

United States Court of Appeals
for the Fifth Circuit

No. 25-50667

United States Court of Appeals
Fifth Circuit

FILED

February 11, 2026

Lyle W. Cayce
Clerk

SHAWN L. SANDERS,

Plaintiff—Appellant,

versus

ANTHONY A. ARNOLD, *Bexar County District Attorney's Office*;
BRANDON TAMAYO, *Metropolitan Transit Police Department*,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:25-CV-625

Before JONES, SMITH, and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Shawn L. Sanders seeks to proceed in forma pauperis (IFP) on appeal from the dismissal of his 42 U.S.C. § 1983 complaint and the denial of his post-judgment motion. Sanders named as defendants Anthony A. Arnold of the Bexar County District Attorney's Office and Brandon Tamayo of the Metropolitan Transit Police Department. The district court determined that

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

Arnold was entitled to sovereign and prosecutorial immunity and that the claims against both defendants were barred under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Through his IFP motion, Sanders challenges the district court's determination that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry, therefore, "is limited to whether the appeal involves 'legal points arguable on their merits (and therefore not frivolous).'" *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (citation omitted).

We do not consider Sanders's claims regarding the August 6, 2025 decision of an unidentified Texas agency, as they involve new facts and a new theory of relief presented for the first time on appeal. *See Theriot v. Par. of Jefferson*, 185 F.3d 477, 491 n.26 (5th Cir. 1999); *Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999). Sanders reasserts the claim that the defendants violated his constitutional rights, but ignores, and thus abandons any challenge to, the district court's immunity and *Heck*-bar determinations. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993); *Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Although he attempts to incorporate by reference his district court pleadings, he may not do so. *See Yohey*, 985 F.2d at 224-25 (considering arguments abandoned if not raised in the brief and rejecting appellant's request to adopt previously filed arguments). Absent any challenge to the district court's holdings, Sanders therefore fails to identify a nonfrivolous issue for appeal. *See Howard*, 707 F.2d at 220.

Accordingly, we DENY the IFP motion and DISMISS the appeal as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. Additionally, we recognize that a prisoner may not proceed IFP in a § 1983 civil action or an appeal of a civil action if three or more of his prior civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim, "unless the prisoner is under imminent danger of serious

physical injury.” 28 U.S.C. § 1915(g). Our dismissal of this appeal as frivolous therefore counts as a strike for purposes of § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996), *abrogated in part on other grounds by Coleman v. Tollefson*, 575 U.S. 532, 537 (2015).

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

July 22, 2025

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: NM
DEPUTY

SHAWN L. SANDERS, TDCJ #02519879,	§	
	§	
Plaintiff,	§	
	§	
v.	§	SA-25-CV-00625-OLG
	§	
ANTHONY A. ARNOLD, Bexar County	§	
District Attorney's Office; and	§	
BRANDON TAMAYO, Metropolitan	§	
Transit Police Department,	§	
	§	
Defendants.	§	

ORDER OF DISMISSAL

Before the Court is *pro se* Plaintiff Shawn L. Sanders's 42 U.S.C. § 1983 Amended Civil Rights Complaint. (Dkt. No. 10). Sanders is proceeding *in forma pauperis* ("IFP"). (Dkt. No. 4). Upon review, the Court orders that to the extent Sanders brought § 1983 claims against Defendant Anthony A. Arnold, Bexar County District Attorney's Office, in his official capacity for monetary damages or other retrospective relief such claims are **DISMISSED WITHOUT PREJUDICE FOR WANT OF JURISDICTION** based on sovereign immunity. (Dkt. No. 10); *see* U.S. CONST. amend. XI. The Court orders Sanders's remaining § 1983 claims **DISMISSED WITH PREJUDICE** based on immunity, as frivolous, and/or for failure to state a claim upon which relief may be granted. (Dkt. No. 10); *see* 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b).

BACKGROUND

Bexar County records show Sanders was convicted of possession of a controlled substance in state court cause number 2023CR3165 on July 30, 2024, based on his January 8, 2022 arrest. *See* Register of Actions - DC2023CR3165 (last visited July 15, 2025); *see also* Texas Department of Criminal Justice Inmate Search (same). Based on his habitual offender status, he was sentenced

to twenty-five (25) years' confinement in the Texas Department of Criminal Justice ("TDCJ"). See Register of Actions - DC2023CR3165: Texas Department of Criminal Justice Inmate Search. Sanders is currently confined in TDCJ's Willacy County Unit. See Texas Department of Criminal Justice Inmate Search. While confined, Sanders filed this § 1983 action against: (1) Anthony A. Arnold, Bexar County District Attorney's Office; and (2) Brandon Tamayo, Metropolitan Transit Police Department. (Dkt. No. 1). Upon review, the Court noted deficiencies in Sanders's Complaint. Accordingly, the Court rendered a Show Cause Order requiring Sanders to file an amended complaint correcting the deficiencies or face dismissal. (Dkt. No. 5). In response to the Show Cause Order, Sanders filed his Amended Complaint. (Dkt. No. 10). Therein, he sues the same Defendants, contending that: (1) Arnold, the Bexar County Assistant District Attorney who prosecuted him, violated his civil rights based "official oppression, malicious prosecution;" and (2) Tamayo, an officer with the Metropolitan Transit Police Department, violated his Fourth Amendment rights based on "false arrest, false imprisonment." (*Id.*). As relief, Sanders seeks monetary damages and "liberty, justice, and freedom," which the Court construes as a request for release. (*Id.*).

APPLICABLE LAW

When an inmate seeks redress from an officer or employee of a governmental entity, his complaint is subject to preliminary screening pursuant to 28 U.S.C. § 1915A. See *Martin v. Scott*, 156 F.3d 578, 579–80 (5th Cir. 1998) (per curiam). If a plaintiff is proceeding IFP, his complaint is also subject to screening under § 1915(e)(2). Both statutes provide for *sua sponte* dismissal of a complaint — or any portion thereof — if the Court finds it frivolous or malicious, if it fails to state

a claim upon which relief can be granted, or if it seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b).

A complaint is frivolous if “it lacks any arguable basis in law or fact.” *Samford v. Dretke*, 562 F.3d 674, 678 (5th Cir. 2009) (quoting *Harris v. Hegmann*, 198 F.3d 153, 156 (5th Cir. 1999)). “A complaint lacks an arguable basis in law if it is based on an indisputably meritless legal theory, such as if the complaint alleges violation of a legal interest which clearly does not exist.” *Id.* A complaint lacks an arguable basis in fact when “the facts alleged are fantastic or delusional scenarios or the legal theory upon which a complaint relies is indisputably meritless.” *Id.* A complaint fails to state a claim upon which relief may be granted where it does not allege sufficient facts which, taken as true, state a claim which is plausible on its face and thus does not raise a right to relief above the speculative level. *See Montoya v. FedEx Ground Packaging Sys. Inc.*, 614 F.3d 145, 149 (5th Cir. 2010) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). This standard requires more than the mere possibility that the defendant has acted unlawfully. *Twombly*, 550 U.S. at 556.

Although a court must construe a *pro se*’s allegations liberally, *see Erickson v. Pardus*, 551 U.S. 89, 94 (2007), a plaintiff’s *pro se* status does not offer him “an impenetrable shield, for one acting *pro se* has 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).

ANALYSIS

A. Eleventh Amendment and Prosecutorial Immunity—Arnold (“the ADA”)

As to the ADA, Sanders asserts claims for official oppression and malicious prosecution.

(Dkt. No. 10). The Court finds Sanders's claims against the ADA, whether brought against him in either his official or individual capacity, are subject to dismissal based sovereign and prosecutorial immunity. *See* U.S. Const. amend. XI; *Buckley v. Fitzsimmons*, 509 U.S. 259, 269–73 (1993)

1. Eleventh Amendment Immunity—Official Capacity

To the extent Sanders seeks monetary damages or other retrospective relief against the ADA in his official capacity, such claims are barred by the Eleventh Amendment. *See* U.S. CONST. amend. XI. The Eleventh Amendment bars suits by private citizens against a state in federal court. *Union Pac. R. Co. v. Louisiana Pub. Serv. Comm'n*, 662 F.3d 336, 340 (5th Cir. 2011); *K.P. v. Leblanc*, 627 F.3d 115, 124 (5th Cir. 2010) (citing *Hutto v. Finney*, 437 U.S. 678, 700 (1978)); *see* U.S. CONST. amend. XI (“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.”). Federal claims against state employees in their official capacities are the equivalent of suits against the state. *Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 71 (1989); *Monell*, 436 U.S. at 658, 690 n.55 (1978). The bar of the Eleventh Amendment is in effect when state officials are sued for monetary damages in their official capacities. *Kentucky v. Graham*, 473 U.S. 159, 169 (1985); *Cory v. White*, 457 U.S. 85, 90, (1982). This is so because “a judgment against a public servant ‘in his official capacity’ imposes liability on the entity that he represents.” *Graham*, 473 U.S. at 169 (quoting *Brandon v. Holt*, 469 U.S. 464, 471 (1985)).

Regarding § 1983 claims, the Supreme Court has held a state is not considered a “person” within the meaning of the statute. *Will*, 491 U.S. at 64. Accordingly, although state officials literally are persons, if sued in their official capacities, they are not deemed “persons” for purposes

of § 1983. *Id.* at 71. In other words, a suit against an official in his or her official capacity is not a suit against the official, but rather is a suit against the official's office. *Id.*; *Brandon*, 469 U.S. at 471. As a suit against the official's office, it is no different from a suit against the state itself. *Will*, 491 U.S. at 71 (citing *Graham*, 473 U.S. at 165–66; *Monell*, 436 U.S. at 690 n.55). Thus, § 1983 suits brought against state officials in their official capacities for monetary damages or for retrospective relief are, likewise, barred under the Eleventh Amendment. *See id.*

The Fifth Circuit has stated on numerous occasions that district attorneys and assistant district attorneys in Texas are agents of the state when acting in their prosecutorial capacities. *See, e.g., Quinn v. Roach*, 326 F. App'x 280, 292 (5th Cir. 2009). Thus, Sanders's claims against the ADA in his official capacity for monetary damages or other retrospective relief are subject to dismissal for want of jurisdiction based on sovereign immunity. *See Will*, 491 U.S. at 71.

2. Prosecutorial Immunity—Individual Capacity

To the extent Sanders asserts § 1983 claims against the ADA in his individual capacity for monetary damages or other retrospective relief, such claims are barred by prosecutorial immunity. *See Buckley*, 509 U.S. at 269–73; *Booker v. Koonce*, 2 F.3d 114, 116 (5th Cir. 1993). Prosecutors are absolutely immune from liability in a civil rights lawsuit seeking monetary or other retrospective relief for any actions taken by them within the course and scope of representing governmental agencies and subdivisions in judicial proceedings, i.e., when acting as advocates of the state. *Buckley*, 509 U.S. at 269–73; *Booker*, 2 F.3d at 116. “[A]cts undertaken by the 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.” *Buckley*,

509 U.S. at 273. Prosecutors are immune even for malicious or willful actions if the actions occur in the exercise of the advocacy function. *Cousin v. Small*, 325 F.3d 627, 635 (5th Cir. 2003).

Sanders has not alleged any facts showing the ADA was acting outside the course and scope of his role as an advocate for the State of Texas regarding the criminal prosecution against him. (Dkt. No. 10). Thus, the Court finds the ADA is immune, and Sanders's claims against him in his individual capacity are subject to dismissal. *See* 28 U.S.C. §§ 1915(e)(2)(B)(iii), 1915A(b)(2).

B. Heck-Bar—The ADA and Officer Tamayo

As previously stated, Sanders asserts § 1983 claims against the ADA for official oppression and malicious prosecution. (Dkt. No. 10). Regarding Officer Tamayo, Sanders alleges violations of his Fourth Amendment rights based on alleged false arrest and false imprisonment. (Dkt. No. 10). The arrest culminated in Sanders's prosecution and conviction for possession of a controlled substance in state court cause number 2023CR3165. *See Register of Actions - DC2023CR3165*. The Court finds these claims are barred by the Supreme Court's decision in *Heck v. Humphrey*, 512 U.S. 477 (1994).

In *Heck v. Humphrey*, the Supreme Court held a § 1983 claim for which monetary damages are sought and that necessarily implies the invalidity of the plaintiff's conviction or imprisonment does not accrue, i.e., is barred, until the conviction or sentence has been "reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus." 512 U.S. at 486–87. Thereafter, in *Wilkinson v. Dotson*, 544 U.S. 74, 81–82 (2005), the Supreme Court held that a prisoner's § 1983 claims are "barred (absent prior invalidation)—no matter the

relief sought (damages or equitable relief), no matter the target of the prisoner's suit (state conduct leading to conviction or internal prison proceedings)—*if* success in that action would necessarily demonstrate the invalidity of confinement or its duration.” (emphasis in original); *see VanBuren v. Walker*, 841 F. App'x 715, 716 (5th Cir. 2021) (“*Heck* prevents [a plaintiff] from raising *any* constitutional claim or seeking *any* injunctive relief that would result in invalidating, or implying the invalidity of, a conviction or sentence that has not otherwise been reversed, expunged, or called into question.”).

Here, the Court finds Sanders's claims against the ADA and Officer Tamayo would invalidate or imply the invalidity of his conviction in state court cause number 2023CR3165. Thus, to avoid dismissal of his claims against Defendants, Sanders must establish his conviction in state court cause number 2023CR3165 has been reversed, expunged, declared invalid, or otherwise called into question. *See Heck*, 512 U.S. at 486–87.

Sanders has not alleged his conviction in state court cause number 2023CR3165 has been reversed, expunged, declared invalid, or otherwise called into question. (Dkt. No. 10). Moreover, public court records from the Fourth Court of Appeals show Sanders's appeal from his conviction in state court cause number 2023CR3165 is still pending. *See Case Detail* (last visited July 15, 2025). The Court has found no other attempts by Sanders at invalidating his conviction nor has Sanders referenced any. Thus, Sanders's § 1983 claims are *Heck*–barred, and subject to dismissal as frivolous and/or for failure to state a claim upon which relief may be granted. *See Heck*, 512 U.S. at 486–87; *see also* 28 U.S.C. §§ 1915(e)(2)(B)(i, ii), 1915A(b)(1).

C. Improper Relief

As relief, Sanders seeks, in addition to monetary damages, “liberty, justice and freedom.” (Dkt. No. 10). ” The Court construes this as a request for release from confinement based on his conviction on the possession charge. (*Id.*).

Following his state-court conviction, Sanders can obtain such relief only pursuant to a writ of habeas corpus after exhaustion of his available state remedies. *See* 28 U.S.C. § 2254(b)(1)(A); *Ruiz v. Quarterman*, 460 F.3d 638, 642 (5th Cir. 2006). The Court declines to construe his filing as a request for relief pursuant to § 2254 given Sanders’s failure to exhaust his available state remedies.

CONCLUSION

Sanders was given an opportunity to amend his original Complaint in an attempt to cure the deficiencies pointed out by the Court in its Show Cause Order. *See Neitzke v. Williams*, 490 U.S. 319, 329 (1989); *Century Sur. Co. v. Blevins*, 799 F.3d 366, 372 (5th Cir. 2015). Although Sanders filed an Amended Complaint, he failed to remedy the noted deficiencies. Thus, the Court finds Sanders’s claims are subject to dismissal based on the analysis set out above.

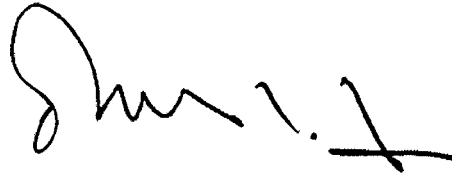
IT IS THEREFORE ORDERED that to the extent Sanders brings 42 U.S.C. § 1983 claims against the ADA in his official capacity for monetary damages or other retrospective relief, (Dkt. No. 10) such claims are **DISMISSED WITHOUT PREJUDICE FOR WANT OF JURISDICTION** based on sovereign immunity. *See* U.S. CONST. amend. XI.

IT IS FURTHER ORDERED that Sanders’s remaining 42 U.S.C. § 1983 claims (Dkt. No. 10) are **DISMISSED WITH PREJUDICE** based on immunity, as frivolous, and/or for

failure to state a claim upon which relief may be granted. *See* 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b).

It is **SO ORDERED**.

SIGNED this 22 day of July, 2025.

A handwritten signature in black ink, appearing to read "Orlando L. Garcia", written over a horizontal line.

ORLANDO L. GARCIA
United States District Judge

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 30, 2026

Lyle W. Cayce
Clerk

No. 25-50667

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Plaintiff—Appellant,

versus

ANTHONY A. ARNOLD, *Bexar County District Attorney's Office;*
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USDC No. 5:25-CV-625

ON PETITION FOR REHEARING

Before JONES, SMITH, and HIGGINSON, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

Appendix B