

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1777

ROBERT LAUTER,

Plaintiff - Appellant,

v.

JOSEPH JOHN KATOSKIE, III; KAMALA LANETTI, personally and in her capacity as attorney for the School Board of Va. Beach; GEORGE SCHAEFFER, personally and in his capacity as Clerk for the Circuit Court of Norfolk; CRYSTAL PORTER, personally and in her capacity as Deputy Clerk for the Circuit Court of Norfolk; JOHN VOLLINO, personally and in his capacity as the Deputy Clerk for the Va. Court of Appeals; LESLIE SMITH, personally and in her capacity as former Chief Deputy Clerk for the Va. Supreme Court now just Deputy Clerk of said court; PATRICK FOLEY, personally and in his capacity as Assistant Regional Counsel for the Environmental Protection Agency; ROBERT LOFTON, former Law Clerk of the Virginia Supreme Court and counsel of record for Glaxosmithkline in the matter of Lauter v Glaxosmithkline; GLAXOSMITHKLINE,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda L. Wright Allen, District Judge. (2:23-cv-00649-AWA-RJK)

Submitted: October 16, 2025

Decided: October 20, 2025

Before KING, AGEE, and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Lauter, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Lauter appeals the district court's order denying his motion to recuse and dismissing his amended complaint under 28 U.S.C. § 1915(e)(2)(B). We have reviewed the record and find no reversible error. Accordingly, we deny Lauter's motion for judicial notice and affirm the district court's order. *Lauter v. Katoskie*, No. 2:23-cv-00649-AWA-RJK (E.D. Va. May 30, 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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

ROBERT LAUTER,

Plaintiff,

v.

ACTION NO. 2:23cv649

JOSEPH JOHN KATOSKIE, III, *et al.*,

Defendants.

DISMISSAL ORDER

This matter is before the Court to review the sufficiency of *pro se* Plaintiff Robert Lauter's ("Plaintiff") response to an Order to Show Cause issued by the Court. This matter is also before the Court on Plaintiff's Motion to Recuse, ECF No. 4. For the reasons set forth below, Plaintiff's Motion to Recuse, ECF No. 4, is **DENIED**, and this action is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2).

I. Relevant Background

The Court previously granted Plaintiff's request to proceed *in forma pauperis*, i.e., without paying the filing fees. Order Show Cause at 1, ECF No. 2. When a plaintiff is granted authorization to proceed *in forma pauperis*, the Court is required to review the operative complaint and determine, among other things, whether it states a claim on which relief may be granted. *See Clarke v. Virginia*, No. 3:16cv126, 2016 U.S. Dist. LEXIS 72832, at *2-3 (E.D. Va. June 3, 2016), *aff'd*, 2016 U.S. App. LEXIS 18592 (4th Cir. Oct. 17, 2016); *see also* 28 U.S.C. § 1915(e)(2) (explaining that

“the court shall dismiss the case at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted”). A complaint should survive only when a plaintiff has set forth “enough facts to state a claim to relief that is plausible on its face.”¹ *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

After the Court granted Plaintiff *in forma pauperis* status, the Court reviewed Plaintiff's Complaint. Order Show Cause at 2–3. Upon review, the Court determined that the Complaint “fail[ed] to comply with the federal pleading standards set forth in Rules 8 and 10 of the Federal Rules of Civil Procedure.”² *Id.* at 2. The Court further determined that Plaintiff's Complaint “consist[ed] of a lengthy, confusing narrative” that did not “clearly identify Plaintiff's intended legal claims” and did not “allege facts sufficient to state any plausible claims for relief against Defendants.” *Id.* at 2–3.

Although Plaintiff's Complaint was subject to dismissal under 28 U.S.C. § 1915(e)(2), the Court chose not to immediately dismiss this action. *Id.* at 3. Instead, in deference to Plaintiff's *pro se* status, the Court provided Plaintiff an opportunity to amend his Complaint. *Id.* The Court stated:

Plaintiff is **ORDERED** to **SHOW CAUSE** why this action should not be dismissed by filing an Amended Complaint within thirty days of the

¹ Although the Court is required to liberally construe the pleadings of *pro se* litigants, the Court is prohibited from acting as a *pro se* litigant's advocate and developing claims that the litigant failed to raise on the face of the complaint. *Hardnett v. M&T Bank*, 204 F. Supp. 3d 851, 856 (E.D. Va. Aug. 31, 2016).

² Pursuant to Federal Rule 8, a claim for relief must contain (i) a “short and plain statement of the claim showing that the pleader is entitled to relief;” and (ii) allegations that are “simple, concise, and direct.” Fed. R. Civ. P. 8(a)(2); Fed. R. Civ. P. 8(d)(1). Federal Rule 10 provides that “a party must state its claims . . . in numbered paragraphs, each limited as far as practicable to a single set of circumstances.” Fed. R. Civ. P. 10(b).

date of entry of this Order to Show Cause. Plaintiff is ADVISED that the Amended Complaint will supersede the initial Complaint and will become the operative complaint in this action. As such, the Amended Complaint must:

- (i) be clearly labeled as Plaintiff's Amended Complaint;
- (ii) comply with the federal pleading standards set forth in Federal Rules 8 and 10;
- (iii) clearly identify the Defendant(s) against whom Plaintiff intends to assert claims;
- (iv) clearly state, with specificity, each claim that Plaintiff intends to assert against each particular Defendant;
- (v) clearly set forth all factual allegations upon which each asserted claim is based; and
- (vi) clearly identify a valid basis for the Court's jurisdiction over all asserted claims.

Id. (footnote omitted). The Court warned Plaintiff that this case may be dismissed if he failed to comply with the terms of the Court's Order to Show Cause. *Id.* (citing Fed. R. Civ. P. 41(b)).

II. Plaintiff's Motion to Recuse

Shortly after the Court entered its Order to Show Cause, Plaintiff filed a Motion to Recuse. Mot. Recuse, ECF No. 4. In his motion, Plaintiff argues that the undersigned should be recused from this action because (i) the undersigned presided over a prior case filed by Plaintiff, and "one federal judge" should not "handl[e] all actions by a *pro se* litigant"; (ii) the undersigned is "feign[ing] confusion over [the] subject matter" of this case; (iii) the undersigned "is ideologically tied to the Obama Administration"; (iv) the undersigned is, in Plaintiff's "estimation," "an advocate of child abuse"; and (v) the undersigned presided over a case regarding same-sex marriage in which one of the Defendants in the instant action, George Schaeffer, was a named party. *Id.* at 1.

Pursuant to 28 U.S.C. § 455(a), a judge “shall disqualify himself [or herself] in any proceeding in which his [or her] impartiality might reasonably be questioned.”

28 U.S.C. § 455(a). Section 455(b) identifies several specific scenarios that mandate recusal, including:

- (1) Where he [or she] has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
- (2) Where in private practice he [or she] served as lawyer in the matter in controversy, or a lawyer with whom he [or she] previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
- (3) Where he [or she] has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
- (4) He [or she] knows that he [or she], individually or as a fiduciary, or his [or her] spouse or minor child residing in his [or her] household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
- (5) He [or she] or his [or her] spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
 - (i) Is a party to the proceeding, or an officer, director, or trustee of a party;
 - (ii) Is acting as a lawyer in the proceeding;
 - (iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;
 - (iv) Is to the judge’s knowledge likely to be a material witness in the proceeding.

28 U.S.C. § 455(b).

Upon review, the Court finds that Plaintiff has not adequately shown that any of the specific scenarios set forth in § 455(b) apply to the case at hand, and there is

nothing in the record to indicate that the undersigned's impartiality may reasonably be questioned in this matter. Accordingly, Plaintiff's Motion to Recuse, ECF No. 4, is **DENIED**.

III. Plaintiff's Amended Complaint

Plaintiff timely filed an Amended Complaint in response to the Court's Order to Show Cause. Am. Compl., ECF No. 5. Plaintiff's Amended Complaint, which is difficult to decipher, consists primarily of confusing allegations regarding previous lawsuits that Plaintiff filed against GlaxoSmithKline, certain abuse that Plaintiff suffered as a child, certain conflicts that Plaintiff had with his mother and her husband, and certain state court proceedings that occurred following the death of Plaintiff's mother regarding the administration of her estate. *Id.* at 1–10.

Plaintiff's Amended Complaint does not clearly identify the legal claims that Plaintiff seeks to assert against Defendants in this action or the factual basis for such claims. *Id.* However, the Amended Complaint contains references to the Seventh and Fourteenth Amendments to the United States Constitution; *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971); and 42 U.S.C. §§ 1983, 1985, and 1986. *Id.* at 2.

IV. The Court's Statutory Screening Obligation

As noted above, the Court is obligated, pursuant to 28 U.S.C. § 1915(e)(2), to review complaints filed by litigants who are proceeding *in forma pauperis*. See 28 U.S.C. § 1915(e)(2). If, upon review, the Court determines that the complaint fails

to state a claim on which relief may be granted, the Court is required to dismiss the action. *Id.*

In determining whether a complaint states a claim under § 1915(e)(2), courts utilize “the familiar standard for a motion to dismiss” under Federal Rule 12(b)(6). *Sweet v. N. Neck Reg’l Jail*, 857 F. Supp. 2d 595, 596 (E.D. Va. 2012) (citation omitted). To survive a challenge under Rule 12(b)(6), “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice” to meet this standard. *Id.* Instead, a plaintiff’s “[f]actual allegations must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. Further, a court “is not bound to accept as true a legal conclusion couched as a factual allegation.” *Iqbal*, 556 U.S. at 678.

Upon review, the Court finds that Plaintiff’s Amended Complaint, like his initial Complaint, falls far short of stating any plausible claims for relief against Defendants. Plaintiff’s Seventh Amendment claim appears to be based on the fact that Plaintiff’s prior lawsuits were dismissed prior to trial; however, as courts have explained, “a district court’s resolution of a case based on a matter of law, before trial, does not violate the Seventh Amendment.” *Miller v. Byers*, 833 F. App’x 225, 228 (11th Cir. 2020). Similarly, while Plaintiff appears to claim that Defendants violated his due process rights under the Fourteenth Amendment, conspired to interfere with his civil rights in violation of 42 U.S.C. § 1985, and/or neglected to prevent a conspiracy

to interfere with his civil rights in violation of 42 U.S.C. § 1986, the Court finds that the factual allegations set forth in the Amended Complaint, liberally construed, fail to adequately support such claims. *See* Am. Compl. at 1–10; *see also Gedrich v. Fairfax Cnty. Dep't of Family Servs.*, 282 F. Supp. 2d 459–60, 466 (E.D. Va. 2003) (summarizing the requirements of substantive and procedural due process claims under the Fourteenth Amendment); *A Soc'y Without a Name v. Virginia*, 655 F.3d 342, 346 (4th Cir. 2011) (summarizing the required elements of a § 1985 conspiracy claim); *Clear Sky Car Wash, LLC v. City of Chesapeake*, 910 F. Supp. 2d 861, 889–90 (E.D. Va. 2012) (explaining that a plausible § 1985 claim requires more than “a bare assertion of conspiracy” and that there must be “concrete factual allegations” to plausibly “show an agreement or a meeting of the minds by [the] defendants to violate the [plaintiff's] constitutional rights”); *Davis v. Hudgins*, 896 F. Supp. 561, 571 (E.D. Va. 1995) (explaining that a § 1986 claim “is dependent upon the existence of a claim under [§] 1985,” and that “the failure of a claim under [§] 1985 defeats a [§] 1986 claim”).

Under these circumstances, the Court finds that it is obligated to dismiss this action pursuant to 28 U.S.C. § 1915(e)(2). When a district court dismisses an action pursuant to 28 U.S.C. § 1915(e)(2), and “the district court has already afforded [the plaintiff] an opportunity to amend,” the United States Court of Appeals for the Fourth Circuit has explained that “the district court has the discretion to afford [the plaintiff] another opportunity to amend[,] or [it] can ‘dismiss the complaint with prejudice.’” *Smith v. Forrester*, No. 4:18cv3317, 2019 U.S. Dist. LEXIS 35042, at *5 (D.S.C. Feb.

6, 2019) (quoting *Workman v. Morrison Healthcare*, 724 F. App'x 280 (4th Cir. 2018)) (recommending the dismissal of a *pro se* action under 28 U.S.C. § 1915 with prejudice after the plaintiff, despite receiving an opportunity to amend, failed to state a claim on which relief could be granted), *adopted by* 2019 U.S. Dist. LEXIS 33852 (D.S.C. Mar. 4, 2019); *see Gooden v. U.S. Navy/U.S. Marine Corps*, 791 F. App'x 411, 411 (4th Cir. 2020) (affirming the district court's dismissal of a *pro se* action with prejudice pursuant to 28 U.S.C. § 1915(e)(2)).

Here, the Court has already provided Plaintiff with an opportunity to amend the operative complaint in this action. Despite this amendment opportunity, Plaintiff has not adequately stated any claims against Defendants upon which relief may be granted. Thus, the Court hereby exercises its discretion to **DISMISS** this action pursuant to 28 U.S.C. § 1915(e)(2) with prejudice.³

³ The Court notes that this action is also subject to dismissal on alternate grounds. As summarized above, the Court previously ordered Plaintiff to file an Amended Complaint that complied with certain detailed instructions and warned Plaintiff that this action may be dismissed if Plaintiff failed to do so. Order Show Cause at 3, ECF No. 2 (citing Fed. R. Civ. P. 41(b)). The Court finds that Plaintiff's Amended Complaint fails to comply with the instructions of the Court. Namely, the Amended Complaint does not "comply with the federal pleading standards set forth in Federal Rules 8 and 10," does not "clearly state, with specificity, each claim that Plaintiff intends to assert against each particular Defendant," and does not "clearly set forth all factual allegations upon which each asserted claim is based." *Id.*; *see* Am. Compl. at 1–10, ECF No. 5. Accordingly, the Court finds that the dismissal of this action would also be warranted under Federal Rule 41(b). *See* Fed. R. Civ. P. 41(b) (explaining that the Court may dismiss an action when a plaintiff fails comply with an Order of the Court).

V. Conclusion

For the reasons set forth above, Plaintiff's Motion to Recuse, ECF No. 4, is **DENIED**, and this action is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2).

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

The Clerk is **DIRECTED** to please send a copy of this Dismissal Order to Plaintiff Robert Lauter.

IT IS SO ORDERED.

Norfolk, Virginia
May 30, 2025

/s/
Arenda L. Wright Allen
United States District Judge

FILED: December 2, 2025

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No. 25-1777
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Plaintiff - Appellant

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Defendants - Appellees

ORDER

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