

FILED
United States Court of Appeal
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

May 26, 2026

Christopher M. Wolpert
Clerk of Court

BO ZOU,

Plaintiff - Appellant,

v.

STEVEN R. EBBERTS; TERESA L.
WATSON; MARLA LUCKERT,

Defendants - Appellees.

No. 25-3148
(D.C. No. 2:25-CV-02231-HLT-RES)
(D. Kan.)

ORDER AND JUDGMENT*

Before **MATHESON, MORITZ, and FEDERICO**, Circuit Judges.

Bo Zou, proceeding pro se,¹ appeals the district court's dismissal of his 42 U.S.C. § 1983 action against three Kansas state judges—Shawnee County District Judge Teresa L. Watson, Shawnee County Chief Judge Steven R. Ebberts, and Kansas Supreme Court Chief Justice Marla J. Luckert. Mr. Zou alleged Fourteenth

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ Because Mr. Zou appears pro se, “we liberally construe his filings, but we will not act as his advocate.” *James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013).

Amendment violations arising from orders restricting his access to the Shawnee County Courthouse and denying his state-court appeal. The district court dismissed his claims as barred by judicial immunity and the Eleventh Amendment. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

Mr. Zou's claims arise from orders in a landlord-tenant dispute in the District Court of Shawnee County, Kansas.² During those proceedings, Judge Watson entered an order prohibiting Mr. Zou from entering certain parts of the Shawnee County Courthouse. Chief Judge Ebberts later issued an administrative order prohibiting Mr. Zou from entering the courthouse entirely. Mr. Zou then petitioned the Kansas Supreme Court for review and for a writ of mandamus, which Chief Justice Luckert denied.

Mr. Zou next filed this action in the United States District Court for the District of Kansas seeking damages and injunctive relief. He moved to proceed *in forma pauperis* ("ifp"). See 28 U.S.C. § 1915(a). The magistrate judge granted the ifp motion and screened the complaint under § 1915(e)(2)(B). Although the complaint alleged constitutional violations, it did not specify a cause of action or indicate whether Mr. Zou was suing the judges in their individual or official capacities. The magistrate judge liberally construed the allegations as asserting § 1983 claims against the judges in both capacities and issued a report and

² The factual background is drawn from Mr. Zou's complaint, objections to the report and recommendation, and public state-court records that the magistrate judge judicially noticed.

recommendation (“R&R”) recommending dismissal. The R&R concluded that judicial immunity barred the individual-capacity claims, the Eleventh Amendment barred the official-capacity claims, and no exception to either doctrine applied.

Mr. Zou objected to the R&R, arguing generally that immunity does not preclude actions alleging constitutional violations; the state-court judges acted outside their jurisdiction; and the magistrate judge lacked authority to review Mr. Zou’s *ifp* motion, screen his complaint, and withhold service. After conducting *de novo* review, the district court overruled the objections, concluding that (1) because the challenged orders were judicial acts within the state-court judges’ authority, judicial immunity barred the individual-capacity claims; (2) the Eleventh Amendment barred the official-capacity claims for monetary relief; (3) the *Ex parte Young* exception for injunctive relief did not extend to state judicial officers, *see generally Ex parte Young*, 209 U.S. 123 (1908); and (4) a magistrate judge has authority over non-dispositive pretrial matters, including *ifp* motions and complaint screening. The court adopted the R&R and dismissed under § 1915(e)(2)(B)(ii)–(iii).

On appeal, Mr. Zou does not meaningfully challenge the district court’s determination that judicial immunity and the Eleventh Amendment bar his claims. His opening brief recounts the history of the dispute and largely reasserts the arguments he presented in his objections. He does not address the district court’s reasoning for rejecting those arguments. “The first task of an appellant is to explain to us why the district court’s decision was wrong.” *Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015). Because Mr. Zou does not do so, we will not

question the district court's decision. *See Clark v. Colbert*, 895 F.3d 1258, 1265 (10th Cir. 2018) (“[W]e will not question the reasoning of a district court unless an appellant actually argues against it.” (alteration and internal quotation marks omitted)).

Having carefully reviewed Mr. Zou's brief and the record, we conclude that Mr. Zou has failed to show the district court erred. We affirm for substantially the same reasons stated in the district court's order.

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge

Appendix B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BO ZOU,

Plaintiff,

v.

STEVEN R. EBBERTS, et al.,

Defendants.

Case No. 2:25-cv-02231-HLT-RES

ORDER

Pro se plaintiff Bo Zou¹ filed a civil complaint against three state-court judges. Doc. 1. After the magistrate judge granted Plaintiff leave to proceed in forma pauperis, she screened the complaint and recommended that the case be dismissed because Defendants were entitled to immunity based on the face of the complaint. Plaintiff objected. After reviewing the record de novo, the undersigned finds that Defendants are immune from suit and dismisses this case.

I. BACKGROUND

Plaintiff's complaint alleged that on December 2, 2022, Shawnee County District Judge Teresa Watson prohibited Plaintiff from entering certain parts of the Shawnee County Courthouse. *Id.* at 3. Plaintiff appealed to the Kansas Supreme Court, and Chief Justice Marla Luckert denied the appeal. *Id.* On August 15, 2023, Shawnee County District Court Chief Judge Steven Ebberts prohibited Plaintiff from entering the Shawnee County Courthouse entirely. *Id.* The original complaint did not indicate what specific claim Plaintiff was bringing but he sought to "Revoke the injunction" and \$7,000 in damages. *Id.* at 4.

¹ Because Plaintiff proceeds pro se, his pleadings are construed liberally and held to a less stringent standard than pleadings drafted by lawyers. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). But the Court does not assume the role of advocate. *Id.*

Plaintiff moved to proceed in forma pauperis (“IFP”). Doc. 4. The magistrate judge granted the motion but directed the U.S. Marshals Service to withhold service pending further order of the court so that screening could occur. Doc. 5. The magistrate judge then screened the complaint under 28 U.S.C. § 1915(e)(2)(B)² and issued a Report and Recommendation (“R&R”). Doc. 6.

The R&R noted that Plaintiff sues three state-court judges for violating his constitutional rights. Doc. 6 at 1-2. Although the complaint did not contain enumerated counts or specify the cause of action, the R&R construed Plaintiff as trying to assert claims under 42 U.S.C. § 1983, which applies when a party alleges constitutional violations by those acting under color of state law. *Id.* at 4. Although the complaint did not state whether Plaintiff was suing Defendants in their individual or official capacities, the R&R also construed the claims under both theories. *Id.* at 4-5. Finally, the R&R construed Plaintiff’s complaint as alleging both monetary and injunctive relief. *Id.* at 3 n.2.

The R&R explained that judicial immunity applies to any individual-capacity claims brought against Defendants, who are all judges, and for both monetary and injunctive relief. *Id.* at 5-6. The limited circumstances in which judicial immunity would not apply are when a complaint challenges actions taken by a judge not in their judicial capacity and for actions taken in a complete absence of all jurisdiction. *Id.* at 6. The R&R explained that Plaintiff’s complaint did not suggest that either exception applied. *Id.* at 6-7. The R&R, in taking judicial notice of Plaintiff’s state-court filings, noted that Judge Watson had presided over Plaintiff’s state-court cases. *Id.* at 7. The complaint alleged that Chief Justice Luckert had denied Plaintiff’s appeal to the Kansas Supreme Court. *Id.* Finally, Chief Judge Ebberts had issued an administrative order prohibiting Plaintiff

² Section 1915(e)(2)(B) allows a court to dismiss any complaint by a party proceeding IFP if the case is frivolous or malicious, fails to state a claim, or seeks monetary relief against an immune defendant. When screening a complaint under § 1915(e)(2)(B), the court applies the standard for motions to dismiss under Rule 12(b)(6). *See Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007).

from entering the Shawnee County Courthouse. *Id.* at 7-8. The R&R found these are all actions within the respective Defendants' judicial capacities. *Id.* at 8. Because there were no allegations that any Defendants acted in the complete absence of jurisdiction, the R&R concluded that all individual-capacity claims against Defendants were barred by judicial immunity. *Id.* at 9-10.

The R&R explained that, to the extent Plaintiff brought official-capacity claims, those were actually claims against the state of Kansas. *Id.* at 4-5, 10. The Eleventh Amendment bars such official-capacity claims because judges are considered state officials. *Id.* at 10. The only exceptions to this immunity are consent, abrogation, and limited relief under the doctrine in *Ex parte Young*. *Id.* at 10-11. The R&R cited authority showing none of these exceptions applied. *Id.* at 11. Finally, the R&R noted that 42 U.S.C. § 1983 limits the injunctive relief available against judicial officers to circumstances not alleged in this case. *Id.* at 12.

The R&R thus found that Plaintiff's claims are subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii) because they are barred by judicial immunity and the Eleventh Amendment. *Id.* at 13. Plaintiff was notified that he had 14 days to file written objections and that failure to object would waive appellate review of factual and legal findings. *Id.*

After the R&R was issued, Plaintiff filed an amended complaint and an objection to the R&R. Docs. 7-8. The amended complaint is very similar to the original.³ The amended complaint specifies that Plaintiff is alleging a violation of the Fourteenth Amendment because Defendants limited his access to the Shawnee County Courthouse. Doc. 7 at 3. The amended complaint drops the claim for monetary damages. *Id.* at 4.

³ In the original complaint, Plaintiff did not check any boxes indicating a claim arising under federal law. Doc. 1 at 3. The amended complaint checks the boxes for a claim arising under 28 U.S.C. § 1343 and the box for "other," in which Plaintiff references the Fourteenth Amendment. Doc. 7 at 3. Section 1343 does not provide for a cause of action; it only allows courts to hear civil rights cases. *Hancock v. United States*, 2025 WL 1550560, at *3 (D. Kan. 2025).

In his objection, Plaintiff asserts that federal courts have jurisdiction over claims against state officials, including judges, for violations of constitutional rights. Doc. 8 at 2. He claims there is no judicial immunity for constitutional violations. *Id.* at 11-12.

Much of Plaintiff's objection details the history of the dispute between Plaintiff and his former landlord, which led to the state-court lawsuits, and his complaints about how the state-court matters were handled. *See generally id.* Relevant to this case, Plaintiff explains that Judge Watson was not originally the judge assigned to the small-claims case, but she then "intervened" or had the case reassigned to her, which Plaintiff claims was improper. *Id.* at 2-3, 8. It also includes an allegation that Judge Watson prohibited Plaintiff from entering the courthouse in retaliation for his filings in that case. *Id.* at 3, 8. Plaintiff alleges Chief Judge Ebberts issued the administrative order in violation of the Fourteenth Amendment "by fabricating pretexts." *Id.* at 10. He also attached a copy of the administrative order. *See* Doc. 8-1. Plaintiff argues that Chief Judge Ebberts was without authority to issue the order because he was not presiding over Plaintiff's cases. Doc. 8 at 12. As to Chief Justice Luckert, Plaintiff argues she wrongfully denied his Petition for Writ of Mandamus in Case. No. 23-125970-S without a reason. *Id.* at 14.⁴

II. ANALYSIS

Rule 72(b) governs R&Rs by magistrate judges on dispositive issues. The rule allows a party to file objections and states that "[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3).

⁴ The objection also includes some allegations against other Kansas judges who are not parties to the case. Doc. 8 at 14. The Court takes no action on allegations against non-parties. Plaintiff also objects that it was improper for the magistrate judge to rule on the IFP motion and delay service. *Id.* at 1. Plaintiff is not correct. Granting leave to proceed in forma pauperis and other non-dispositive rulings are within a magistrate judge's authority. *See Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005); *see also* Fed. R. Civ. P. 72.

Plaintiff filed both an amended complaint and objection in response to the R&R. Docs. 7-8. The Court has considered both and applies de novo review to the R&R.

Plaintiff alleges constitutional violations by individuals acting under color of state law, which typically falls within 28 U.S.C. § 1983. Because Plaintiff does not indicate whether he sues Defendants in their individual or official capacities, analysis of both is proper. *See Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985) (noting that individual-capacity suits “seek to impose personal liability” while official-capacity suits are against the “entity of which an officer is an agent” (internal quotation and citation omitted)). The Court will also consider claims for both monetary and injunctive relief.⁵

A. Individual-Capacity Claims

Judges acting in their judicial capacity are generally immune for suit for money damages. *Mireles v. Waco*, 502 U.S. 9, 9-10 (1991). This immunity extends to claims for injunctive relief. *Lawrence v. Kuenhold*, 271 F. App’x 763, 766 n.6 (10th Cir. 2008) (“Thus, the doctrine of judicial immunity now extends to suits against judges where a plaintiff seeks not only monetary relief, but injunctive relief as well.”); *see also* 42 U.S.C. § 1983 (noting that “in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable”). This immunity may be overcome if the allegations arise from acts not taken in the judge’s judicial capacity or if the judicial acts are “taken in the complete absence of all jurisdiction.” *Mireles*, 502 U.S. at 11-12.

⁵ Although Plaintiff’s original complaint sought monetary damages, it appears Plaintiff has dropped that claim in his amended complaint. This does not change the analysis in the R&R or this order.

Here, Plaintiff's allegations make clear that the acts he complains of were taken by Defendants in their judicial capacity. Plaintiff's objection concedes that Judge Watson issued the order barring Plaintiff from entering the courthouse while she was presiding over Plaintiff's state-court cases. *See* Doc. 8 at 3, 8. This is a judicial act. *See Springer v. Seventh Jud. Dist. Ct.*, 2024 WL 2804431, at *5 (D.N.M. 2024) (“[A]n order (or other act) barring an individual from entering the courthouse or a courtroom is a judicial act to which judicial immunity applies.”). Although Plaintiff disagrees with the reasons and motivations behind that action, “judicial immunity is not overcome by allegations of bad faith or malice.” *Mireles*, 502 U.S. at 11. Similarly, Plaintiff's complaints about how Judge Watson handled his cases do not change the judicial nature of the act he complains of in this case (issuing an order barring him from the courthouse).

Plaintiff complains that Chief Judge Ebberts issued an order “by fabricating pretexts.” Doc. 7 at 3. But he admits Chief Judge Ebberts's order was an administrative order. Doc. 8 at 10. He also attaches the order to his objection, which reflects that Chief Judge Ebberts signed the order in his judicial capacity. *See* Doc. 8-1 at 3, 5 (citing the court's “inherent powers to make orders reasonably necessary for the administration of justice” and signing as Chief Judge for the Shawnee County District Court). An administrative order issued by a chief judge of a court is a judicial act. *See Springer*, 2024 WL 2804431, at *5.

Finally, both the amended complaint and objection support a conclusion that Chief Justice Luckert was acting in a judicial capacity when she denied Plaintiff's appeal. *See* Doc. 7 at 5 (stating that Chief Justice Luckert denied Plaintiff's appeal); Doc. 8 at 14 (stating that Chief Justice Luckert reviewed and denied Plaintiff's Petition for Writ of Mandamus). Plaintiff complains this was done without any reason, but the procedure employed by the Kansas Supreme Court in deciding appeals is left to that court's discretion. *See* K.S.A. § 20-3018(b) (“The procedures governing petitions for

review shall be prescribed by rules of the supreme court, and the review of any such decision shall be at the discretion of the supreme court.”). Issuing orders and denying appeals in cases a judge is presiding over are “function[s] normally performed by a judge” and thus are acts done in a judicial capacity. *See Mireles*, 502 U.S. at 12.

The only potential exception Plaintiff alludes to is his claim that Judge Watson acted without jurisdiction because she “is a Chapter 60 judge without the jurisdiction and authority to review the Chapter 61 cases.” Doc. 8 at 8. Plaintiff cites no support for this conclusory statement.⁶ Plaintiff also claims Chief Judge Ebberts could not issue an administrative order because he was not the presiding judge in Plaintiff’s case. But Kansas statutes specifically vest chief judges with authority to “be responsible for and have general supervisory authority over the clerical and administrative functions of such court.” *See* K.S.A. § 20-329. The fact that Plaintiff disputes the grounds for the order does not change the immunity analysis. Likewise, whether the actions were mistaken, improper, or erroneous does not make those actions any less judicial. *See Mireles*, 502 U.S. at 12-13.

⁶ Under K.S.A. § 20-301, a district court has “general original jurisdiction of all matters, both civil and criminal.” *See also Explorer, Inc. v. Duranotic Door, Inc.*, 2011 WL 5833351, at *3 (Kan. Ct. App. 2011) (“That includes subject matter jurisdiction over cases under both Chapter 60 (the civil code) and Chapter 61 (the limited civil code).”). Other statutes consider district judges hearing limited actions under Chapter 61. *See, e.g.*, K.S.A. § 20-302b(a) (providing that magistrate judges have concurrent jurisdiction with district judges over limited actions); K.S.A. § 61-2709(a) (contemplating small-claims actions heard by a district judge); K.S.A. § 61-3902(a) (contemplating limited actions heard by a district judge). The Supreme Court has also noted the distinction between acts in excess of jurisdiction, for which judicial immunity still applies, and “the clear absence of all jurisdiction.” *See Stump v. Sparkman*, 435 U.S. 349, 356 n.6 (1978) (“Where there is clearly no jurisdiction over the subject-matter any authority exercised is a usurped authority, and for the exercise of such authority, when the want of jurisdiction is known to the judge, no excuse is permissible. But where jurisdiction over the subject-matter is invested by law in the judge, or in the court which he holds, the manner and extent in which the jurisdiction shall be exercised are generally as much questions for his determination as any other questions involved in the case” (internal quotation and citation omitted)).

Based on this, the Court finds that Defendants are entitled to judicial immunity for any individual-capacity claims.⁷

B. Official-Capacity Claims

“District and appellate court judges are state officials.” *Turner v. Kansas Ct. of Appeals*, 2025 WL 671577, at *4 (D. Kan. 2025). Where a state official is sued in his or her official capacity, the claim is construed as being against the state. *Id.* at *3. The Eleventh Amendment to the U.S. Constitution states that “[t]he 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” The Eleventh Amendment thus bars any claim for damages against a state in federal court unless the state has consented to suit or Congress has allowed the suit. *Kentucky*, 473 U.S. at 169. “This bar remains in effect when State officials are sued for damages in their official capacity.” *Id.*; see also *Williams v. Utah Dep’t of Corr.*, 928 F.3d 1209, 1212 (10th Cir. 2019). Here, Kansas has not consented to suit, and § 1983 did not abrogate Kansas’s sovereign immunity. See *Allen v. Knowlton*, 2023 WL 3496237, at *2 (D. Kan. 2023).

To the extent Plaintiff seeks injunctive relief, *Ex parte Young*, 209 U.S. 123 (1908), does not save his claims. Under that case, “a plaintiff may bring suit against individual state officers acting in their official capacities if the complaint alleges an ongoing violation of federal law and the plaintiff seeks prospective relief.” *Williams*, 928 F.3d at 1214. But *Ex parte Young* does not allow injunctions against state judicial officers preventing them from adjudicating cases pending before them. *Jackson v. Mason*, 2024 WL 3695293, at *8 (D. Kan. 2024); see also *Young*, 209

⁷ As noted above, the analysis is the same whether Plaintiff seeks monetary or injunctive relief. See *Lawrence*, 271 F. App’x at 766 n.6. Section 1983 also bars injunctive relief “unless a declaratory decree was violated or declaratory relief was unavailable.” Plaintiff does not make any such allegations.

U.S. at 163 (“[A]n injunction against a state court would be a violation of the whole scheme of our government.”).

Plaintiff’s official-capacity claims are therefore barred by the Eleventh Amendment.

III. CONCLUSION

Based on the above analysis, and after consideration of Plaintiff’s amended complaint and objection, the Court finds that the R&R correctly recommended that the Court should dismiss this case under 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii). Based on the Court’s de novo review, Plaintiff’s claims are barred by judicial immunity and the Eleventh Amendment.

THE COURT THEREFORE ORDERS that the Report and Recommendation (Doc. 6) is ADOPTED as the order of the Court. This case is DISMISSED under 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii). This case is CLOSED. Plaintiff has 30 days to file a notice of appeal.

IT IS SO ORDERED.

Dated: June 20, 2025

/s/ Holly L. Teeter
HOLLY L. TEETER
UNITED STATES DISTRICT JUDGE

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

FILED
United States Court of Appeals
Tenth Circuit

June 22, 2026

BO ZOU,

Plaintiff - Appellant,

v.

STEVEN R. EBBERTS; TERESA L.
WATSON; MARLA LUCKERT,

Defendants - Appellees.

Christopher M. Wolpert
Clerk of Court

No. 25-3148
(D.C. No. 2:25-CV-02231-HLT-RES)
(D. Kan.)

ORDER

Before **MATHESON, MORITZ, and FEDERICO**, Circuit Judges.

Appellant's petition for rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied.

Entered for the Court

Per Curiam

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BO ZOU,

Plaintiff,

v.

STEVEN R. EBBERTS *Chief Judge of the
District Court of Shawnee County, et al.,*

Defendants.

Case No. 25-2231-HLT-RES

REPORT AND RECOMMENDATION

Because Plaintiff was granted leave to proceed in forma pauperis ("IFP"), ECF No. 5, his complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). For the reasons explained below, the Magistrate Judge recommends that the District Judge dismiss Plaintiff's claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii) because they are barred by judicial immunity and/or Eleventh Amendment immunity. To the extent Plaintiff seeks injunctive relief in addition to monetary relief, injunctive relief is also unavailable for the reasons explained below.

I. BACKGROUND

Plaintiff's complaint names three Defendants, all of whom are judges: Chief Judge of the Shawnee County District Court Steven R. Ebberts; Shawnee County District Court Judge Teresa L. Watson; and Kansas Supreme Court Chief Justice Marla Luckert. *See* ECF No. 1 at 1-2. Plaintiff has used this District's form complaint for pro se litigants and filled out portions that indicate this case is before the Court based on both diversity jurisdiction and "other grounds." *Id.* at 2-3. The form requests that Plaintiff "specify and state any statute which gives rise to such grounds," and in response Plaintiff states: "Steven R. Ebberts prohibited me from entering the

Courthouse of Shawnee County devastated my Constitutional right because there are other offices inside the Courthouse[.]” *Id.* at 3.¹

The form complaint also prompts Plaintiff to draft a short and plain statement of the claim showing that Plaintiff is entitled to relief. *Id.* That section states in full:

Around 12/02/2022, district judge (Shawnee County) Teresa L. Watson prohibited me from entering other offices of the district court without an order, a hearing, except clerk office. I appealed to KS Supreme Court. The Chief justice denied my appeal without a reason. On 08/15/2023, Chief Judge of Shawnee County Steven R. Ebberts entirely prohibited me from entering the courthouse by fabricating and misrepresenting facts. They devastated my constitution right.

Id. (cleaned up). Plaintiff requests that the Court “[r]evoke the injunction against US Constitution, and impose \$7,000.00 punitive monetary and my actual loss.” *Id.* at 4.

On April 28, 2025, the Court granted Plaintiff’s motion for leave to proceed IFP but withheld service on Defendants pending the Court conducting statutory screening of Plaintiff’s Complaint, which is now before the Court. ECF No. 5.

II. DISCUSSION

Because Plaintiff proceeds IFP, his Complaint is subject to screening under 28 U.S.C. § 1915(e)(2)(B). That statute authorizes the Court to dismiss a case at any stage if it determines the action: “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. §

¹ As explained in greater detail below, the Court construes the Complaint as potentially attempting to assert claims under 42 U.S.C. § 1983 for alleged violations of Plaintiff’s constitutional rights. Because of this, the Court has not issued an order to show cause for why the case should not be dismissed for lack of jurisdiction.

1915(e)(2)(B);² *see also* *Salgado-Toribio v. Holder*, 713 F.3d 1267, 1270 (10th Cir. 2013) (screening applies to all litigants proceeding IFP). The screening process “is designed largely to discourage the filing of, and waste of judicial and private resources upon, baseless lawsuits that paying litigants generally do not initiate because of the costs of bringing suit and because of the threat of sanctions for bringing vexatious suits under Federal Rule of Civil Procedure 11.” *Neitzke v. Williams*, 490 U.S. 319, 327 (1989).

In screening a complaint to determine whether it states a claim, the Court applies the same standard it applies to Fed. R. Civ. P. 12(b)(6) motions to dismiss. *Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007). 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 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “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.* “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted

² Plaintiff’s Complaint seeks monetary relief and could be read as additionally seeking injunctive relief. ECF No. 1 at 4 (seeking \$7,000 in “punitive monetary and my actual loss” and requesting revocation of “the injunction against US Constitution”). Section § 1915(e)(2)(B)(iii) provides for dismissal of cases that “seek monetary relief against a defendant who is immune from such relief.” But when immunity wholly bars a claim regardless of the relief sought, courts have adopted differing approaches under the IFP screening statute. *See, e.g., Gather v. OKARNG*, No. CIV-12-166-F, 2012 WL 12949948, at *1 (W.D. Okla. Feb. 16, 2012) (“Therefore, plaintiff’s complaint and action is subject to dismissal under § 1915(e)(2)(B)(iii) to the extent it seeks monetary relief against defendant who is immune from suit under the Eleventh Amendment and is subject to dismissal under § 1915(e)(2)(B)(i) [as frivolous or malicious] to the extent it seeks injunctive relief against defendant who is immune from suit under the Eleventh Amendment.”), *aff’d*, 463 F. App’x 803 (10th Cir. 2012); *Utah State Dep’t of Workforce Servs.*, No. 2:08-CV-238CW, 2009 WL 2244628, at *1 (D. Utah July 27, 2009) (dismissing a case pursuant to § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted because Eleventh Amendment immunity barred plaintiff’s § 1983 claims and because none of the defendants were “persons” within the meaning of § 1983). Regardless of which approach is undertaken, all result in the dismissal of Plaintiff’s claims.

unlawfully.” *Id.* (quoting *Twombly*, 550 U.S. at 556). In applying this standard, the Court need not accept as true legal conclusions couched as factual allegations. *Id.* Although the plausibility standard does not require detailed factual allegations, it requires more than simply pleading “labels and conclusions” or “a formulaic recitation of the elements of a cause of action.” *Twombly*, 550 U.S. at 555.

Because Plaintiff proceeds pro se, the Court liberally construes his Complaint. *Johnson v. Johnson*, 466 F.3d 1213, 1214 (10th Cir. 2006). But in doing so, the Court does not “assume the role of advocate for the pro se litigant.” *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Rather, Plaintiff still bears “the burden of alleging sufficient facts on which a recognized legal claim could be based.” *Id.* “Dismissal of a pro se complaint for failure to state a claim is proper only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend.” *Gaines v. Stenseng*, 292 F.3d 1222, 1224 (10th Cir. 2002).

Plaintiff’s Complaint does not contain enumerated counts or otherwise specify the type of claims he is attempting to assert. Because the Complaint contains multiple references to alleged violations of Plaintiff’s constitutional rights (*see e.g.*, ECF No. 1 at 3–4), the Court construes the Complaint as potentially attempting to assert claims under 42 U.S.C. § 1983, which allows a plaintiff whose federal rights have been violated by defendants acting under the color of state law to sue those defendants. A plaintiff may bring a § 1983 claim against a defendant in his individual capacity—that is, “to impose personal liability upon a government official for actions he takes under color of state law[.]” *Kentucky v. Graham*, 473 U.S. 159, 165 (1985). A plaintiff may also bring a § 1983 claim against a defendant in his official capacity, which “in all respects other than

name, [is] to be treated as a suit against the entity” for which the individual acts as an agent. *Id.* at 166.

Regardless of whether Defendants are sued in their individual or official capacities, the claims against all Defendants are subject to dismissal. For the reasons explained below, Plaintiff’s individual-capacity claims are barred by judicial immunity and Plaintiff’s official-capacity claims are barred by Eleventh Amendment immunity.

A. Judicial Immunity

Plaintiff has sued three judges, and judicial immunity can apply to individual-capacity claims against these three judges. *See Collins v. Daniels*, 916 F.3d 1302, 1316 (10th Cir. 2019) (“The immunity applies only to personal capacity claims.” (internal quotations omitted)). The Supreme Court has long held that “generally, a judge is immune from a suit for money damages.” *Mireles v. Waco*, 502 U.S. 9, 9 (1991) (per curiam) (citations omitted); *Stump v. Sparkman*, 435 U.S. 349, 355-56 (1978) (“[J]udges of courts of superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly.”); *Pierson v. Ray*, 386 U.S. 547, 554 (1967) (“The immunity of judges for acts within the judicial role is [] well established.”); *see also Jackson v. Mason*, No. 23-2464-DDC-ADM, 2024 WL 3695293, at *5 (D. Kan. Aug. 7, 2024) (noting that judicial immunity is a non-jurisdictional bar that is typically asserted in a Rule 12(b)(6) motion).³ The “doctrine of judicial immunity now extends to suits against judges where a plaintiff seeks not

³ Accordingly, Plaintiff’s claims would be subject to dismissal under both § 1915(e)(2)(B)(ii) for failure to state a claim and § 1915(e)(2)(B)(iii) for seeking monetary relief from Defendants who are immune from such relief.

only monetary relief, but injunctive relief as well.” *Lawrence v. Kuenhold*, 271 F. App’x 763, 766 n.6 (10th Cir. 2008).⁴

Judicial immunity extends to actions taken by a judge in error, actions taken in excess of the judge’s authority, and even if the action is “flawed by the commission of grave procedural errors.” *Moss v. Kopp*, 559 F.3d 1155, 1163-64 (10th Cir. 2009) (internal quotation omitted). Only two exceptions exist: (1) a judge is not immune from liability for “actions not taken in the judge’s judicial capacity,” and (2) “a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction.” *Mireles*, 502 U.S. at 11-12. Plaintiff’s Complaint does not contain any facts suggesting that either exception applies in this case.

⁴ More specifically,

[B]y enacting the 1996 Federal Courts Improvement Act. . . Congress . . . expanded the ambit of judicial immunity by amending § 1983 so as to prohibit injunctive relief against a judicial officer.” *Coleman v. Governor of Mich.*, 413 F. App’x 866, 873 (6th Cir. 2011) (quotation marks and citation omitted); *see also Lawrence v. Kuenhold*, 271 F. App’x 763, 766 n.6 (10th Cir. 2008) (“Section 309(c) of the FCIA bars injunctive relief in any § 1983 action ‘against a judicial officer for an act or omission taken in such officer’s judicial capacity. . . unless a declaratory decree was violated or declaratory relief was unavailable.’ Thus, the doctrine of judicial immunity now extends to suits against judges where a plaintiff seeks not only monetary relief, but injunctive relief as well.”); 42 U.S.C. § 1983 (providing that injunctive relief shall not be granted in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity unless a declaratory decree was violated or declaratory relief was unavailable).

Springer v. Seventh Jud. Dist. Ct., No. 1:23-CV-00499-MIS-JMR, 2024 WL 2804431, at *4 (D.N.M. May 31, 2024), *appeal dismissed*, No. 24-2087, 2024 WL 4976323 (10th Cir. Oct. 31, 2024).

As to the first exception, the Court understands Plaintiff's Complaint as alleging that: Judge Watson prohibited him from entering certain offices of the district court "without an order, a hearing, except clerk office"; that he attempted to appeal to the Kansas Supreme Court, but Chief Justice Luckert denied the appeal "without reason"; and that Chief Judge Ebberts prohibited Plaintiff from entering the courthouse. *See generally* ECF No. 1 at 3. None of these allegations suggest judges were acting outside of their judicial capacities or in the complete absence of all jurisdiction.

Relevant state-court filings provide additional context.⁵ These public filings show that Judge Watson presided over state cases in which Plaintiff was a party. Plaintiff appealed his cases to the Kansas Court of Appeals and then to the Kansas Supreme Court, which denied review. *See Washburn S. Apartments, LLC v. Zou*, No. 126,735, 2024 WL 3219242 (Kan. Ct. App. June 28, 2024), *review denied* (Dec. 23, 2024); *Zou v. Washburn S. Apartments, LLC*, No. 126,652, 2024 WL 3219449 (Kan. Ct. App. June 28, 2024), *review denied* (Dec. 19, 2024). On August 15, 2023—the date referenced in Plaintiff's Complaint, ECF No. 1 at 3—Chief Judge Ebberts issued Administrative Order No. 2023-2A, titled "Order Curtailing Bo Zou's Contact with Court Offices, Officers, and Personnel." That Administrative Order details Plaintiff's prior alleged conduct at the courthouse, which the judge found "increasingly interfered with the orderly and expeditious conduct of business at the Third Judicial District." As a result, the Chief Judge Ebberts imposed

⁵ *See generally Crump v. Summit Co.*, No. 24-3044-JWL, 2024 WL 1579669, at *3 (D. Kan. Apr. 11, 2024) (taking judicial notice on screening of a separate lawsuit involving plaintiff), *reconsideration denied*, No. 24-3044-JWL, 2024 WL 2051704 (D. Kan. May 8, 2024); *see also Bruce v. City & Cnty. of Denver, Colo.*, 57 F.4th 738, 742 n.3 (10th Cir. 2023) (explaining that on a motion to dismiss, "a federal court may take judicial notice of another court's publicly filed records if they have a direct relation to matters at issue" to show their contents and as long as they are not being used "to prove the truth of the matters asserted therein"), *cert. denied*, 144 S. Ct. 79 (2023), *reh'g denied sub nom. Bruce v. City & Cnty. of Denver, Colo.*, 144 S. Ct. 439 (2023).

certain restrictions on Plaintiff's ability to enter the Shawnee County Courthouse and to interact with court officials and personnel.

Courts have found that the types of actions described in the Complaint are inherently judicial acts. As the Supreme Court has explained, "whether an act by a judge is a 'judicial' one relate[s] to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." *Mireles*, 502 U.S. at 12 (internal quotations omitted). Presiding over cases, denying appeals, directing parties appearing before the court, and issuing administrative orders are all functions normally performed by judges acting within their judicial capacities. *See, e.g., Springer*, 2024 WL 2804431, at *5 ("Because issuing administrative orders is a function normally performed by a chief judge, it is a judicial act to which judicial immunity applies, [and] to be sure, judicial control over who may appear before a judge is inherently a judicial act, not an administrative one." (cleaned up)); *appeal dismissed*, No. 24-2087, 2024 WL 4976323 (10th Cir. Oct. 31, 2024);⁶ *see*

⁶ *Springer* cites other cases in support of the same proposition regarding administrative orders and control over the courthouses:

Stevens v. Osuna, 877 F.3d 1293, 1305 (11th Cir. 2017) (holding that a judge's order removing the plaintiff from the courthouse was a judicial function and observing that "[j]udges have an obligation to maintain control over the courthouse and over the conduct of persons in the courthouse; the issuance of an order removing persons from the courthouse in the interest of maintaining such control is an ordinary function performed by judges . . ."); *Cameron v. Seitz*, 38 F.3d 264, 271 (6th Cir. 1994) (holding that a probate judge was entitled to judicial immunity because the act of barring the plaintiff from entering the courtroom is "clearly" a judicial act); *Montana v. Connor*, 817 F. Supp. 2d 440, 451 (D.N.J. 2011) (concluding that judge's act of barring the plaintiff from the courtroom was a judicial act subject to absolute judicial immunity); *see also Orta v. Repp*, Case No. 3:22-CV-00359-JGC, 2022 WL 17617308, at *5 (N.D.

also *Amstrong v. New Mexico Disability Determination Servs.*, 278 F. Supp. 3d 1193, 1222 (D.N.M. 2017) (“One function normally performed by a judge . . . is exercising control over judicial proceedings and the attorneys that appear before them.” (quoting *Stump*, 435 U.S. at 362)).

The Complaint also fails to suggest that the second exception applies because there are no allegations that any of the judges’ actions were taken in the complete absence of all jurisdiction. The Kansas district court generally had jurisdiction to hear the underlying state-court cases involving Plaintiff. *See generally* Kan. Stat. Ann. § 20-301 (“There shall be in each county a district court, which shall be a court of record, and shall have general original jurisdiction of all matters, both civil and criminal, unless otherwise provided by law, and also shall have such appellate jurisdiction as prescribed by law.”). Chief Judge Ebberts’ administrative order also made clear that the court had the inherent powers to make orders reasonably necessary for the administration of justice and cited authority from the Kansas Court of Appeals supporting the court’s ability to issue the administrative order.⁷ And the Kansas Supreme Court does not act in the complete absence of all jurisdiction by denying an appeal without providing reasons. *See*

Ohio Dec. 13, 2022) (finding that “exercising control of the courtroom is . . . a judicial act”).

Springer, 2024 WL 2804431, at *5.

⁷ Specifically, the order states,

The Court has inherent powers to make orders reasonably necessary for the administration of justice, and it is ““vested in courts to manage their own affairs to achieve the orderly and expeditious disposition of cases.” [Citations omitted].” It is designed to allow a “reasonable response to the problems and needs’ confronting the court’s fair administration of justice.” *State v. Wilmer*, 53 Kan.App.2d 99, 101-02, 384 P.3d 32 (2016).

Administrative Order at 2 (quotation marks original).

generally Kan. Stat. Ann. § 20-3018(b) (“The procedures governing petitions for review shall be prescribed by rules of the supreme court, and the review of any such decision shall be at the discretion of the supreme court.”).

For the above reasons, judicial immunity bars Plaintiff’s claims against Defendants to the extent these Defendants are sued in their individual capacities.

B. Eleventh Amendment Immunity

Eleventh Amendment immunity bars claims against Defendants to the extent they are sued in their official capacities. “The Eleventh Amendment bars suits in federal court against a nonconsenting state brought by the state’s own citizens.” *Williams v. Utah Dep’t of Corr.*, 928 F.3d 1209, 1212 (10th Cir. 2019). “This immunity extends to arms of the state and to state officials who are sued for damages in their official capacity.” *Id.* This District has previously found that Kansas state district court judges and appellate judges are state officials for the purpose of Eleventh Amendment immunity. *Turner v. Kansas Ct. of Appeals*, No. 25-3019-JWL, 2025 WL 671577, at *4 (D. Kan. Mar. 3, 2025) (collecting cases reaching the same conclusion); *see also Schroeder v. Kochanowski*, 311 F. Supp. 2d 1241, 1256 (D. Kan. 2004) (“As a District Judge in Saline County, Judge Hebert is a State official, whose office was created by the Kansas Constitution Article 3 § 6.”).

As the Tenth Circuit has explained, there are three exceptions to Eleventh Amendment immunity:

First, a state may consent to suit in federal court. Second, Congress may abrogate a state’s sovereign immunity by appropriate legislation when it acts under Section 5 of the Fourteenth Amendment. Finally, under *Ex parte Young*, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908), a plaintiff may bring suit against individual state officers acting in their official capacities if the complaint alleges an ongoing violation of federal law and the plaintiff seeks prospective relief.

Muscogee (Creek) Nation v. Pruitt, 669 F.3d 1159, 1166 (10th Cir. 2012) (internal citations omitted).

None of the above exceptions apply in this case. Specifically, there is no waiver or abrogation of Eleventh Amendment immunity with respect to an attempted § 1983 claim against the State of Kansas or its agencies or officers. *Allen v. Knowlton*, No. 22-4049-EFM, 2023 WL 3496237, at *2 (D. Kan. May 17, 2023) (acknowledging that Kansas had not waived immunity from § 1983 claims and that Congress had not abrogated immunity either), *aff'd*, No. 23-3092, 2024 WL 621279 (10th Cir. Feb. 14, 2024); *see also Quern v. Jordan*, 440 U.S. 332, 338-45 (1979) (explaining that Congress did not abrogate the states' immunity when it enacted § 1983).

Additionally, there is a limited exception to Eleventh Amendment immunity for state officials sued in their official capacities pursuant to *Ex parte Young*, 209 U.S. 123 (1908), but this exception does not apply either. Under this exception, “the Eleventh Amendment does not prevent federal courts from granting prospective injunctive relief to prevent a continuing violation of federal law.” *Green v. Mansour*, 474 U.S. 64, 68 (1985) (citing *Ex parte Young*, 209 U.S. at 155-56). While Plaintiff's Complaint could be read as seeking injunctive relief, this District has previously addressed why *Ex parte Young* does not apply to permit federal courts to issue injunctive relief against state-court judges:

Plaintiff can't invoke *Ex parte Young* because “the *Ex parte Young* exception expressly prohibits injunctions toward state judicial officers regarding their adjudication of the cases and controversies put before them.” *Williams*, 2023 WL 8824845, at *6 (emphasis in original) (citing *Ex parte Young*, 209 U.S. at 163). Indeed, *Ex parte Young* itself provides that “an injunction against a state court would be a violation of the whole scheme of our government.” *Ex parte Young*, 209 U.S. at 163. To make it even more explicit, *Ex parte Young* added “that the right to enjoin an individual, even though a state official, from commencing suits . . . does not include the power to restrain a court from acting in any case brought before it, either of a civil or criminal nature[.]” *Id.* The Supreme Court reaffirmed

this principle recently in *Whole Woman's Health v. Jackson*, 595 U.S. 30 (2021). This case explained that *Ex parte Young* “does not normally permit federal courts to issue injunctions against state-court judges or clerks.” *Id.* at 39. Yet this is exactly what plaintiff asks the court to do.

The *Ex parte Young* exception doesn't apply to plaintiff's requests for injunctive and declaratory relief. So, Judge Mason and Crist deserve sovereign immunity from plaintiff's federal claims brought against them in their official capacities.

Jackson, 2024 WL 3695293, at *8. This Court reaches the same conclusion based on a similar record.

Additionally, and as addressed in greater detail in footnote 4, § 1983 provides that “in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” 42 U.S.C. § 1983. Defendants' actions were all taken within their judicial capacities as explained above, and Plaintiff does not allege that Defendants violated a declaratory decree or that declaratory relief is unavailable. Therefore, injunctive relief is separately unavailable for this reason. *See Hakeem v. Lamar*, 493 F. Supp. 3d 1038, 1046 (D.N.M. 2020) (finding that the plaintiff had not stated a § 1983 claim for injunctive relief against a judge when plaintiff had not alleged a declaratory decree was violated or declaratory relief was unavailable).⁸

III. CONCLUSION

⁸ For this reason, Plaintiff's claim for injunctive relief would also be subject to dismissal under § 1915(e)(2)(B)(ii) for failure to state a claim.

For the reasons explained above, the Magistrate Judge recommends that the District Judge dismiss this case pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii) because Plaintiff's claims are barred by judicial immunity and/or Eleventh Amendment immunity.

The Court issues this Report and Recommendation without providing Plaintiff an opportunity to file an amended complaint because Plaintiff has named only judges as party Defendants, and the facts giving rise to this case concern only the underlying state-court administrative order, other state-court proceedings, and actions the judges took in their judicial capacities. Because of this, providing Plaintiff an opportunity to amend his Complaint against these Defendants based on these alleged facts would be futile.

* * * * *

Pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b)(2), and D. Kan. Rule 72.1.4(b), Plaintiff may file written objections to this report and recommendation within fourteen days after being served with a copy. If Plaintiff fails to file objections within the fourteen-day period, no appellate review of the factual and legal determinations in this report and recommendation will be allowed by any court. *See In re Key Energy Res. Inc.*, 230 F.3d 1197, 1199-1200 (10th Cir. 2000).

Dated: May 20, 2025, at Topeka, Kansas.

/s/ Rachel E. Schwartz
Rachel E. Schwartz
United States Magistrate Judge