dismissal of the civil commitment petition against him and his immediate release”; or “any other relief” the Court “may see as fit.” *Id.* at 10.

IV. Standards of Review

The moving Defendants seek dismissal of this action pursuant to 12(b)(1) and/or 12(b)(6) of the Federal Rules of Civil Procedure. Mem. Supp. at 4–8. Dismissal is warranted under Rule 12(b)(1) for any claims over which the Court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). Plaintiff bears the burden of proving that subject matter jurisdiction exists by a preponderance of the evidence. *United States ex rel. Vuyyuru v. Jadhav*, 555 F.3d 337, 347–48 (4th Cir. 2009). A Rule 12(b)(1) motion to dismiss should be granted “only if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law.” *Evans v. B.F. Perkins Co.*, 166 F.3d 642, 647 (4th Cir. 1999) (quoting *Richmond, Fredericksburg & Potomac R.R. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991)).

A motion to dismiss under Rule 12(b)(6) should be granted if a complaint fails to “allege facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A Rule 12(b)(6) motion “tests the sufficiency of a complaint and ‘does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.’” *Johnson v. Portfolio Recovery Assocs., LLC*, 682 F. Supp. 2d 560, 567 (E.D. Va. 2009) (quoting *Republican Party of N.C. v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992)).

In considering a motion to dismiss for failure to state a claim, a plaintiff’s well-pleaded allegations are taken as true, and the complaint is viewed in the light most favorable to the plaintiff. *Mylan Labs., Inc. v. Matkari*, 7 F.3d 1130, 1134 (4th Cir. 1993); *see also Martin*, 980 F.2d at 952. This principle applies only to factual allegations, however, and “a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). Further, while the Court liberally construes *pro se* complaints, *Gordon v. Leake*, 574 F.2d 1147, 1151 (4th Cir. 1978), it will not act as the plaintiff’s advocate and develop, *sua sponte*, statutory and constitutional claims that the plaintiff failed to clearly raise on the face of his or her complaint. *See Brock v. Carroll*, 107 F.3d 241, 243 (4th Cir. 1997) (Luttig, J., concurring); *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985).

That said, the Court is mindful that, “where, as here, there is a *pro se* complaint raising civil rights issues,’ ‘liberal construction of the pleadings is particularly appropriate.’” *Fauconier v. Clarke*, 966 F.3d 265, 276 (4th Cir. 2020)

(quoting *Martin v. Duffy*, 858 F.3d 239, 248 (4th Cir. 2017)). Moreover, when the Court is analyzing “a Rule 12(b)(6) motion . . . testing the sufficiency of a civil rights complaint, ‘[the Court] must be especially solicitous of the wrongs alleged’ and ‘must not dismiss the complaint unless it appears to a certainty that the plaintiff would not be entitled to relief *under any legal theory which might plausibly be suggested by the facts alleged.*’” *Edwards v. City of Goldsboro*, 178 F.3d 231, 244 (4th Cir. 1999) (quoting *Harrison v. U.S. Postal Serv.*, 840 F.2d 1149, 1152 (4th Cir. 1988)).

V. Analysis

A. Lack of Subject Matter Jurisdiction under Rule 12(b)(1)

The moving Defendants argue that Plaintiff’s claims should be dismissed for lack of subject matter jurisdiction because this action is barred by the *Rooker-Feldman* doctrine. Mem. Supp. at 4–6. Plaintiff does not address this argument in his Response. *See* Resp. at 3–11.

The *Rooker-Feldman* doctrine is a jurisdictional bar that prohibits federal district courts from reviewing final state-court judgments. *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 483 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). Under this doctrine, federal courts are prohibited from exercising jurisdiction over issues actually decided by a state court, as well as those issues that are “inextricably intertwined with the questions ruled upon by a state court.” *Feldman*, 460 U.S. at 483.

Rooker-Feldman applies under the following circumstances: (i) “the federal court plaintiff lost in state court”; (ii) the plaintiff “complains of ‘injuries caused by state-court judgments’”; (iii) “the state-court judgment became final before the

proceedings in federal court commenced”; and (iv) “the federal plaintiff ‘invit[es] district court review and rejection’ of the state-court judgments. *Willner v. Frey*, 243 F. App’x 744, 746 (4th Cir. 2007) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)). In essence, the *Rooker-Feldman* doctrine prevents a party “from seeking what in substance would be an appellate review of the state judgment in a United States district court.” *Am. Reliable Ins. Co. v. Stillwell*, 336 F.3d 311, 316 (4th Cir. 2003) (citation omitted); *see also Willner*, 243 F. App’x at 747 (explaining that “the key inquiry is not whether the state court ruled on the precise issue raised in federal court, but whether the ‘state-court loser who files suit in federal court seeks redress for an injury caused by the state-court decision itself” (citation omitted)).

Here, it is clear that all of these factors are met. Plaintiff lost in Fauquier County Circuit Court and in the Virginia Supreme Court and those judgments became final prior to commencement of the instant action. *See Am. Compl. at 1–10; Ferrara v. Commonwealth*, 854 S.E.2d 652 (Va. 2021). Plaintiff also complains of injuries caused by the state-court judgments, i.e., his incarceration and subsequent commitment as a sexually violent predator, as well as various violations of his rights during both his criminal and civil proceedings. *See Am. Compl. at 1–10*. Finally, Plaintiff unquestionably requests that this Court review and overturn the state-court judgments *See id. at 1* (Plaintiff stating that he comes before this Court seeking “federal review” of the “abuse of discretion by the [state] circuit court [which was] upheld by the Virginia Supreme Court”); *see also id. at 10* (Plaintiff requesting as relief that this Court overturn the judgments of the state courts and either grant him

a new civil commitment hearing or dismiss the commitment order and order his immediate release). Plaintiff is plainly seeking appellate review by this Court of the state courts' decisions, and under *Rooker-Feldman* the Court has no jurisdiction to consider any of Plaintiff's claims relating to his criminal trial or civil commitment proceeding. *See Willner*, 243 F. App'x at 747 (Fourth Circuit affirming the district court's finding that *Rooker-Feldman* barred plaintiffs' claims where it was clear that plaintiffs sought reversal of the state court's judgments); *Am. Reliable Ins. Co.*, 336 F.3d at 316–17 (same). Accordingly, the Court finds that all of Plaintiff's claims relating to his criminal trial or civil commitment must be **DISMISSED** pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction.

B. Failure to State a Claim under Rule 12(b)(6)

The moving Defendants also assert that Plaintiff's Amended Complaint should be dismissed because Plaintiff fails to state any claim upon which relief could be granted. *See Mem. Supp.* at 7–8. In response, Plaintiff does not directly address the moving Defendants' arguments and primarily continues to attack the validity of his civil commitment to the VCBR. *See Resp.* at 3–10.

1. First Amendment Retaliation Claim

As discussed above, all of Plaintiff's claims relating to his criminal trial and civil commitment fail because the Court lacks subject matter jurisdiction over such claims under the *Rooker-Feldman* doctrine. *See supra* Part V.A. However, Plaintiff also brings First Amendment retaliation claims relating to his initial arrest for violating his probation. *See Am. Compl.* at 2. Specifically, Plaintiff alleges that he was “arrested for exercising his right to practice his chosen religion without governmental

interference” after attending “worship services at the Kingdom Hall of Jehovah’s Witnesses” on April 11, 2017. *Id.* Plaintiff further claims that “his arrest took place after he filed three complaints . . . against his probation officer.”² *Id.* Based upon the allegations set forth in the Amended Complaint, these claims are likely not subject to dismissal for lack of subject matter jurisdiction under *Rooker-Feldman*.

Plaintiff’s First Amendment retaliation claims arise, if at all, under 42 U.S.C. § 1983. To state a viable claim under § 1983, a plaintiff must allege that a person acting under color of state law deprived him or her of a constitutional right or of a right conferred by a law of the United States. *See Dowe v. Total Action Against Poverty in Roanoke Valley*, 145 F.3d 653, 658 (4th Cir. 1998). Additionally, “a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676.

Here, Plaintiff does not allege any conduct on the part of the moving Defendants with respect to his arrest. *See Am. Compl. at 2, 10.* Furthermore, “[g]overnment officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of *respondeat superior*.” *Iqbal*, 556 U.S. at 676. For these reasons, Plaintiff’s First Amendment retaliation claims are **DISMISSED** pursuant to Rule 12(b)(6) for failure to state a claim upon which relief could be granted.

² Plaintiff identifies his probation officer as Christy Green. Am. Compl. at 2, ECF No. 12. Ms. Green is not named as a Defendant in this action.

2. Plaintiff's Remaining Constitutional and Statutory Claims

With respect to Plaintiff's constitutional claims relating to his criminal trial and civil commitment hearing, the Court finds that even if the Court had subject matter jurisdiction to consider such claims, these claims are barred under *Heck v. Humphry* and related cases. *Heck*, 512 U.S. 477, 486 (1994) (explaining that civil actions, such as the instant action, "are not appropriate vehicles for challenging the validity of outstanding criminal judgments"). Under *Heck* and its progeny, Plaintiff's constitutional claims relating to his criminal conviction and civil commitment are "not cognizable under § 1983" because "a judgment in favor of [Plaintiff] would necessarily imply the invalidity" of Plaintiff's criminal conviction or his civil commitment. *Heck*, 512 U.S. at 487; *see Cummins v. Land*, No. 3:21cv556, 2022 WL 17539103, at *9 (E.D. Va. Dec. 8, 2022) (holding that *Heck* barred a plaintiff's claims attacking the validity of his civil commitment as a sexually violent predator); *Turner v. Johnson*, No. 1:11cv1086, 2011 WL 9155786, at *1 (E.D. Va. Oct. 21, 2011) (same), *aff'd*, 466 F. App'x 214 (4th Cir. 2012). Accordingly, all of Plaintiff's constitutional claims relating to his criminal conviction and civil commitment are subject to dismissal on this basis. *See Cummins*, 2022 WL 17539103, at *9 (dismissing the plaintiff's *Heck*-barred claims as "frivolous and for failure to state a claim").

Plaintiff's state-law claims alleging violations of the SVPA fare no better. Plaintiff asserts in his Amended Complaint that the moving Defendants violated Virginia Code §§ 37.2-901, 903, 904, 905.1, 906, 907, and 908. Am. Compl. at 1–10. These provisions of the SVPA govern procedures relating to the civil commitment of sexually violent predators. Plaintiff fails to show that any of these statutes provide

for a private right of action. *See Henderson v. Fairfax-Falls Church Cnty. Serv. Bd.*, No. 1:18cv825, 2018 WL 6037522, at *5 (E.D. Va. Nov. 15, 2018) (noting that “[a] Virginia court ‘would never infer a ‘private right of action’ based solely on a bare allegation of a statutory violation” (citation omitted)). Likewise, the Court’s review of the SVPA and relevant case law reveals no such private right of action. Accordingly, even if the Court had subject matter jurisdiction to address Plaintiff’s state-law claims, all of Plaintiff’s state-law claims are subject to dismissal under Rule 12(b)(6) for failure to state a claim upon which relief could be granted. *See id.* at *5.

VI. Conclusion

For the reasons stated above, Defendant Director, Parole and Probation Department is **DISMISSED** from this action, and the moving Defendants’ Motion to Dismiss, ECF No. 24, is **GRANTED**. All of Plaintiff’s claims relating to his criminal conviction and civil commitment are **DISMISSED** for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1),³ and Plaintiff’s First Amendment retaliation claims are **DISMISSED** for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). This civil action is **DISMISSED**.

Plaintiff may appeal from this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. The written notice must be received by the Clerk within thirty days of the date of entry of this Dismissal Order. If Plaintiff

³ The Court notes that all of these claims would also be subject to dismissal under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. *See supra* Parts V.B.1–2.

wishes to proceed *in forma pauperis* on appeal, the application to proceed *in forma pauperis* shall be submitted to the Clerk of the United States Court of Appeals, Fourth Circuit, 1100 E. Main Street, Richmond, Virginia 23219.

The Clerk is **DIRECTED** to please send a copy of this Dismissal Order to Plaintiff Frank Paul Ferrara and to counsel for Defendants.

IT IS SO ORDERED.

/s/

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
May 28, 2025