

NO. _____

In the Supreme Court of the United States

RUTH TORRES, Petitioner

v.

1. Bonnie Lee Goldstein, In Official Capacity, 44th District Court Judge, Dallas,
2. Raymond G. Wheless, In Official Capacity, Presiding Judge First Administrative Judicial Region,
3. Robert D. Burns, In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas,
4. Amanda L. Reichel, In Official Capacity, Justice, Fifth Court of Appeals-Dallas,
5. Ken Molberg, In Official Capacity, Justice, Fifth Court of Appeals-Dallas,
6. Dennise Garcia, In Official Capacity, Justice, Fifth Court of Appeals-Dallas,
7. Robbie Partida-Kipness, In Official Capacity, Justice, Fifth Court of Appeals-Dallas,
8. Dale Tillery, In Official Capacity, 134th District Court Judge Dallas,

Respondents

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

**UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT
Cause No. 24-11021**

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF TEXAS
No: 3:24-CV-1843, Judge Jane J. Boyle & Magistrate Renee H. Toliver

Ruth Torres, Pro Se
3330 N Galloway Ave,
S304 PMB 131
Mesquite, TX 75150
Tel. (214) 680-9119
Email: t.ruth828@icloud.com

**TO THE HONORABLE JUSTICE SAMUEL A. ALITO, JR., ASSOCIATE
JUSTICE OF THE SUPREME COURT OF THE UNITED STATES:**

Pursuant to Supreme Court Rule 13.5, Petitioner Ruth Torres respectfully applies for an extension of time of **60 days**, to and including **April 3, 2026**, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals, Fifth Circuit.

1. Judgment to Be Reviewed.

The judgment of the Fifth Circuit was entered on June 10, 2025. A timely petition for rehearing was DENIED on November 3, 2025. Accordingly, the current deadline for filing a petition for a writ of certiorari is February 2, 2026.

2. Jurisdiction. This Court has jurisdiction under **28 U.S.C. § 1254(1)**.

3. Reason for Extension. Petitioner respectfully requests this extension for the following reasons:

- a. Due to pro se litigant's health issues which required medically necessary surgery on December 19, 2025 and recovery, separate injury requiring emergency care on January 23, 2026 and recovery.
- b. Due to weather issues commencing January 24, 2026 which impeded the ability to conduct research.

The petition will raise substantial federal questions, including:

- a. **Do constitutional violations apply and is declaratory relief applicable or does judicial immunity bar any relief from orders issued by Bonnie Lee Goldstein?**

- b. **Does the Texas State Commission on Judicial Conduct sanction against Bonnie Lee Goldstein support disqualification and nullity of all orders issued by Bonnie Lee Goldstein?**
 - i. Texas state judicial officer, Bonnie Lee Goldstein appointed an “IT Expert”, based on petition for injunction absent statutorily required bond and other requirements. Upon order, Petitioner did submit and the IT Expert conducted search, seizure, mirror-imaging and destruction of Petitioner’s personal property, a lap top and iPhone.

 - ii. Judge Goldstein held Petitioner in contempt immediately following and as requested in an ex-parte email from opposing counsel absent show cause notice or hearing. Judge Goldstein thereby struck Petitioners counter-claims with prejudice.

- iii. The Texas State Commission on Judicial Conduct issued a private sanction against Bonnie Lee Goldstein finding Judge Goldstein denied the litigant due process.

 - iv. The above facts are not disputed by the parties or the court. All orders issued by Bonnie Lee Goldstein continue to stand and harm Petitioner denying access to judicial relief from harm caused by parties in the underlying case.

 - v. Newly assigned State District Court Judge Dale Tillery and state appellate judges named herein denied Petitioner relief from Judge Goldstein's orders.
- c. **Do constitutional violations apply and is declaratory relief applicable or does judicial immunity bar any relief on order and permanent injunction issued by Texas Administrative Regional Judge ("ARJ"), Raymond G. Wheless?**

- i. ARJ Wheless suddenly appeared to preside over and grant Unauthorized Practice of Law Committee's ("UPLC") Motion for Summary Judgment in a case not assigned to him and for which no notice of appearance was provided nor notice of the assigned judge's unavailability.

- ii. This appearance occurred after ARJ Wheless was recused in a related prior proceeding where Petitioner sought records to establish if UPLC had authority to bring suit per precedent. **ARJ Wheless's lack of authority to preside over case is lack of the court's jurisdiction.**

- iii. UPLC's petition failed to show authority to bring suit and UPLC refused to provide evidence of authority or respond to record requests to show authority. UPLC did not provide vote by the UPLC Committee authorizing the filing of suit despite Petitioner's diligent adherence to process to obtain. **UPLC's failure to show authority to file suit failed to establish the court's jurisdiction.**

- iv. UPLC's Motion for Summary Judgment and supporting affidavit were insufficient per state statute and precedent.
- v. Petitioner received seven (7) day's notice instead of the Texas statutory requirement of twenty-one (21) days on Motion for Summary Judgment.
- vi. ARJ Wheless orally directed the clerk to reject Petitioner's written answer. The clerk complied affecting the record.
- vii. ARJ Wheless granted UPLC's Motion for Summary Judgment.
- viii. Judge Wheless's final order and permanent injunction enjoin Petitioner from working in her field of Human Resources statewide absent a law degree and treat Petitioner differently than similarly situated pro se litigants. **This order has resulted in \$1.8 million in ongoing income loss to Petitioner.**
- ix. The above facts are not disputed by the parties or the court. ARJ Wheless's order continues to stand and harm Petitioner. State

appellate judges named herein denied Petitioner relief from Judge Wheless's order.

d. Petitioner sought relief in federal court which was also denied.

Do constitutional violations apply and is declaratory relief applicable or does judicial immunity bar all relief when:

- i. Magistrate lacked authority to dismiss per 28 U.S.C.A. § 636 (b) (1)(A) & (C), (b)(3) and (c)(1) & (2).
- ii. Dismissal denied Petitioner meaningful analysis, de novo review and due process rights.
- iii. The court's sua sponte application of judicial immunity ignored exception applied; disqualification and lack of jurisdiction per *Koch v. Puckett*, 907 F.2d 524, 530 (5th Cir. 1990) and *Davis v. Tarrant Cnty.*, 565 F.3d 214, 221-22 (5th Cir. 2009).
- iv. Denial of appointment of counsel is in conflict with clear court precedent of similarly situated litigants.
- v. Denial of Motions for Recusal and Change of Venue denied Petitioner due process rights.

vi. Petitioner's objection did not abandon the conclusion that
Petitioner cannot bring a private criminal action against
Defendants.

vii. Petitioner's objection did not abandon denial of leave to amend
complaint.

The orders issued by Judge Goldstein and ARJ Wheless remain in effect and
continue to harm Petitioner. The federal district and appellate court have denied
Petitioner relief.

Additional time is necessary to present those issues adequately.

This application is made in good faith and not for purposes of delay.

4. Prior Extensions. No prior application for an extension of time has been filed in
this matter.

5. Requested Extension. Petitioner respectfully requests an extension of **60**
days, making the petition due on **April 3, 2026**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ruth', with a large, stylized initial 'R' above it.

Ruth Torres, Petitioner, pro se
3330 N Galloway Avenue, STE 304, PMB 131
Mesquite, TX 75150
Phone: 214-680-9119
Email: t.ruth828@icloud.com

Date: January 26, 2026

Certificate of Service

I certify that on January 26, 2026, the foregoing document was served by email to the following parties:

| Respondents: | Address: |
|--|--|
| Bonnie Lee Goldstein Robert D. Burns Amanda L Reichel Ken Molberg Dennise Garcia Robbie Partida-Kipness | <u>Felicia.pitre@dallascounty.org,</u> <u>Boyle clerk@txnd.uscourts.org,</u> <u>5thTheClerk@txcourts.gov</u> |
| Raymond G. Wheless | <u>cshiver@firstadmin.com,</u> <u>Felicia.Pitre@Dallascounty.org</u> |
| Dale B. Tillery | <u>Felicia.pitre@dallascounty.org,</u> <u>flv@dallascourts.org,</u> |

S/Ruth Torres

EXHIBITS:

1. November 3, 2025, Order DENYING Enbanc Reconsideration with poll.
2. June 10, 2025, Order DENYING Appeal of District Court Order Dismissing Suit, Circuit Judges: Smith, Graves, and Engelhardt.
3. October 17, 2024, Order by District Court Judge Jane J. Boyle Adopting Findings, Conclusions & Recommendations of Magistrate.
4. September 24, 2024, Findings, Conclusions & Recommendations of Magistrate Renee Harris Toliver.

United States Court of Appeals
for the Fifth Circuit

No. 24-11021

United States Court of Appeals
Fifth Circuit

FILED

November 3, 2025

Lyle W. Cayce
Clerk

RUTH TORRES,

Plaintiff—Appellant,

versus

BONNIE LEE GOLDSTEIN, *In Official Capacity 44th District Court Judge Dallas*; RAYMOND G. WHELESS, *In Official Capacity, Presiding Judge First Administrative Judicial Region*; ROBERT D. BURNS, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; AMANDA L. REICHEK, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; KEN MOLBERG, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; DENNISE GARCIA, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; ROBBIE PARTIDA-KIPNESS, *In Official Capacity, Justice Place 2 Fifth Court of Appeals-Dallas*; HONORABLE DALE TILLERY, *In Official Capacity, 134th District Court Judge Dallas,*

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-1843

ON PETITION FOR REHEARING EN BANC

Before SMITH, GRAVES, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

No. 24-11021

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R. 40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 40 and 5TH CIR. R. 40), the petition for rehearing en banc is DENIED.

* Judges Jones and Ramirez are recused and did not participate in the consideration of rehearing en banc.

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

November 03, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-11021 Torres v. Goldstein
USDC No. 3:24-CV-1843

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk
504-310-7642

Ms. Karen S. Mitchell
Ms. Ruth Torres

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 10, 2025

Lyle W. Cayce
Clerk

No. 24-11021

RUTH TORRES,

Plaintiff—Appellant,

versus

BONNIE LEE GOLDSTEIN, *In Official Capacity 44th District Court Judge Dallas*; RAYMOND G. WHELESS, *In Official Capacity, Presiding Judge First Administrative Judicial Region*; ROBERT D. BURNS, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; AMANDA L. REICHEK, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; KEN MOLBERG, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; DENNISE GARCIA, *In Official Capacity, Chief Justice, Fifth Court of Appeals-Dallas*; ROBBIE PARTIDA-KIPNESS, *In Official Capacity, Justice Place 2 Fifth Court of Appeals-Dallas*; HONORABLE DALE TILLERY, *In Official Capacity, 134th District Court Judge Dallas,*

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-1843

No. 24-11021

Before SMITH, GRAVES, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Ruth Torres, proceeding *pro se*, filed a civil rights complaint against several members of the Texas judiciary seeking injunctive, declaratory, and monetary relief. Torres alleged that the defendants violated her constitutional rights by issuing improper rulings and orders in a lawsuit initiated against her in retaliation for being a whistleblower, as well as in related legal proceedings. The district court dismissed the complaint as frivolous and for failure to state a claim upon which relief may be granted. *See* 28 U.S.C. § 915(e)(2)(B). Torres moves to proceed *in forma pauperis* (“IFP”) on appeal, which constitutes a challenge to the district court’s certification that any appeal would not be taken in good faith because Torres will not present a nonfrivolous appellate issue. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

As an initial matter, Torres does not present a nonfrivolous issue for appeal regarding her contention that the district court failed to conduct *de novo* review as demonstrated by the court’s failure separately to provide findings and conclusions for overruling her objections to the magistrate judge’s report and recommendation. Rather, the record reflects that in accepting the report and recommendation, the district court conducted the requisite *de novo* review. *See* FED. R. CIV. P. 72(b)(3).

In addition, the district court’s decision to consider *sua sponte* the applicability of the judicial immunity doctrine does not present a nonfrivolous issue for appeal. *See Boyd v Biggers*, 31 F.3d 279, 284 (5th Cir. 1994). Further, Torres’s conclusory assertions, without more, that judicial immunity does not apply because the defendants’ actions were without jurisdiction

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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and they were disqualified “due to ultra-vires acts/or crime-fraud exception,” does not arguably state a constitutional violation. *See Koch v. Puckett*, 907 F.2d 524, 530 (5th Cir. 1990). Rather, her allegations all stem from orders the defendants issued in litigation involving Torres. *See Davis v. Tarrant Cnty.*, 565 F.3d 214, 221-22 (5th Cir. 2009). Further, Torres does not challenge the district court’s conclusion that she could not bring a private criminal action against the defendants. Nor does she challenge the decision denying her leave to amend her complaint. Thus, these claims are deemed abandoned. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Torres also maintains that the district court abused its discretion in denying her motion for appointment of counsel. However, Torres’s numerous filings in the district court and this court indicate that she has the ability to investigate and present arguments adequately. *See Baranowski v. Hart*, 486 F.3d 112, 126 (5th Cir. 2007). Thus, the district court did not arguably abuse its discretion in denying her motion for the appointment of counsel. *See Cupit v. Jones*, 835 F.2d 82, 86 (5th Cir. 1987); *Ulmer v. Chancellor*, 691 F.2d 209, 212-13 (5th Cir. 1982).

In her final point, Torres contends that the district court erroneously failed to rule on her motion to recuse and motion for change of venue. Although the district court did not explicitly rule on Torres’s motions to recuse and for change of venue, both of which were filed after the magistrate judge issued her report and recommendation, the district court’s denial of the motions is implicit in the court’s entry of final judgment dismissing the complaint. *See Norman v. Apache Corp.*, 19 F.3d 1017, 1021 (5th Cir. 1994). Torres’s allegations of bias are based on adverse rulings and Torres’s erroneous assertion that it was improper for the magistrate judge and district judge to dismiss *sua sponte* her complaint based on judicial immunity. Accordingly,

No. 24-11021

she has failed to show that the district court arguably abused its discretion in denying her motion to recuse. *See United States v. Scroggins*, 485 F.3d 824, 830 (5th Cir. 2007). Likewise, Torres has failed to demonstrate that the district court arguably abused its discretion in denying her motion to change venue, which was based on the purported impartiality of the judges presiding over the instant case. *See Broussard v. State Farm Fire & Cas. Co.*, 523 F.3d 618, 631 (5th Cir. 2008).

Accordingly, Torres has failed to show a nonfrivolous issue with respect to the dismissal of her complaint. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Her motion to proceed IFP on appeal is therefore DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. Torres's motions for the appointment of counsel, recusal, and change of venue are also DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

June 10, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 24-11021 Torres v. Goldstein
USDC No. 3:24-CV-1843

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk

Enclosure(s)

Ms. Ruth Torres


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|-------------------------------------|---|------------------------------|
| RUTH TORRES, | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | Civil Case 3:24-cv-1843-B-BK |
| | § | |
| JUDGE BONNIE LEE GOLDSTEIN, et al., | § | |
| Defendants. | § | |

ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. Plaintiff filed objections, and the District Court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. The objections are overruled, and the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

SO ORDERED this 17th day of October, 2024.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|------------------------------------|---|---|
| RUTH TORRES, | § | |
| PLAINTIFF, | § | |
| | § | |
| V. | § | CIVIL CASE No. 3:24-CV-1843-B-BK |
| | § | |
| JUDGE BONNIE LEE GOLDSTEIN, | § | |
| ET AL., | § | |
| DEFENDANTS. | § | |

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636(b) and Special Order 3, this pro se civil action was referred to the United States magistrate judge for judicial screening, including the entry of findings and a recommended disposition. The Court granted Plaintiff’s motion to proceed in forma pauperis but did not issue process pending judicial screening. Doc. 7. Upon review of the relevant pleadings and applicable law, this action should be **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim.

I. BACKGROUND

On July 19, 2024, Plaintiff Ruth Torres filed a lengthy complaint (199 pages with 20 pages of exhibits) against state court judges in their official capacity: (1) Trial Judges Bonnie Lee Goldstein and Dale Tillery, (2) Administrative Judge Raymond G. Wheless, and (3) Fifth Court of Appeals Justices Robert D. Burns, Amanda L. Reicheck, Ken Molberg, Dennise Garcia, and Robbie Partida-Kipness (collectively “Defendant Judges”). Doc. 3 at 1. The complaint is rambling and largely difficult to decipher. However, what is clear is that Torres’ allegations

concern the rulings Defendant Judges made in Torres' state court cases and appeals. Doc. 3 at 4, 7.

Without much substantive elaboration, Torres asserts the judges (1) violated her due process and equal protection rights, see, e.g., Doc. 3 at 7, 9, 13, 15, and (2) engaged in conspiracies to violate her rights and retaliate against her in violation of criminal statutes, 18 U.S.C. §§ 241, 242, see, e.g., Doc. 3 at 8; Doc. 3 at 21-28, 89, 91. She alleges:

Texas Trial Court, Texas' Fifth Court of Appeals . . . and TX Supreme Court Judges denied Plaintiff due process and equal protections enabled by the district and Plaintiff[s] clerks and court reporter who refused to release records." Doc. 3 at 7 (listing cases). As a result, Torres alleges that "dozens of illegal and improper orders remain in effect and enforceable against Plaintiff and multiple Plaintiff's pleadings remain outstanding due to the coordination of government officials, co-conspirators and their attorneys, operating under cover of law, abusing authority to further and conceal their conspiracy and retaliate against Plaintiff, blatantly and repeatedly violating Plaintiff[s] constitutional rights using state authority, state processes, state and municipal government funds and resources.

Doc. 3 at 8.

As relief, Torres requests damages and that all trial court orders entered by the "DISQUALIFIED judges" be stricken and reversed. Doc. 3 at 198-199. She also "seeks immediate relief from state issued VOID Temporary Injunction and . . . contempt orders and Permanent Injunction issued by state of Texas Judicial officers and affirmed by state appellate court officials contrary to facts and law . . ." Doc. 3 at 4.¹

II. ANALYSIS

Because Torres is proceeding in forma pauperis, her complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). This statute provides for the sua sponte dismissal of a

¹ Torres includes with the complaint copies of trial court orders and appellate opinions and provides a CD with reporter records. Doc. 3 at 200-220; Doc. 3 at 219-20. She also filed pleadings elaborating on her cases and grievances against Defendant Judges. Doc. 14; Doc. 15.

complaint that (1) is frivolous or malicious, (2) fails to state a claim upon which relief may be granted, or (3) seeks monetary relief against a defendant who is immune from such relief. A complaint is frivolous when it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A complaint lacks an arguable basis in law when it is premised “on an indisputably meritless legal theory,” *Id.* at 327, and fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

The Court must always liberally construe pleadings filed by pro se litigants. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (noting pro se pleadings “must be held to less stringent standards than formal pleadings drafted by lawyers”); cf. Fed. R. Civ. P. 8(e) (“Pleadings must be construed so as to do justice.”). Even under the most liberal construction, however, Torres’ complaint is frivolous and fails to state a claim.

First, Torres’ complaint runs headlong into judicial immunity. Although Torres’ complaint generally lacks lucidity, as stated supra, she clearly asserts claims stemming from Defendant Judges’ actions taken in their official capacities. Doc. 3 at 1. Her allegations and claims against Defendant Judges stem from rulings in state cases and appeals decided by the judges in their respective judicial capacity and function. See *Stump v. Sparkman*, 435 U.S. 349, 361-62 (1978). Thus, Torres’ claims against the judges—whether for injunctive, declaratory, or monetary relief—are barred by judicial immunity. See *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991); *Wightman v. Jones*, 809 F. Supp. 474, 476-79 (N.D. Tex. 1992).

Second, to the extent Torres seeks to file a criminal complaint and allege criminal law violations under 18 U.S.C. §§ 241 and 242, she lacks legal basis. Criminal statutes do not create a private right of action. For a private right of action to exist under a criminal statute, there must

be “a statutory basis for inferring that a civil cause of action of some sort lay in favor of someone.” *Cort v. Ash*, 422 U.S. 66, 79 (1975), overruled in part by *Touche Ross & Co. v. Redington*, 442 U.S. 560 (1979); see *Suter v. Artist M*, 503 U.S. 347, 363 (1992) (concluding that the party seeking to imply a private right of action bears the burden to show that Congress intended to create one). However, Torres has pled nothing that would even come close to meeting that burden. Moreover, “decisions whether to prosecute or file criminal charges are generally within the prosecutor’s discretion, and, as a private citizen, [the plaintiff] has no standing to institute a federal criminal prosecution and no power to enforce a criminal statute.” *Gill v. Texas*, 153 F. App’x 261, 262-63 (5th Cir. 2005).

III. LEAVE TO AMEND

Ordinarily, a pro se plaintiff should be granted leave to amend her complaint before dismissal, but leave is not required when she has already pled her “best case.” *Brewster v. Dretke*, 587 F.3d 764, 767-68 (5th Cir. 2009). However, for the reasons outlined here, Torres’ claims are fatally infirm. Based on the legal theories and facts Torres posits, she cannot, as a matter of law, state a plausible legal claim. Thus, the Court concludes that Torres has already pleaded her best case and granting further leave to amend would be futile and cause needless delay.

IV. SANCTION WARNING

Contemporaneously with this action, Torres filed a second lawsuit in this Court alleging False Claims Act and RICO causes that are similarly frivolous. See *United States, ex rel. Torres v. Abbott, et al.*, No. 3:24-CV-1842-X-BK (N.D. Tex. July 19, 2024). Further, state court online records reveal that Torres is a “frequent filer” who has been permanently enjoined from engaging in, or aiding and abetting, the unauthorized practice of law. See *Torres v. Unauthorized Prac. of*

Law Comm. for the Supreme Court of Texas, No. 05-21-00651-CV, 2022 WL 4115487, at *1 (Tex. App.—Dallas, Tex., Sep. 9, 2022).

Considering the foregoing, Torres should be warned that if she persists in filing frivolous or baseless lawsuits, or actions over which the Court lacks jurisdiction, the Court may impose monetary sanctions, bar her from bringing any new action, or subject her to other sanctions the Court deems appropriate. See Fed. R. Civ. P. 11(b)(2) and (c)(1) (providing for sanctions against pro se litigants or attorneys). Sanctions may be appropriate when a pro se litigant has a history of submitting multiple frivolous claims. *Mendoza v. Lynaugh*, 989 F.2d 191, 195-97 (5th Cir. 1993); see also *Whitehead v. Food Max of Miss., Inc.*, 332 F.3d 796, 802-03 (5th Cir. 2003) (a violation of any provision of Rule 11(b) justifies sanctions). Pro se litigants have “no license to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets.” *Ferguson v. MBank Houston, N.A.*, 808 F.2d 358, 359 (5th Cir. 1986). Moreover, litigants who abuse the judicial process are “not entitled to sue and appeal without paying the normal filing fees -- indeed, are not entitled to sue and appeal, period.” *Free v. United States*, 879 F.2d 1535, 1536 (7th Cir. 1989).


V. CONCLUSION

For all these reasons, Torres’ action should be **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim. See 28 U.S.C. § 1915(e)(2)(B).

In addition, Torres should be **WARNED** that if she persists in filing frivolous or baseless lawsuits, or actions over which the Court lacks jurisdiction, monetary sanctions may be imposed, she may be barred from bringing any new action, or she may be subject to any other sanctions

the Court deems appropriate.

SO RECOMMENDED on September 24, 2024.


RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of this report and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). An objection must identify the finding or recommendation to which objection is made, the basis for the objection, and the place in the magistrate judge's report and recommendation the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. See *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996), modified by statute on other grounds, 28 U.S.C. § 636(b)(1) (extending the time to object to 14 days).