UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-2425

ANTHONY GLENN JAMES,

Plaintiff - Appellant,

v.

JOHN SONNENDECKER, ATF Agent; CHRISTOPHER SCOTT LIETZOW, U.S. Attorney; JANET CARRA HENDERSON, U.S. Attorney; WILLIAM CROCKETTE, Charleston P.D. - ATF Liasion,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Timothy M. Cain, Chief District Judge. (2:23-cv-03298-TMC)

Submitted: April 23, 2026 Decided: April 27, 2026

Before NIEMEYER, THACKER, and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Anthony Glenn James, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

Appendix - A

PER CURIAM:

Anthony Glenn James appeals the district court's order accepting the recommendation of the magistrate judge and denying relief on James's complaint filed pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). We have reviewed the record and find no reversible error. James fails to allege sufficient facts showing that his claims constitute constitutional violations recognized by *Bivens*. Moreover, Appellees Christopher Lietzow and Carra Henderson are protected by absolute prosecutorial immunity. Accordingly, we affirm the district court's order. *James v. Sonnendecker*, No. 2:23-cv-03298-TMC (D.S.C. Nov. 6, 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

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

Anthony Glenn James, Plaintiff, v. ATF Agent John Sonnendecker; U.S. Attorney Christopher Scott Lietzow; U.S. Attorney Janet Carra Henderson; and William Crockette, Defendants.	Civil Action No. 2:23-cv-03298-TMC **ORDER**

Background

Plaintiff Anthony Glenn James, proceeding *pro se* and *in forma pauperis*, filed this action under *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971).alleging violations of his constitutional rights.. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d), (e) (D.S.C.), the action was automatically referred to a United States Magistrate Judge for all pretrial proceedings. Now before the court is the magistrate judge's Report and Recommendation ("Report"), (ECF No. 18), recommending that the court dismiss this action without issuance and service of process and without leave to amend. Plaintiff, however, filed objections (ECF No. 20) and seeks to amend further (ECF No. 23).

Briefly, Plaintiff's claims are based upon a December 2020 traffic stop in Charleston, South Carolina by Charleston police officer Cody Daniels on the basis that Plaintiff's taillights were not functioning properly. (ECF No. 18 at 3). During the stop, marijuana and a firearm were recovered; Plaintiff was detained overnight and then released on bail. Subsequently, Plaintiff was indicted by a federal grand jury for possession of a controlled substance with intent to distribute, 21 U.S.C. §§

Appendix – B

841(a)(1), 841(b)(1)(B), 841(b)(1)(C), and 841(b)(1)(D); possession of a firearm in furtherance of a drug trafficking offense, 18 U.S.C. § 924(c)(1)(A); and possessing a firearm after having been convicted of a felony offense pursuant to 18 U.S.C. § 922(g)(1). A federal magistrate judge, following the indictment, issued an arrest warrant. Ultimately, Plaintiff's criminal charges were dismissed with prejudice on the government's motion following a hearing on Plaintiff's motion to suppress for lack of probable cause.[1]

Plaintiff filed this action against Defendant John Sonnendecker, an ATF agent; Defendants Christopher Scott Lietzow and Janet Carra Henderson—federal prosecutors in the offices of the United States Attorney for the District of South Carolina; and Officer William Crockette who Plaintiff indicates is part of the "Charleston [Police Department]—ATF Liaison." (ECF No. 1 at 2–3).[2] Plaintiff claims the Defendants abridged his Fourth, Eighth and Fourteenth Amendment rights by failing "to properly investigate a traffic stop before incarcerating [him], without probable cause, for 10 months" as a review of footage from the arresting officer's body camera purportedly would have reflected no probable cause. *Id.* at 5. Plaintiff seeks to recover monetary damages flowing from his ten months of detention following his arrest.

Report

In the Report, with respect to Defendants Lietzow and Henderson, the magistrate judge concluded that both Lietzow and Henderson are shielded by immunity, noting that "[p]rosecutors have absolute immunity for activities in or connected with judicial proceedings, such as a criminal

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[1] *USA v. James*, 2:22-cr-191-RMG (ECF No. 76).

[2] Plaintiff previously brought an action against Daniels, the arresting officer, among other individuals. *James v. Daniels*, 2:22-cv-1444-TMC. This court denied Plaintiff's motion for summary judgment, (ECF No. 73), and Plaintiff appealed the denial of summary judgment (ECF No. 76). The Fourth Circuit dismissed the appeal because it was "neither a final order nor an appealable interlocutory or collateral order." (ECF No. 86 at 2). While that appeal was pending, the parties reached a settlement and ultimately filed a stipulation of dismissal. (ECF No. 81).

trial, bond hearings, bail hearings, grand jury proceedings, and pretrial hearings, (ECF No. 18 at 8) (citing *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993); *Dababnah v. Keller-Burnside*, 208 F.3d 467 (4th Cir. 2000)), and that "the law is clear that '[t]he doctrine of absolute immunity squarely covers a prosecutor's decision to go forward with a prosecution,'" *id.* (quoting *Springmen v. Williams*, 122 F.3d 211, 212 (1997)).

With regard to Plaintiff's claims that his Fourth Amendment rights were violated because he was arrested without probable cause, the magistrate judge found that Plaintiff failed to allege facts showing that any of the *named* defendants lacked probable cause at the time of his arrest on federal charges as these defendants "had knowledge Plaintiff had been arrested by local police while possessing drugs and a gun." *Id.* at 6–7. Additionally, the magistrate judge observed that "Plaintiff admits he was served with indictments," and an "'indictment, 'fair upon its face,' returned by a 'properly constituted grand jury,' conclusively determines the existence of probable cause.'" *Id.* at 7 (quoting *Durham v. Horner*, 690 F.3d 183, 189 (4th Cir. 2012)).

Finally, as to Plaintiff's alleged Eighth and Fourteenth Amendment claims, the magistrate judge found Plaintiff failed to allege any facts to support his Eighth and Fourteenth Amendment claims. *Id.* at 6. The Report notes that Plaintiff "does not describe [his detention] as cruel or unusual" and that "Plaintiff does not claim he was incarcerated without due process of law, and the docket in [the criminal case] reveals he was provided all constitutional protections, such as a detention hearing and a hearing on his motion for reconsideration of bond." *Id.*

Accordingly, the magistrate judge recommends this action be dismissed without issuance and service of process and without leave to amend. *Id.* at 9.

The magistrate judge's recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Wimmer v. Cook*, 774 F.2d 68, 72 (4th Cir. 1985) (quoting *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). Nevertheless, "[t]he district court is only required to review *de novo* those portions of the report to which specific objections have been made, and need not conduct *de novo* review 'when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate judge's proposed findings and recommendations.'" *Farmer v. McBride*, 177 Fed. App'x 327, 330–31 (4th Cir. April 26, 2006) (quoting *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982)); *see also Elijah v. Dunbar*, 66 F.4th 454, 460 (4th Cir. 2023) (noting "an objecting party 'must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection'" and "'an objection stating only "I object" preserves no issue for review'" (quoting *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007); *Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir. 1988))). Thus, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee's note). The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Greenspan v. Bros. Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal the district court's judgment based upon that recommendation. *See Elijah*, 66 F.4th at 460 (quoting *Lockert*, 843 F.2d at 1019); *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017).

Discussion – Objections and Additional Claims

As noted, Plaintiff has submitted objections to the Report. (ECF No. 20). Plaintiff argues that Defendants Lietzow and Henderson should not be protected by prosecutorial immunity because they "suborn[ed] perjury in an attempt to have these charges remain against me." *Id.* at 2. Plaintiff does not allege in his complaint any facts to support this conclusory statement; however, even assuming Plaintiff had alleged facts showing these defendants knowingly presented false testimony, Defendants Lietzow and Henderson would nonetheless be entitled to absolute immunity for tasks performed in their official capacity in connection with the judicial phase of the criminal process. *See, e.g.*, *Lyles v. Sparks*, 79 F.3d 372, 377 (4th Cir. 1996) ("[W]e hold that [Assistant United States Attorney] Arnell enjoys absolute immunity from claims that she made false representations and suborned perjury before the grand jury that indicted Edmond and Lyles."). The court overrules this objection.

Plaintiff further objects to the magistrate judge's conclusion that the complaint fails to allege facts showing that any of the named defendants lacked probable cause at the time of his arrest and that an indictment that is proper on its face "conclusively determines the existence of probable cause.'" (ECF No. 18 at 7) (quoting *Durham v. Horner*, 690 F.3d 183, 189 (4th Cir. 2012)); (ECF No. 20 at 2). Plaintiff suggests that the government's dismissal of his criminal charges reflects that there was no probable cause for his traffic stop. Plaintiff's objections, however, do not address the complete lack of factual allegations regarding any alleged wrongdoing by Defendants Sonnendecker or Crockette. Accordingly, the court also overrules this objection. *See Harmon v. Dunbar*, No. 1:22-cv-01663-TMC, 2024 WL 4800025, at *2 (D.S.C. Nov. 15, 2024) (dismissing based in part on "insufficient allegations to support any claim against any named defendant as his amended complaint contains no specific factual allegations against any of the individual defendants").

Plaintiff also objects to the Reports conclusion that he failed to allege sufficient facts to establish an Eighth or Fourteenth Amendment claim. He argues that there was no probable cause to support his arrest and, therefore, his resulting pretrial detention was, in and of itself, cruel and unusual as it resulted in the loss of his freedom, his home, property and his credit, among other things. (ECF No. 20 at 1). Plaintiff, however, does not dispute that he was afforded a detention hearing, a hearing for reconsideration of bond and other due process protections, and he does not allege how any of the named defendants are connected to his pretrial detention other than their apparent involvement in his arrest and prosecution. The court, therefore, rejects this argument as well.

Finally, Plaintiff, without alleging any supporting facts, seeks to add the following additional defendants: the United States of America; the City of Charleston; and the City of Charleston Police Department. (ECF No. 23). He also lists several state law causes of action—malicious prosecution, false arrest, intentional infliction of emotional distress, negligence, fraud, and abuse of process--but does not allege any facts whatsoever showing how any named defendant might be liable for such claims. *Id.* The court denies Plaintiff leave of court to add these additional parties and claims. The additional defendants are not subject to suit. "While a *Bivens* action allows for recovery of money damages against federal officials who violate the United States Constitution in their individual capacities, *Bivens* does not allow recovery of money, damages, or suits in general, against the [United States] government itself." *Hamilton v. United States*, No. 2:20-cv-01666-RMG, 2020 WL 5939235, at *4 (D.S.C. Oct. 7, 2020), *aff'd*, 848 F. App'x 564 (4th Cir. 2021). The City of Charleston and the Charleston Police Department likewise "may not be sued pursuant to § 1983 (or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1999) for those acting under color of federal law)" as "[i]t is well settled that only 'persons' may act under color of law; thus, a defendant in a § 1983 action (or *Bivens* action) must qualify as a 'person.'" *Brown v. Anderson Cnty. Sheriff's Dep't*, No. 8:24-cv-04392-BHH-KFM, 2024 WL 4634974, at *4, *report and recommendation adopted*, No. 8:24-CV-4392-BHH, 2024 WL 4634948 (D.S.C. Oct. 31, 2024). As for the state law claims, Plaintiff does not allege any facts stating a claim upon which relief could be granted against the named defendants; however, to the extent such facts can be gleaned from the existing record, the court has dismissed Plaintiff's federal claims and declines to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c)(3) over Plaintiff's state law claims.

Conclusion

For the foregoing reasons, Plaintiff's objections are overruled. The court has reviewed the Report under a *de novo* standard, finds no error in the Report and can discern no basis for deviating from the recommendations in the Report. The court agrees with and **ADOPTS** the magistrate judge's findings, conclusions and recommendations in the Report (ECF No. 18), which is incorporated herein by reference. Additionally, for the reasons stated, Plaintiff's motion to amend (ECF No. 23) is **DENIED**. Accordingly, this action is hereby **DISMISSED** with prejudice, without leave to amend, and without issuance and service of process.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
November 6, 2025

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

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

Anthony Glenn James, Plaintiff, vs. ATF Agent Sonnendecker; U.S. Attorney Christopher Scott Lietzow; U.S. Attorney Janet Carra Henderson; and William Crockette, Defendants.	)	C/A No.: 2:23-3298-TMC-SVH REPORT AND RECOMMENDATION

Anthony Glenn James ("Plaintiff"), proceeding pro se and in forma pauperis, sues ATF Agent Sonnendecker, U.S. Attorney Christopher Scott Lietzow, U.S. Attorney Janet Carra Henderson, and Officer William Crockette.[1] He files this civil action pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971),[2]

[1] Plaintiff referred to Crockette as "Charleston P.D. – ATF Liaison." On March 6, 2024, the Honorable Timothy M. Cain, United States District Judge, issued an order noting that the undersigned issued a prior Report and Recommendation ("R&R") incorrectly referring to Crockette as Plaintiff's public defender, instead of an officer with the Charleston Police Department. The instant R&R addresses the case with the correct identification of Crockette.

[2] *Bivens* is the case establishing, as a general proposition, that victims of a constitutional violation perpetuated by a federal actor may sue the offender for damages in federal court despite the absence of explicit statutory authorization for such suits. *Carlson v. Green*, 446 U.S. 14, 18 (1980); *see also Holly v. Scott*, 434 F.3d 287, 289 (4th Cir. 2006). A *Bivens* claim is analogous

alleging violations of his constitutional rights. Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civ. Rule 73.02(B)(2)(d) (D.S.C.), the undersigned is authorized to review such complaints for relief and submit findings and recommendations to the district judge. For the reasons that follow, the undersigned recommends the district judge dismiss the complaint without prejudice and without issuance and service of process.

I. Factual and Procedural Background

Plaintiff alleges he was incarcerated without probable cause for ten months. Plaintiff states "The defendants had unfettered access to the officers' body camera video showing that no probable cause existed to warrant my arrest on a State of Federal level." [ECF No. 1 at 5]. He states he was served with indictments April 6, 2022 and incarcerated until February 1, 2023." *Id.* He sues for alleged violations of his Fourth, Eighth, and Fourteenth Amendment rights based on Defendants' alleged failure to investigate.

This court has dealt with the facts related to this case in a few aspects, including Plaintiff's criminal case on federal charges, *USA v. James*, 2:22-cr-191-RMG ("*James I*"), and a civil rights action against the local police officer who initiated Plaintiff's arrest, *James v. Daniels*, 2:22-1444-TMC ("*James*

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to a claim brought against state officials under 42 U.S.C. § 1983 and case law involving § 1983 claims is applicable in *Bivens* actions, and vice versa. *See Harlow v. Fitzgerald*, 457 U.S. 800, 814–820, n.30 (1982); *see also Farmer v. Brennan*, 511 U.S. 825 (1994).

II").[3] The following facts are derived from the orders in those cases and are provided by way of background.

On December 1, 2020, Charleston Police Officer Cody L. Daniels arrested Plaintiff following a traffic stop after purportedly observing that Plaintiff's vehicle tail lights were not operable as he was driving down Sam Rittenberg Boulevard in Charleston, South Carolina. When Daniels approached the vehicle, he reported smelling the odor of marijuana. Officers eventually searched the vehicle and found a clear plastic bag containing presumed marijuana on the floorboards in front of the driver's seat. As Plaintiff was searched incident to arrest, he admitted he had a firearm concealed on his person and admitted he did not have a concealed weapons permit. A pistol was retrieved from the left inner breast pocket of his jacket. Plaintiff was taken into local custody and charged. While Plaintiff mentions his detention, he does not describe it as cruel or unusual, and notes that he was released after 24 hours upon payment of a $2,000.00 bail. *See* ECF No. 31 in *James II*.

On March 8, 2022, a federal grand jury in Charleston, South Carolina returned a three-count indictment charging Plaintiff with: (1) possession with

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[3] A district court may take judicial notice of materials in the court's own files from prior proceedings. *See United States v. Parker*, 956 F.2d 169, 171 (8th Cir. 1992) (the district court had the right to take judicial notice of a prior related proceeding); *see also Fletcher v. Bryan*, 175 F.2d 716 (4th Cir. 1949).

intent to distribute controlled substances pursuant to 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), 841(b)(1)(C), and 841(b)(1)(D); (2) possession of a firearm in furtherance of a drug trafficking crime pursuant to 18 U.S.C. §§924(c)(1)(A); and (3) possessing a firearm after having been convicted of a felony offense pursuant to 18 U.S.C. §§922(g)(1). Following the indictment, a United States Magistrate Judge issued a warrant for Plaintiff's arrest.

Plaintiff's criminal charges were dismissed with prejudice on the government's motion by the Honorable Richard M. Gergel, United States District Judge, on February 1, 2023, in *James I* following a hearing on Plaintiff's motion to suppress in which he argued that the evidence showed that his taillights were working and thus no reason existed for Daniels to pull Plaintiff over. On February 5, 2024, counsel for Daniels advised the court that the parties in *James II* had reached a settlement.

II. Discussion

A. Standard of Review

Plaintiff filed this complaint pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit. To protect against possible abuses of this privilege, the statute allows a district court to dismiss a case upon a finding that the action fails to state a claim on which relief may be granted or is frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i), (ii). A finding of frivolity can be made where the complaint lacks an arguable basis either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992). A claim based on a meritless legal theory may be dismissed sua sponte under 28 U.S.C. § 1915(e)(2)(B). *See Neitzke v. Williams*, 490 U.S. 319, 327 (1989); *Allison v. Kyle*, 66 F.3d 71, 73 (5th Cir. 1995).

Pro se complaints are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). A federal district court is charged with liberally construing a complaint filed by a pro se litigant to allow the development of a potentially meritorious case. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In evaluating a pro se complaint, the plaintiff's allegations are assumed to be true. *Merriweather v. Reynolds*, 586 F. Supp. 2d 548, 554 (D.S.C. 2008). The mandated liberal construction afforded to pro se pleadings means that if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so. Nevertheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts that set forth a claim currently cognizable in a federal district court. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 390–91 (4th Cir. 1990).

B. Analysis

1. Eighth and Fourteenth Amendment Violations

Plaintiff has alleged no fact in support of his claims of violation of his Eighth and Fourteenth Amendment rights. For example, Plaintiff does not claim he was incarcerated without due process of law, and the docket in *James I* reveals he was provided all constitutional protections, such as a detention hearing and a hearing on his motion for reconsideration of bond. ECF Nos. 24, 48 in *James I*. While Plaintiff mentions his detention, he does not describe it as cruel or unusual. Rather, Plaintiff's claims all appear to stem from his argument that he was improperly seized under the Fourth Amendment, which is addressed below. Accordingly, the undersigned recommends Plaintiff's claims for violation of his Eighth and Fourteenth Amendment rights be dismissed.

2. Fourth Amendment Violations

Plaintiff alleges Defendants are liable to him because he was arrested without probable cause. "Probable cause exists when the facts and circumstances within an officer's knowledge—or of which he possesses reasonably trustworthy information—are sufficient in themselves to convince a person of reasonable caution that an offense has been or is being committed." *Wadkins v. Arnold*, 214 F.3d 535, 539 (4th Cir. 2000). Here, Plaintiff has not shown that any defendant lacked probable cause at the time of his arrest. At the time of his arrest on federal charges, Defendants had knowledge Plaintiff had been arrested by local police while possessing drugs and a gun. Plaintiff claims Defendants did not properly investigate the traffic stop prior to his federal arrest by viewing the video evidence which allegedly reveals Daniels did not have a legal basis for initiating the traffic stop. However, Plaintiff provides no authority that Defendants had this obligation. In fact, once an officer has probable cause, he has no duty to further investigate. *See Durham v. Horner*, 690 F.3d 183, 190 (4th Cir. 2012) (holding that officer was "'not required to exhaust every potentially exculpatory lead or resolve every doubt about [plaintiff's] guilt before probable cause [was] established'" (quoting *Miller v. Prince George's Cnty., Md.*, 475 F.3d 621, 630 (4th Cir. 2007))); *Drumgoole v. Pastorek*, No. CV PX-17-0564, 2018 WL 3496430, at *4 (D. Md. 20 July 2018) ("More critically, once an officer has probable cause to arrest, the officer need not investigate further to confirm or dispel his basis for so concluding.").

Furthermore, Plaintiff admits he was served with indictments. "[A]n indictment, 'fair upon its face,' returned by a 'properly constituted grand jury,' conclusively determines the existence of probable cause." *Durham v. Horner*, 690 F.3d 183, 189 (4th Cir. 2012) (quoting *Gerstein v. Pugh*, 420 U.S. 103, 117 n.19 (1975)); *see also Provet v. S.C.*, No. 6:07-cv-1094-GRA-WMC, 2007 WL 1847849, at *5 (D.S.C. June 25, 2007) (explaining § 1983 claims of false arrest and malicious prosecution were precluded based on the filing of an indictment). For these reasons, Plaintiff's Fourth Amendment claim is also subject to summary dismissal.[4]

1. AUSAs Lietzow and Henderson

Although the foregoing analysis includes the dismissal of Plaintiff's complaint in its entirety, the court specifically addresses Plaintiff's claims against Lietzow and Henderson. Plaintiff alleges defendants Lietzow and Henderson violated his constitutional rights during his federal prosecution. Prosecutors have absolute immunity for activities in or connected with judicial proceedings, such as a criminal trial, bond hearings, bail hearings, grand jury proceedings, and pretrial hearings. *See Buckley v. Fitzsimmons*, 509 U.S. 259 (1993); *Dababnah v. Keller-Burnside*, 208 F.3d 467 (4th Cir. 2000). Plaintiff alleges he is suing Lietzow and Henderson for their failure "to properly investigate a traffic stop incident before incarcerating [him]." [ECF No. 1 at 5]. However, the law is clear that "[t]he doctrine of absolute immunity squarely covers a prosecutor's decision to go forward with a prosecution." *Springmen v. Williams*, 122 F.3d 211, 212 (1997) (citing *Imbler v. Pachtman*, 424 U.S. 409, (1976)). The Supreme Court has made clear that

[4] It appears Plaintiff submitted only constitutional claims. To the extent Plaintiff intended to sue for allegedly negligent conduct, this court does not have independent jurisdiction of such claims.

prosecutors still retain absolute immunity for conduct related to the evaluation of a case:

> We have not retreated, however, from the principle that acts undertaken by a prosecutor in preparing for the initiation of judicial proceedings or for trial, and which occur in the course of his role as an advocate for the State, are entitled to the protections of absolute immunity. *Those acts must include the professional evaluation of evidence assembled by the police* . . . .

Buckley v. Fitzsimmons, 509 U.S. 259, 272–73 (1993) (emphasis added). Accordingly, the undersigned finds Lietzow and Henderson are separately entitled to summary dismissal based on their absolute prosecutorial immunity.

III. Conclusion and Recommendation

For the foregoing reasons, the undersigned recommends the court dismiss this case without issuance and service of process. Because Plaintiff's claims would ultimately fail if he were permitted to amend his complaint, the undersigned recommends the district judge order the dismissal without leave for further amendment.

IT IS SO RECOMMENDED.

Shiva V. Hodges

March 7, 2024
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

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

Notice of Right to File Objections to Report and Recommendation

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

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

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

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