

IN THE MATTER OF:

FRANK JOHN RICHARD, #601706,
Petitioner,

-vs-

AUDREY KARNES, Accounting
Technician,
Respondent.

Now Before:

THE SUPREME COURT OF THE UNITED STATES

Case No. _____

APPENDIX

" A "

- 1.) Decision of the United States Court of Appeals.....(A.1)
- 2.) Order of the United States Court of Appeals Denying Rehearing
.....(A.1)
- 3.) Order of the United States District Court.....(A.2)
- 4.) Bey v. Sessler, at HN2:, UnpublishedOpinion.....(A.3)

Rec'd 12/23/25

No. 25-1043

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Dec 18, 2025
KELLY L. STEPHENS, Clerk

FRANK JOHN RICHARD,)
)
Plaintiff-Appellant,)
)
v.)
)
AUDREY KARNES, Accounting Technician,)
)
Defendant-Appellee.)

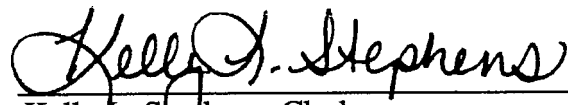
ORDER

Before: STRANCH, READLER, and MATHIS, Circuit Judges.

Frank John Richard, a Michigan prisoner proceeding pro se, petitions for rehearing of this court's October 1, 2025, order affirming the dismissal of his civil rights suit filed under 42 U.S.C. § 1983.

Upon consideration, this panel concludes that it did not overlook or misapprehend any point of law or fact when it issued its order. See Fed. R. App. P. 40(b)(1)(A). We therefore **DENY** the petition for rehearing.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

NOT RECOMMENDED FOR PUBLICATION

No. 25-1043

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 1, 2025
KELLY L. STEPHENS, Clerk

FRANK JOHN RICHARD,)
)
 Plaintiff-Appellant,)
)
 v.) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
 AUDREY KARNES, Accounting Technician,) THE EASTERN DISTRICT OF
) MICHIGAN
 Defendant-Appellee.)
)

ORDER

Before: STRANCH, READLER, and MATHIS, Circuit Judges.

Frank John Richard, a Michigan prisoner proceeding pro se, appeals a district court judgment dismissing his civil rights suit filed under 42 U.S.C. § 1983. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). For the following reasons, we affirm.

Richard sued Audrey Karnes, an accounting technician employed by the Michigan Department of Corrections (MDOC). Richard alleged that Karnes intercepted four economic impact payments sent to him under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, 26 U.S.C. § 6428(a), and the Consolidated Appropriations Act (CAA), 26 U.S.C. § 6428A(a), without authorization to do so and without providing him with notice or a hearing. Richard alleged that Karnes applied the first payment of \$1,866.80 toward his outstanding court costs, that she returned two replacement payments in the same amount as the first payment, and that she applied part of the fourth payment of \$2,191.84 toward an error correction and court costs. He filed grievances related to Karnes's conduct, which were rejected at all levels of review, and he sent

letters to the MDOC director and the Michigan Legislative Corrections Ombudsman. Richard purported to assert claims under the Fourteenth Amendment Due Process Clause, the Fifth Amendment Takings Clause, the CARES Act, the CAA, and the definitions section of the Administrative Procedure Act (APA), 5 U.S.C. § 551(11)(A). He sought injunctive, declaratory, and monetary relief.

On initial screening, the district court dismissed Richard's complaint under 28 U.S.C. § 1915A for failure to state a claim for relief. The district court concluded that Richard failed to state a Fourteenth Amendment due-process claim because he did not allege the absence of adequate state post-deprivation remedies for his loss of property.

On appeal, Richard argues that the district court failed to accept as true the factual allegations in his verified complaint and improperly dismissed his complaint under § 1915A because he paid the filing fee. He also argues that he was "not required to exhaust state-tort remedies" but only to exhaust administrative remedies under 42 U.S.C. § 1997e(a), which he did.

We review de novo the dismissal of a complaint under § 1915A. *Wershe v. Combs*, 763 F.3d 500, 505 (6th Cir. 2014). We review the dismissal of claims at screening under the standard set out in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010). A complaint must contain "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678.

Richard failed to state a procedural-due-process claim. A prisoner deprived of property through an intentional or negligent random and unauthorized act of a state employee lacks an actionable procedural due-process claim where adequate state post-deprivation remedies exist. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984). A procedural-due-process claim is thus subject to dismissal where the State provides "an adequate postdeprivation remedy if: 1) the deprivation was unpredictable or 'random'; 2) predeprivation process was impossible or impracticable; and 3) the state actor was not authorized to take the action that deprived the plaintiff of property or liberty."

Copeland v. Machulis, 57 F.3d 476, 479 (6th Cir. 1995) (per curiam). Richard alleged in his complaint that Karnes intentionally and without authorization intercepted his economic impact payments. On appeal, he repeats that allegation and adds that Karnes violated prison policies and procedures when intercepting his payments. Richard thus alleged that Karnes's acts were unpredictable and outside "the State's reasonable control." *Copeland*, 57 F.3d at 479. Pre-deprivation process was also not practicable in the circumstances of Richard's prison setting. See *Sickles v. Campbell County*, 501 F.3d 726, 731 (6th Cir. 2007). And "Michigan provides several adequate post-deprivation remedies" for prisoners who assert a deprivation of property by state officials. *Copeland*, 57 F.3d at 480 (citing several Michigan statutes that provide for recovery of property); see also *Mulazim v. Corrigan*, 7 F. App'x 427, 430-31 (6th Cir. 2001). Richard failed to allege that he attempted to pursue any state post-deprivation remedies or that such remedies were unavailable or inadequate. See *Copeland*, 57 F.3d at 479.

Richard argues that he was "not required to exhaust state-tort remedies" and that the district court should have applied § 1997e(a) because that statute required him to exhaust administrative remedies, which he properly did. Richard misunderstands the district court's ruling. The district court acknowledged that Richard administratively exhausted his claims by filing and pursuing grievances but concluded that his complaint failed to state a procedural-due-process claim because he did not allege the inadequacy of any state post-deprivation remedies for his loss-of-property claim. The administrative exhaustion of his claims has no bearing on his failure to state a procedural-due-process claim.

Next, Richard argues that the district court failed to accept as true the facts alleged in his verified complaint. He does not identify any facts that the district court failed to accept as true. But, as discussed, accepting the facts alleged in Richard's complaint as true, the complaint fails to state a Fourteenth Amendment procedural-due-process claim.

Finally, Richard argues that the district court improperly dismissed his complaint under § 1915A because he paid the filing fee. But Richard's complaint was subject to the screening provisions of § 1915A because that statute applies to all prisoner-filed complaints against governments or government officials or employees regardless of whether the prisoner has paid the

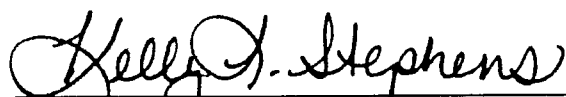
filing fee or is proceeding in forma pauperis. See 28 U.S.C. § 1915A; *Benson v. O'Brian*, 179 F.3d 1014, 1015-1016 (6th Cir. 1999); *McGore v. Wrigglesworth*, 114 F.3d 601, 608 (6th Cir. 1997), *overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Richard's complaint did not develop any purported claims under the Fifth Amendment's Takings Clause, the CARES Act, the CAA, or the APA. Consequently, the district court did not expressly address any claims other than the Fourteenth Amendment procedural due-process claim, but it nonetheless dismissed the complaint in full with prejudice. To the extent that Richard's complaint purported to assert any other claims, they were implicitly dismissed along with the due-process claim. See *A.O. Smith Corp. v. United States*, 774 F.3d 359, 371 (6th Cir. 2014) (holding there was jurisdiction to review a claim that was implicitly denied by the district court). And Richard's appellate brief does not fully develop arguments regarding his purported claims under the Takings Clause, the CARES Act, the CAA, and the APA, so those claims are forfeited.

"Waiver is different from forfeiture. Whereas forfeiture is the failure to make the timely assertion of a right, waiver is the 'intentional relinquishment or abandonment of a known right.'" *United States v. Olano*, 507 U.S. 725, 733 (1993) (quoting *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938)). Mere forfeiture, as opposed to waiver, does not extinguish an "error" under Rule 52(b). *Id.* Although we liberally construe the briefs of pro se litigants, see *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), "an issue is deemed forfeited on appeal if it is merely mentioned and not developed," *United States v. Clark*, 469 F.3d 568, 570 (6th Cir. 2006). A pro se petitioner forfeits claims by failing to advance any sort of argument for the reversal of the district court's rulings. See *Crawford v. Comm'r of Soc. Sec.*, No. 21-3489, 2022 U.S. App. LEXIS 34319, at *3 (6th Cir. Dec 13, 2022) (order). That is what Richard has done here.

We therefore **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

(A.1)

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 1, 2025
KELLY L. STEPHENS, Clerk

No. 25-1043

FRANK JOHN RICHARD,

Plaintiff-Appellant,

v.

AUDREY KARNES, Accounting Technician,

Defendant-Appellee.

Before: STRANCH, READLER, and MATHIS, Circuit Judges.

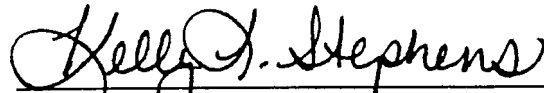
JUDGMENT

On Appeal from the United States District Court
for the Eastern District of Michigan at Detroit.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

24 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK JOHN RICHARD,

Plaintiff,

v.

AUDREY KARNES,

Defendant.

2:24-CV-12046-TGB-PTM

**OPINION AND ORDER
SUMMARILY DISMISSING
COMPLAINT**

Frank John Richard (“Plaintiff”), confined at the Carson City Correctional Facility in Carson City, Michigan, filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. The Court has reviewed the complaint. It will be **SUMMARILY DISMISSED** for failing to state a legally cognizable claim.

I. BACKGROUND

Defendant Audrey Karnes works as an accounting technician for the Michigan Department of Corrections. Plaintiff claims that on June 22, 2022, he received a check for \$ 1,866.00 from the federal government as a stimulus payment under the Coronavirus Aid, Relief, and Economic Security Act (“CARES”) and the Consolidated Appropriations Act (“CAA”) of 2020. Plaintiff alleges that Defendant Karnes took the proceeds from this check to pay off some of Plaintiff’s court-appointed fines and costs but that this was done without his permission.

On June 27, 2023, Plaintiff alleges that Defendant returned to the United States Department of Treasury a replacement check that had been sent for the check sent on June 22, 2022. Plaintiff again claims that this was done without his permission. A third replacement check in this amount sent on August 22, 2023, to Plaintiff, was also returned by Defendant to the Department of Treasury.

On June 27, 2024, a check for \$ 2,191.84 was deposited in Plaintiff's prison account. The Treasury Department sent this check to reimburse Plaintiff for the prior checks that had been sent to him. Plaintiff claims that Defendant deducted \$ 1,091.01 from the account to pay for an error correction, and \$ 510.81 was deducted by Defendant to pay for court costs and fees. Plaintiff again alleges this was done without his permission.

Plaintiff alleges that he filed four grievances at the Saginaw Correctional Facility and one grievance at the Carson City Correctional Facility over these issues, alleging violations of MDOC Policy and Operating procedures and failure to follow federal statutes and regulations. He states that all five grievances were fully exhausted.

Plaintiff alleges that Defendant wrongfully misappropriated his money without obtaining Plaintiff's permission and without providing a notice of intent or a hearing on the issue. Plaintiff seeks monetary damages.

II. STANDARD OF REVIEW

Plaintiff has paid the entire filing fee of \$ 350.00, plus the \$ 55.00 administrative fee, rendering inapplicable the Court's authority to screen his complaint for frivolity or maliciousness pursuant to the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915(e)(2). However, the Court has an initial and continuing obligation under Fed. R. Civ. P. 12(b)(1) to review and dismiss cases in which the Court lacks subject matter jurisdiction. Because the Court finds that Plaintiff's claims are devoid of merit or no longer open to discussion, the Court will sua sponte dismiss the complaint for lack of subject matter jurisdiction.

A federal district court's authority to screen and dismiss complaints sua sponte under 28 U.S.C. § 1915(e)(2) is limited to those prisoner complaints filed in forma pauperis. *Benson v. O'Brian*, 179 F.3d 1014, 1015 (6th Cir. 1999). Plaintiff did not file his complaint as an indigent but paid the filing fee and did not seek in forma pauperis status. Generally, a district court may not dismiss a complaint sua sponte where the filing fee has been paid unless the court allows the plaintiff to amend the complaint. *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999).

However, when the claim is brought against a governmental entity, a review of a prisoner's civil rights complaint pursuant to 28 U.S.C. § 1915A is appropriate regardless of whether the prisoner sought in forma pauperis status. *Benson*, 179 F.3d at 1017. Therefore, if a prisoner's complaint seeks relief from a governmental entity, officer, or

employee, Congress has directed that the district court must dismiss it, or any part thereof, which (a) is frivolous, malicious, or fails to state a claim upon which relief can be granted, or (b) seeks monetary relief from a defendant who is immune from suit for monetary damages. 28 U.S.C. § 1915A. Furthermore, “a district court may, at any time, sua sponte dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Apple*, 183 F.3d at 479 (citing *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974) (citing numerous Supreme Court cases for the proposition that patently frivolous, attenuated, or unsubstantial claims divest the district court of jurisdiction)).

A complaint is frivolous if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); see also *Denton v. Hernandez*, 504 U.S. 25, 32 (1992). “A complaint lacks an arguable basis in law or fact if it ... is based on legal theories that are indisputably meritless.” *Brown v. Bargery*, 207 F.3d 863, 866 (6th Cir. 2000) (citing *Neitzke*, 490 U.S. at 327-28). A complaint fails to state a claim “if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.” *Brown*, 207 F.3d at 867. Sua sponte dismissal is appropriate if the complaint lacks an

arguable basis when filed. *McGore v. Wrigglesworth*, 114 F.3d 601, 612 (6th Cir. 1997).

A pro se litigant's complaint should be construed liberally, *Middleton v. McGinnis*, 860 F. Supp. 391, 392 (E.D. Mich. 1994) (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)); that is, they are held to a "less stringent standard" than those drafted by attorneys. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Such complaints, however, must plead facts sufficient to show a legal wrong has been committed from which a plaintiff may be granted relief. Fed. R. Civ. P. 12(b); *Dekoven v. Bell*, 140 F. Supp. 2d 748, 755 (E.D. Mich.), *aff'd*, 22 F. App'x 496 (6th Cir. 2001).

While a complaint "does not need detailed factual allegations," the "[f]actual allegations must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (footnote and citations omitted). Stated differently, "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). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556).

To establish a prima facie case under 42 U.S.C. § 1983, a civil rights plaintiff must show: (1) the defendant acted under color of state law and

(2) the offending conduct deprived the plaintiff of rights secured by federal law. *Bloch v. Ribar*, 156 F.3d 673, 677 (6th Cir. 1998). “If a plaintiff fails to make a showing on any essential element of a § 1983 claim, it must fail.” *Redding v. St. Edward*, 241 F.3d 530, 532 (6th Cir. 2001).

III. DISCUSSION

If a state employee intentionally deprives an inmate of his property without authorization, though wrong, such conduct does not violate the procedural requirements of the Due Process Clause of the Fourteenth Amendment so long as the inmate has a meaningful remedy to address the loss under state law. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Bass v. Robinson*, 167 F.3d 1041, 1049 (6th Cir. 1999). In order to make out a § 1983 claim for violation of procedural due process, a plaintiff has to show that the state remedies for redressing the wrong are inadequate. *Vicory v. Walton*, 721 F.2d 1062, 1066 (6th Cir. 1983). If a plaintiff is unable to demonstrate the inadequacy of the available state remedies, the case should be dismissed. *See Bass*, 167 F.3d at 1049–50.

Here, Plaintiff does not allege the remedies to obtain compensation for his loss available in Michigan are inadequate, nor does he even indicate that he has attempted to get relief from any court or tribunal in Michigan. “State tort remedies generally satisfy the post-deprivation process requirement of the Due Process Clauses.” *Fox v. Van Oosterum*, 176 F.3d 342, 349 (6th Cir. 1999). Because Plaintiff does not allege the

inadequacy of the post-deprivation remedies in the State of Michigan, his complaint is subject to dismissal.

Michigan has several post-deprivation remedies, including MCR 3.105, which allows for an action for claim and delivery of the property; MCL § 600.2920, which provides a civil action to recover possession of or damages for goods and chattels unlawfully detained; and MCL § 600.6401, the Michigan Court of Claims Act, which establishes a procedure to compensate for alleged unjustifiable acts of state officials. *See Copeland v. Machulis*, 57 F.3d 476, 480 (6th Cir. 1995).

Michigan provides Plaintiff with adequate post-deprivation remedies for the loss of his money. Consequently, Plaintiff does not allege a violation of constitutional due process merely by alleging that a state actor deprived him of his property without authorization. *See Keenan v. Marker*, 23 F. App'x 405, 407 (6th Cir. 2001). Plaintiff has state remedies available to address this deprivation of property; there is no violation of constitutional due process as long as such remedies exist.

IV. CONCLUSION

In light of the foregoing, the complaint is **DISMISSED WITH PREJUDICE** because Plaintiff fails to state a claim upon which relief can be granted.

Because the complaint lacks any arguable basis in the law, **IT IS FURTHER ORDERED AND CERTIFIED** by the Court that any appeal by Plaintiff would be frivolous and not undertaken in good faith. *See Alexander v. Jackson*, 440 F. Supp. 2d 682, 684 (E.D. Mich. 2006)(citing 28 U.S.C. § 1915(a)).

SO ORDERED.

Dated: December 27, 2024

/s Terrence G. Berg
HON. TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK JOHN RICHARD,

Plaintiff,

vs.

AUDREY KARNES,

Defendant,

2:24-CV-12046-TGB-PTM

JUDGMENT

The above entitled matter having come before the Court on a Prisoner Civil Rights Complaint and in accordance with the Memorandum Opinion and Order entered on **December 27, 2024**.

IT IS ORDERED AND ADJUDGED that:

(1): The Complaint is **DISMISSED WITH PREJUDICE FOR FAILING TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**.

(2) **IT IS FURTHER CERTIFIED** that any appeal would not be undertaken in good faith.

Dated at Detroit, Michigan, this 27th day of December, 2024.

KINIKIA ESSIX
CLERK OF THE COURT

BY: /s/A. Chubb
Case Manager and Deputy Clerk

APPROVED:

/s/Terrence G. Berg
HON. TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE



Neutral

As of: January 30, 2026 5:27 PM Z

Bey v. Sessler

United States Court of Appeals for the Sixth Circuit

February 29, 2024, Filed

No. 23-3421

Reporter

2024 U.S. App. LEXIS 4911 *; 2024 WL 2078564

SHARDAYE JEACOLE MALIK BEY, Plaintiff-Appellant, v. BARBARA A. SESSLER, Erie County Recorder; JASON R. HINNERS, Erie County Assistant Prosecuting Attorney; LUVADA S. WILSON, Erie County Clerk of Courts; JAN TKACH, Huron County Recorder; JACOB STEPHENS, Huron County Assistant Prosecuting Attorney; SUSAN S. HAZEL, Huron County Clerk of Courts, Defendants-Appellees.

Notice: CONSULT 6TH CIR. R. 32.1 FOR CITATION OF UNPUBLISHED OPINIONS AND DECISIONS.

Prior History: [*1] ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO.

Bey v. Sessler, 2023 U.S. Dist. LEXIS 67036, 2023 WL 2974453 (N.D. Ohio, Apr. 17, 2023)

Core Terms

district court, documents, defendants', deprived, rights, grievances, Courts

Case Summary

Overview

HOLDINGS: [1]-The district court correctly dismissed plaintiff's claims under 42 U.S.C.S. §§ 1985 and 1986 because she did not allege 42 U.S.C.S. §§ 1985 and 1986 concern conspiracies that were motivated by racial or class-based animus; [2]-As to her Fourth Amendment claim, plaintiff could not establish that the defendants meaningfully interfered with her possessory interests or acted unreasonably because she voluntarily turned her commercial lien and filing fee over to the county recorders offices for recording and filing with the expectation that the lien would be placed on the public

record.

Outcome

Judgment affirmed.

LexisNexis® Headnotes

Civil Rights Law > Protection of Rights > Conspiracy Against Rights > Elements

Civil Rights Law > Protection of Rights > Conspiracy Against Rights > Private Conspirators

HN1 [down arrow] Conspiracy Against Rights, Elements

42 U.S.C.S. §§ 1985 and 1986 concern conspiracies that are motivated by racial or class-based animus.

Civil Rights Law > ... > Section 1983
Actions > Elements > Protected Rights

HN2 [down arrow] Elements, Protected Rights

42 U.S.C.S. § 1983 is the exclusive remedy for constitutional claims brought against state and local officials and local units of government. To state a claim under § 1983, a plaintiff must show the deprivation of a federal constitutional or statutory right that was caused by a person acting under the color of state law.

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom to Petition

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Public