

EXHIBIT

A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1867

In re: ABRAHIM FATA,
Appellant

(E.D. Pa. No. 5:24-cv-02402)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause

Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1886

ABRAHIM FATA,
Appellant

v.

CHARLES LANG; MARTHA LANG

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 5:24-cv-06934)
District Judge: Honorable Mitchell S. Goldberg

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
October 16, 2025

Before: KRAUSE, MATEY, and BOVE, Circuit Judges

(Opinion filed: January 6, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Abraham Fata, proceeding in forma pauperis, appeals from the District Court's order dismissing his amended complaint. For the reasons that follow, we will summarily affirm the District Court's judgment.

In December 2024, Fata filed his civil rights complaint against defendants Charles and Martha Lang. Fata raised multiple federal constitutional and civil rights claims, state tort claims, and allegations that defendants had violated multiple federal criminal statutes. Fata also alleged that defendants' actions assisted a conspiracy to cover up the sexual abuse of his son in 2016. After granting Fata's application to proceed in forma pauperis, the District Court: (1) dismissed Fata's conspiracy allegations as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i); (2) dismissed Fata's constitutional and civil rights claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim; (3) dismissed Fata's criminal allegations because the statutes do not give rise to a private cause of action; and (4) dismissed Fata's state law claims for lack of subject matter jurisdiction.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We construe Fata's allegations liberally and exercise plenary review over the District Court's dismissal order. See Dooley v. Wetzel, 957 F.3d 366, 373-74 (3d Cir. 2020) (citations omitted). We may summarily affirm if the appeal fails to present a substantial question. See 3d Cir. L.A.R. 27.4.

We agree with the District Court's decision to dismiss this case. Fata's complaint lacks specific factual allegations to explain how he is entitled to relief on his conspiracy claim. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Fata's belief that a conspiracy exists, and that defendants' actions assisted the conspiracy, is not sufficient to survive dismissal. See Morrow v. Balaski, 719 F.3d 160, 165 (3d Cir. 2013) ("[W]e are not compelled to accept unsupported conclusions and unwarranted inferences, or a legal conclusion couched as factual allegation.") (citation omitted).

Fata's attempt to bring claims under 42 U.S.C. § 1983 fails because defendants, who are private citizens, are not state actors and were not acting under color of law. See Kach v. Hose, 589 F.3d 626, 646 (3d Cir. 2009). His attempt to bring claims under the federal criminal statutes fails because criminal statutes generally do not give rise to a private cause of action. See Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A., 511 U.S. 164, 190 (1994). Finally, the District Court correctly dismissed Fata's state law claims for lack of subject matter jurisdiction because he failed to allege a basis for diversity jurisdiction in his complaint. See McCann v. Newman Irrevocable Tr., 458 F.3d 281, 286 (3d Cir. 2006). Having dismissed all of Fata's claims over which it had original jurisdiction, the District Court then acted within its discretion in declining to exercise supplemental jurisdiction over the claims. See Elkadrawy v. Vanguard Grp., Inc., 584 F.3d 169, 174 (3d Cir. 2009).

Considering the foregoing, the District Court did not abuse its discretion or otherwise err in dismissing the complaint without leave to amend after determining that further amendment would have been futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002). Accordingly, we will summarily affirm the District Court's judgment.¹

¹ Although Fata's Motion for a More Definite Statement under Federal Rule of Civil Procedure 12(e) and pursuant to Federal Rule of Civil Procedure 15(a)(B) is denied because those rules are not applicable to filings before this Court, in light of his pro se status, we have reviewed the Motion in its entirety and taken it into account in reaching the foregoing conclusions.

BLD-010

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1887

ABRAHIM FATA,
Appellant

v.

ABRAHAM ORTIZ; PAMELA PEREZ

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 5:24-cv-06936)
District Judge: Honorable Mitchell S. Goldberg

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

October 16, 2025

Before: KRAUSE, MATEY, and BOVE, Circuit Judges

(Opinion filed: January 6, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Abraham Fata, proceeding in forma pauperis, appeals from the District Court's order dismissing his amended complaint. For the reasons that follow, we will summarily affirm the District Court's judgment.

In December 2024, Fata filed his civil rights complaint against defendants Abraham Ortiz and Pamela Perez. Fata raised multiple federal constitutional and civil rights claims, state tort claims, and allegations that defendants had violated multiple federal criminal statutes. Fata also alleged that defendants' actions assisted a conspiracy to cover up the sexual abuse of his children. After granting Fata's application to proceed in forma pauperis, the District Court: (1) dismissed Fata's conspiracy allegations as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i); (2) dismissed Fata's constitutional and civil rights claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim; (3) dismissed Fata's criminal allegations because the statutes do not give rise to a private cause of action; (4) dismissed Fata's state law claims for lack of subject matter jurisdiction; and (5) dismissed for lack of standing any claims that Fata sought to bring on behalf of his son.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We construe Fata's allegations liberally and exercise plenary review over the District Court's dismissal order. See Dooley v. Wetzel, 957 F.3d 366, 373-74 (3d Cir. 2020) (citations

omitted). We may summarily affirm if the appeal fails to present a substantial question.

See 3d Cir. L.A.R. 27.4.

We agree with the District Court's decision to dismiss this case. To the extent that Fata sought to bring any claims on behalf of his son, he is not an attorney and cannot represent him pro se. See Osei-Afriyie v. Med. Coll. of Pa., 937 F.2d 876, 882-83 (3d Cir. 1991). On his conspiracy claim, Fata's complaint lacks specific factual allegations to explain how he is entitled to relief. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Fata's belief that a conspiracy exists, and that defendants' actions assisted the conspiracy, is not sufficient to survive dismissal. See Morrow v. Balaski, 719 F.3d 160, 165 (3d Cir. 2013) ("[W]e are not compelled to accept unsupported conclusions and unwarranted inferences, or a legal conclusion couched as factual allegation.") (citation omitted).

Fata's attempt to bring claims under 42 U.S.C. § 1983 fails because defendants, who are private citizens, are not state actors and were not acting under color of law. See Kach v. Hose, 589 F.3d 626, 646 (3d Cir. 2009). His attempt to bring claims under the federal criminal statutes fails because criminal statutes generally do not give rise to a private cause of action. See Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A., 511 U.S. 164, 190 (1994). Finally, the District Court correctly dismissed Fata's state law claims for lack of subject matter jurisdiction because he failed to allege a basis for diversity jurisdiction. See McCann v. Newman Irrevocable Tr., 458 F.3d 281,

286 (3d Cir. 2006). Having dismissed all of Fata's claims over which it had original jurisdiction, the District Court then acted within its discretion in declining to exercise supplemental jurisdiction over the claims. See Elkadrawy v. Vanguard Grp., Inc., 584 F.3d 169, 174 (3d Cir. 2009).

Considering the foregoing, the District Court did not abuse its discretion or otherwise err in dismissing the complaint without leave to amend after determining that further amendment would have been futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002). Accordingly, we will summarily affirm the District Court's judgment.¹

¹ Although Fata's Motion for a More Definite Statement under Federal Rule of Civil Procedure 12(e) and pursuant to Federal Rule of Civil Procedure 15(a)(B) is denied because those rules are not applicable to filings before this Court, in light of his pro se status, we have reviewed the Motion in its entirety and taken it into account in reaching the foregoing conclusions.

BLD-011

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1888

ABRAHIM FATA,
Appellant

v.

ARACELLY DELGADO; CHRIS DELGADO

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 5:24-cv-06935)
District Judge: Honorable Mitchell S. Goldberg

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(c)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

October 16, 2025

Before: KRAUSE, MATEY, and BOVE, Circuit Judges

(Opinion filed: January 6, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Abraham Fata appeals from the District Court's order dismissing his amended complaint. Because we conclude the appeal presents no substantial question, we will summarily affirm the District Court's judgment.

In December 2024, Fata filed his civil rights complaint against defendants Aracelly and Chris Delgado. Fata raised multiple federal constitutional and civil rights claims, state tort claims, and allegations that defendants had violated multiple federal criminal statutes. Fata also alleged that defendants' actions assisted a conspiracy to cover up the sexual abuse of his children. After granting Fata's application to proceed in forma pauperis, the District Court: (1) dismissed Fata's conspiracy allegations as frivolous pursuant to 28 U.S.C. § 1915(c)(2)(B)(i); (2) dismissed Fata's constitutional and civil rights claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim; (3) dismissed Fata's criminal allegations because the statutes do not give rise to a private cause of action; and (4) dismissed Fata's state law claims for lack of subject matter jurisdiction.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We construe Fata's allegations liberally and exercise plenary review over the District Court's dismissal order. See Dooley v. Wetzel, 957 F.3d 366, 373-74 (3d Cir. 2020) (citations

omitted). We may summarily affirm if the appeal fails to present a substantial question.
See 3d Cir. L.A.R. 27.4.

We agree with the District Court's decision to dismiss this case. Fata's complaint lacks specific factual allegations to explain how he is entitled to relief on his conspiracy claim. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Fata's belief that a conspiracy exists, and that defendants' actions assisted the conspiracy, is not sufficient to survive dismissal. See Morrow v. Balaski, 719 F.3d 160, 165 (3d Cir. 2013) ("[W]e are not compelled to accept unsupported conclusions and unwarranted inferences, or a legal conclusion couched as factual allegation.") (citation omitted).

Fata's attempt to bring claims under 42 U.S.C. § 1983 fails because defendants, who are private citizens, are not state actors and were not acting under color of law. See Kach v. Hose, 589 F.3d 626, 646 (3d Cir. 2009). His attempt to bring claims under the federal criminal statutes fails because criminal statutes generally do not give rise to a private cause of action. See Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A., 511 U.S. 164, 190 (1994). Finally, the District Court correctly dismissed Fata's state law claims for lack of subject matter jurisdiction because he failed to allege a basis for diversity jurisdiction. See McCann v. Newman Irrevocable Tr., 458 F.3d 281, 286 (3d Cir. 2006). Having dismissed all of Fata's claims over which it had original jurisdiction, the District Court then acted within its discretion in declining to exercise

supplemental jurisdiction over the claims. See Elkadrawy v. Vanguard Grp., Inc., 584 F.3d 169, 174 (3d Cir. 2009).

Considering the foregoing, the District Court did not abuse its discretion or otherwise err in dismissing the complaint without leave to amend after determining that further amendment would have been futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002). Accordingly, we will summarily affirm the District Court's judgment.¹

¹ Although Fata's Motion for a More Definite Statement under Federal Rule of Civil Procedure 12(e) and pursuant to Federal Rule of Civil Procedure 15(a)(B) is denied because those rules are not applicable to filings before this Court, in light of his pro se status, we have reviewed the Motion in its entirety and taken it into account in reaching the foregoing conclusions.

BLD-012

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1889

ABRAHIM FATA,
Appellant

v.

COMMONWEALTH OF PENNSYLVANIA; COUNTY OF LEHIGH; JASON WILLS,
Supervisor, Lehigh Valley Pretrial Services, Inc.; GARRETT HALL, Lehigh County
Probation Office; KELSEY KREMPASKY, Lehigh County Probation Office; ROBERT
SLETVOLD, Lehigh County Public Defenders Office; JILL HERSCHMAN, Lehigh
County Clerk of Judicial Records; BRENDA I. SABASTRO, Lehigh County Court
Room Monitor

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 5:24-cv-04861)
District Judge: Honorable Mitchell S. Goldberg

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
October 16, 2025

Before: KRAUSE, MATEY, and BOVE, Circuit Judges

(Opinion filed: January 6, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not
constitute binding precedent.

PER CURIAM

Abraham Fata appeals *pro se* and *in forma pauperis* from the District Court's order dismissing his complaint. We will affirm.

In June 2018, Fata pled guilty to one count of stalking under Pennsylvania law and was sentenced by the Court of Common Pleas of Lehigh County to 8-23 months' imprisonment followed by three years' probation. The court revoked his parole two years later and remanded him to the county jail to serve the balance of his sentence plus his original three-year probationary term. Fata was paroled from that revocation sentence in January 2021. He subsequently violated his probation when he pled guilty to resisting arrest, for which the revocation court sentenced him to 9-23 months' imprisonment in January 2024. The court has since repeatedly denied his requests for early or immediate release, and all of his attempts to overturn those unfavorable decisions on appeal have been unsuccessful.

Fata initiated this civil rights action in September 2024 by filing a complaint under, *inter alia*, 42 U.S.C. § 1983 against the Commonwealth of Pennsylvania, Lehigh County, and several county employees, including his probation officer and public defender. He contended that defendants collectively violated half-a-dozen constitutional provisions and scores of state and federal civil rights statutes by revoking his probation

and frustrating his efforts to obtain relief. For these injuries he sought monetary damages for himself and his children. The District Court screened Fata's complaint under 28 U.S.C. § 1915(e)(2)(B)(ii). The court dismissed the claims he brought on behalf of his children for lack of standing, and the remainder under the favorable termination rule of Heck v. Humphrey, 512 U.S. 477, 486-87 (1994). Fata appeals.¹

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We exercise plenary review of the District Court's *sua sponte* dismissal under Section 1915(e). See Dooley v. Wetzel, 957 F.3d 366, 373-74 (3d Cir. 2020). We may summarily affirm if the appeal fails to present a substantial question. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

Fata's appeal does not raise a substantial question. To the extent he appeals the dismissal of claims he brought on behalf of his children, we reiterate that he may not bring such claims because "he is not an attorney and cannot represent [his children] *pro se*." See In re Fata, C.A. No. 24-2033, 2025 WL 1121531, at *1 (3d Cir. Apr. 16, 2025) (*per curiam*) (citing Osei-Afriyie v. Med. Coll. of Pa., 937 F.2d 876, 882-83 (3d Cir. 1991)). With respect to his challenge to the proceedings that resulted in the revocation of his probation and the denial of early or immediate release, we agree with the District

¹ Although Fata's Motion for a More Definite Statement under Federal Rule of Civil Procedure 12(e) and pursuant to Federal Rule of Civil Procedure 15(a)(B) is denied because those rules are not applicable to filings before this Court, in light of his *pro se* status, we have reviewed the Motion in its entirety and taken it into account in reaching the foregoing conclusions.

Court that his damages claims are barred by Heck because a judgment in his favor “would necessarily imply the invalidity of” his revocation sentence, which has not been overturned. See Heck, 512 U.S. at 487; Wilkinson v. Dotson, 544 U.S. 74, 81-82 (2005); Williams v. Consovoy, 453 F.3d 173, 177 (3d Cir. 2006) (applying Heck-bar to parole revocation proceedings).² Until his sentence is invalidated, Fata’s only avenue to challenge his imprisonment in federal court is through a writ of habeas corpus. See Preiser v. Rodriguez, 411 U.S. 475, 500 (1973); Leamer v. Fauver, 288 F.3d 532, 542 (3d Cir. 2002).

Accordingly, we will summarily affirm the District Court’s judgment.

² Fata insists that his defamation claims are not barred by Heck because the statements at issue “can be proven false now.” See C.A. Doc. 18 at pdf 40. The kind of defamation Fata alleges is the concern of state law and thus is not cognizable under Section 1983. See Kulwicki v. Dawson, 969 F.2d 1454, 1468 (3d Cir. 1992) (citing Rose v. Bartle, 871 F.2d 331, 347 (3d Cir. 1989)).

BLD-013

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-2077

ABRAHIM FATA,
Appellant

v.

JACQUELINE AMANTINE;
SON OF JACQUELINE

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 5:24-cv-04862)
District Judge: Honorable Mitchell S. Goldberg

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

October 16, 2025

Before: KRAUSE, MATEY, and BOVE, Circuit Judges

(Opinion filed: January 6, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Abraham Fata, proceeding in forma pauperis, appeals from the District Court's order dismissing his amended complaint. For the reasons that follow, we will summarily affirm the District Court's judgment.

In September 2024, Fata filed his civil rights complaint against defendants Jacqueline Amantine and one of her sons. In his complaint, Fata raised multiple federal constitutional and civil rights claims, state tort claims, and alleged that defendants had violated multiple federal criminal statutes. Fata also alleged that defendants' actions assisted a conspiracy to cover up the sexual abuse of his children. After granting Fata's application to proceed in forma pauperis, the District Court: (1) dismissed Fata's conspiracy allegations as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i); (2) dismissed Fata's constitutional and civil rights claims pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim; (3) dismissed Fata's criminal allegations because the statutes do not give rise to a private cause of action; and (4) dismissed Fata's state law claims for lack of subject matter jurisdiction; and (5) dismissed for lack of standing any claims that Fata sought to bring on behalf of his children.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We construe Fata's allegations liberally and exercise plenary review over the District Court's dismissal order. See Dooley v. Wetzel, 957 F.3d 366, 373-74 (3d Cir. 2020) (citations

omitted). We may summarily affirm if the appeal fails to present a substantial question.

See 3d Cir. L.A.R. 27.4.

We agree with the District Court's decision to dismiss this case. To the extent that Fata sought to bring any claims on behalf of his children, he is not an attorney and cannot represent them *pro se*. See Osei-Afriyie v. Med. Coll. of Pa., 937 F.2d 876, 882-83 (3d Cir. 1991). On his conspiracy claim, Fata's complaint lacks specific factual allegations to explain how he is entitled to relief. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Fata's belief that a conspiracy exists, and that defendants' actions assisted the conspiracy, is not sufficient to survive dismissal. See Morrow v. Balaski, 719 F.3d 160, 165 (3d Cir. 2013) ("[W]e are not compelled to accept unsupported conclusions and unwarranted inferences, or a legal conclusion couched as factual allegation.") (citation omitted).

Fata's attempt to bring claims under 42 U.S.C. § 1983 fails because defendants, who are private citizens, are not state actors and were not acting under color of law. See Kach v. Hose, 589 F.3d 626, 646 (3d Cir. 2009). His attempt to bring claims under the federal criminal statutes fails because criminal statutes generally do not give rise to a private cause of action. See Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A., 511 U.S. 164, 190 (1994). Finally, the District Court correctly dismissed Fata's state law claims for lack of subject matter jurisdiction because he failed to allege a basis for diversity jurisdiction. See McCann v. Newman Irrevocable Tr., 458 F.3d 281,

286 (3d Cir. 2006). Having dismissed all of Fata's claims over which it had original jurisdiction, the District Court then acted within its discretion in declining to exercise supplemental jurisdiction over the claims. See Elkadrawy v. Vanguard Grp., Inc., 584 F.3d 169, 174 (3d Cir. 2009).

Considering the foregoing, the District Court did not abuse its discretion or otherwise err in dismissing the complaint without leave to amend after determining that further amendment would have been futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002). Accordingly, we will summarily affirm the District Court's judgment.¹

¹ Although Fata's Motion for a More Definite Statement under Federal Rule of Civil Procedure 12(e) and pursuant to Federal Rule of Civil Procedure 15(a)(B) is denied because those rules are not applicable to filings before this Court, in light of his pro se status, we have reviewed the Motion in its entirety and taken it into account in reaching the foregoing conclusions.

EXHIBIT

B

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1867

In re: ABRAHIM FATA,
Appellant

(E.D. Pa. No. 5:24-cv-02402)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause

Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1886

ABRAHIM FATA,
Appellant

v.

CHARLES LANG; MARTHA LANG

(E.D. Pa. No. 5:24-cv-06934)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1887

ABRAHIM FATA,
Appellant

v.

ABRAHAM ORTIZ; PAMELA PEREZ

(E.D. Pa. No. 5:24-cv-06936)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1888

ABRAHIM FATA,
Appellant

v.

ARACELLY DELGADO; CHRIS DELGADO

(E.D. Pa. No. 5:24-cv-06935)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1889

ABRAHIM FATA,
Appellant

v.

COMMONWEALTH OF PENNSYLVANIA; COUNTY OF LEHIGH;
JASON WILLIS, Supervisor, Lehigh Valley Pretrial Services, Inc.; GARRETT HALL,
Lehigh County Probation Office; KELSEY KREMPASKY, Lehigh County Probation
Office; ROBERT SLETVOLD, Lehigh County Public Defenders Office; JILL
HERSCHMAN, Lehigh County Clerk of Judicial Records; BRENDA I. SABASTRO,
Lehigh County Court Room Monitor

(E.D. Pa. No. 5:24-cv-04861)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-2077

ABRAHIM FATA,
Appellant

v.

JACQUELINE AMANTINE;
SON OF JACQUELINE

(E.D. Pa. No. 5:24-cv-04862)

SUR PETITION FOR PANEL REHEARING

Present: KRAUSE, MATEY, and BOVE, Circuit Judges

The petition for rehearing filed by Appellant Abraham Fata in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: February 18, 2026
ARR/cc: AF

EXHIBIT

C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABRAHIM FATA,
Plaintiff,

v.

COMMONWEALTH OF
PENNSYLVANIA, *et al.*,
Defendants.

CIVIL ACTION NO. 24-CV-4861

MEMORANDUM

GOLDBERG, J.

APRIL 23, 2025

Plaintiff Abraham Fata, a prisoner currently incarcerated at Lehigh County Jail, brings this *pro se* civil action against numerous Defendants alleging that he was “unreasonably sentenced” following a January 2024 Gagnon II hearing. (ECF No. 2 (“Compl.”) at 4.) Fata also filed a Motion to Compel a Discovery Response, a Motion for Judgment, and a Motion to Produce Audio Recordings of Court Hearings. (See ECF Nos. 21-23.) For the following reasons, the Court will dismiss his Complaint and deny his outstanding motions.

I. FACTUAL ALLEGATIONS¹

The gravamen of Fata’s Complaint is that he was “unreasonably sentenced” following a Gagnon II hearing on January 16, 2024 after he conceded to violating the terms of his probation in relation to his Lehigh County Court of Common Pleas (“Lehigh CCP”) criminal case,

¹ The following allegations are taken from the Complaint, the attachments thereto, and publicly available records of which this Court takes judicial notice. See *Buck v. Hampton Twp. Sch. Dist.*, 452 F.3d 256, 260 (3d Cir. 2006) (courts may consider “matters of public record” in determining whether a pleading has stated a claim). To afford Fata the most liberal construction of his claims, the Court considered the entire record of Fata’s filings in this case, including, *inter alia*, his October 15, 2024 case correspondence and attached exhibits (see ECF No. 6) and his January 2, 2025 case correspondence and attached exhibits (see ECF Nos. 26, 29-30). The Court adopts the pagination supplied by the CM/ECF docketing system.

Commonwealth v. Fata, CP-39-CR-00004857-2017 (C.P. Lehigh). Fata has named the following Defendants: (1) the Commonwealth of Pennsylvania, County of Lehigh; (2) Supervisor Jason Willis, Lehigh Valley Pretrial Services, Inc.; (3) Garrett Hall, Lehigh County Probation Office; (4) Kelsey Krempasky, Lehigh County Probation Office; (5) Robert Sletvold, Lehigh County Public Defender's Office; (6) Jill Herschman, Lehigh County Clerk of Judicial Records; and (7) Brenda I. Sabastro, Lehigh County Court Room Monitor. (Compl. at 1.)

On June 5, 2018, Fata pled guilty to one count of stalking in violation of 18 Pa. C.S. § 2709.1(a)(2) and was sentenced to a term of eight to twenty-three months imprisonment to be followed by a three-year term of probation. *See Fata*, CP-39-CR-00004857-2017; *see also* ECF No. 6 at 15. On August 26, 2020, Fata's parole was revoked after a finding that he had violated the terms of his release. *Fata*, CP-39-CR-00004857-2017. He was remanded to the Lehigh County Jail to serve the balance of his sentence with eligibility for reparole, and he was resentenced to three years of probation consecutive to his jail sentence. *Id.* Fata was paroled on January 25, 2021. *Id.*

On August 3, 2022, Fata was arrested in Pike County on a charge of resisting arrest in violation of 18 Pa. C.S. §5104. *See Commonwealth v. Fata*, CP-52-CR-0000679-2022 (C.P. Pike). Fata pled guilty to the resisting arrest charge on June 29, 2023 and was later sentenced to a maximum term of six months of probation. *Id.* The Pike County conviction constituted a violation of his Lehigh County probation. (*See* ECF No. 6 at 3, 16.)

On January 16, 2024, a Gagnon II hearing was held before Lehigh CCP Judge Douglas G. Reichley. *See Fata*, CP-39-CR-00004857-2017; *see also* ECF No. 6 at 16, 31. Defendant Garrett Hall recommended that Fata's probation be revoked, and that Fata be resentenced to a term of imprisonment of eleven to twenty-three months. (ECF No. 6 at 16.) Although Fata

conceded to the violation allegations, he objected to the eleven-month minimum, and Judge Reichley imposed a sentence of nine to twenty-three months imprisonment in Lehigh County Jail. *See Fata*, CP-39-CR-00004857-2017; *see also* ECF No. 6 at 16-17, 32-34; ECF No. 26 at 8.

On July 11, 2024, Fata was denied early parole by Lehigh CCP Judge Thomas M. Caffrey. *See Fata*, CP-39-CR-00004857-2017. The state court docket reflects that Fata has requested release on numerous occasions – by filing a petition for habeas corpus on August 29, 2024 (denied September 18, 2024), by filing motions for immediate release to the Allentown Rescue Shelter on October 3, 2024 and October 24, 2024 (denied October 23, 2024 and November 20, 2024, respectively), by filing petitions for time credit calculations on August 30, 2024 and December 31, 2024 (denied October 1, 2024 and February 3, 2025, respectively) – and all of his requests for release have been denied. *Id.*

In his instant Complaint, Fata avers that the sentence imposed on January 16, 2024 is “unreasonable,” and he contends that Defendant Kelsey Krempasky told him that she would “vouch for no jail time.” (Compl. at 2, 4.) Fata avers that Hall “lied” during the Gagnon II hearing by stating that Fata did not take his mental health seriously. (*Id.* at 3.) He also claims that Hall “slander[ed] his name and character” by telling Judge Reichley that Fata had stalked a minor. (*Id.* at 4.) Fata reported both of his probation officers – Krempasky and Hall – to the “chief” on July 25, 2024. (*Id.* at 5.)

Fata petitioned for a “time credit calculation” and although Defendant Jill Herschman told him that his time served was corrected, Fata disputes the calculation. (*Id.* at 3, 4-5.) Fata reported Herschman to the Judicial Conduct Board. (*Id.* at 5.) Fata sought reconsideration of his sentence and filed multiple appeals in state court, all of which were unsuccessful. (*Id.* at 4-5; *see*

also Fata, CP-39-CR-00004857-2017.) He avers that his defense attorney, Defendant Robert Sletvold, submitted an "incorrect statement" in connection with his appeal, and Fata "successfully fired" Sletvold on July 11, 2024. (Compl. at 5.) Fata reported Sletvold to the disciplinary board. (*Id.*)

As the basis for his claims, Fata identifies more than seventy criminal and civil rights statutes, both state and federal, in list form. (*Id.* at 6-11.) These statutes reference almost every crime imaginable, including, *inter alia*, conspiracy, slavery and involuntary servitude, RICO, maritime assaults, extortion, computer fraud, obstruction of justice, trafficking, perjury, interference with commerce, kidnapping, forgery, obstructing governmental operations, and corruption of a minor. (*Id.*) Fata also asserts, without further explanation, that his rights under the First, Fourth, Sixth, Eighth, Ninth, and Fourteenth Amendment to the United States Constitution have been violated. (*Id.* at 7.) He cites *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 392 (1971), and he invokes more than ten different state law claims including negligence, defamation, assault, battery, and abuse of process, again without further explanation. (*Id.* at 6.) Finally, he claims that more than fifteen Rules of Professional and Judicial Conduct have been violated. (*Id.* at 11-12.) Fata seeks monetary damages "for every day spent incarcerated" to compensate him and his children. (*Id.* at 13.)

II. STANDARD OF REVIEW

Since Fata is proceeding *in forma pauperis* (ECF No. 27), his Complaint is subject to screening pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), which requires the Court to dismiss the Complaint if it fails to state a claim. Whether a complaint fails to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), *see Tourscher v. McCullough*, 184 F.3d 236, 240 (3d

Cir. 1999), which requires the Court to determine whether the complaint contains “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) (quotations omitted). At the screening stage, the Court will accept the facts alleged in the *pro se* Complaint as true, draw all reasonable inferences in Fata’s favor, and “ask only whether that complaint, liberally construed, contains facts sufficient to state a plausible claim.” *Shorter v. United States*, 12 F.4th 366, 374 (3d Cir. 2021) (cleaned up), *abrogation on other grounds recognized by Fisher v. Hollingsworth*, 115 F.4th 197 (3d Cir. 2024). Conclusory allegations do not suffice. *Iqbal*, 556 U.S. at 678.

Because Fata is proceeding *pro se*, the Court construes his allegations liberally. *Vogt v. Wetzel*, 8 F.4th 182, 185 (3d Cir. 2021) (citing *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244-45 (3d Cir. 2013)). The Court will “apply the relevant legal principle even when the complaint has failed to name it.” *Id.* However, “pro se litigants still must allege sufficient facts in their complaints to support a claim.” *Id.* (quoting *Mala*, 704 F. 3d at 245). An unrepresented litigant “cannot flout procedural rules — they must abide by the same rules that apply to all other litigants.” *Id.*; *see also Doe v. Allegheny Cnty. Hous. Auth.*, No. 23-1105, 2024 WL 379959, at *3 (3d Cir. Feb. 1, 2024) (“While a court must liberally construe the allegations and “apply the applicable law, irrespective of whether the pro se litigant mentioned it be name,” *Higgins v. Beyer*, 293 F.3d 683, 688 (3d Cir. 2002), this does not require the court to act as an advocate to identify any possible claim that the facts alleged could potentially support.”).

III. DISCUSSION

A. Claims Brought on Behalf of Others

Fata is, in part, attempting to bring claims on behalf of his children. (Compl. at 1, 13.) Under 28 U.S.C. § 1654, parties “may plead and conduct their own cases personally or by

counsel” in the federal courts. Section 1654 thus ensures that a person may conduct his or her own case *pro se* or retain counsel to do so. See *Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 882 (3d Cir. 1991) (“The statutory right to proceed *pro se* reflects a respect for the choice of an individual citizen to plead his or her own cause.” (quoting *Cheung v. Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990))). Although an individual may represent herself *pro se*, a non-attorney may not represent other parties in federal court. See *Collinsgru v. Palmyra Bd. of Educ.*, 161 F.3d 225, 232 (3d Cir. 1998) (“The rule that a non-lawyer may not represent another person in court is a venerable common law rule.”), *abrogated on other grounds by Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007). Furthermore, “a plaintiff must assert his or her own legal interests rather than those of a third party” to have standing to bring a claim. See *Twp. of Lyndhurst, N.J. v. Priceline.com, Inc.*, 657 F.3d 148, 154 (3d Cir. 2011) (quotations omitted)). For these reasons, any claims that Fata brings on behalf of his children must be dismissed without prejudice for lack of standing. See, e.g., *Chang v. Dep’t of Servs. for Child., Youth, & their Fams., Div. of Fam. Servs.*, 790 F. App’x 435, 437-38 (3d Cir. 2019) (*per curiam*) (father lacked standing to address children’s claims on appeal).

B. Fata’s Claims Are Not Cognizable

Fata’s claims are based on allegations that he was “unreasonably sentenced” for his probation violation. Because Fata seeks damages in connection with the revocation of his probation or denial of parole, his claims are not cognizable in a civil rights action at this time. That is because, “to recover damages [or other relief] for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that 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[.]” *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) (footnote and citation omitted); *see also Wilkinson v. Dotson*, 544 U.S. 74, 81-82 (2005) (“[A] state prisoner’s § 1983 action is 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 omitted)).

The doctrine set forth in *Heck* has been extended to civil rights cases challenging parole and probation revocations. *See Williams v. Consovoy*, 453 F.3d 173, 177 (3d Cir. 2006) (affirming district court’s dismissal of the case because a finding for plaintiff on his § 1983 claims against the parole officer would necessarily demonstrate the invalidity of the revocation decision, which had not been rendered invalid); *see, e.g., Williams v. Barkley*, 616 F. App’x 484, 485 (3d Cir. 2015) (*per curiam*) (affirming dismissal of § 1983 claims based on argument that extension of original sentence after parole violation violated double jeopardy rights and stating that claims were barred under *Heck*); *Garrett v. United States*, 771 F. App’x 139, 140-41 (3d Cir. 2019) (*per curiam*) (affirming dismissal of § 1983 claim that “an excessive sentence was imposed based on an erroneous application of the sentencing guidelines” as barred by *Heck*); *McKinney v. Pennsylvania Bd. of Prob. & Parole*, 405 F. App’x. 646, 647 (3d Cir. 2010) (holding that the plaintiff’s claims that he had been imprisoned beyond the maximum terms of his sentences for state convictions and parole violations and that the defendants violated his rights by failing to conduct a parole revocation or parole hearing and continued to detain him were barred by *Heck* “because success on his claims would necessarily imply the invalidity of the fact and the duration of his state confinement, which have not been elsewhere invalidated”);

Worthy v. N.J. State Parole Board, 184 F. App'x. 262, 264 & 266 (3d Cir. 2006) (affirming dismissal of claims arising from parole revocation proceedings for damages and declaratory relief based on *Heck*).

Also, Fata's claim regarding the use of false or defamatory statements against him by Hall during the probation revocation proceeding fails because it would "necessarily demonstrate the invalidity of the . . . decision" to revoke his probation. *Williams*, 453 F.3d at 177. Fata's conviction and sentence have not been reversed on appeal, vacated, or otherwise invalidated. *Garrett v. Murphy*, 17 F.4th 419, 429 (3d Cir. 2021) ("*Heck* is clear that the favorable-termination requirement is a necessary element of the claim for relief under § 1983[.]"); *see also* *White v. Gittens*, 121 F.3d 803, 807 (1st Cir. 1997) (concluding that § 1983 claim based on revocation of parole was barred by *Heck*; "[a] favorable decision in the § 1983 proceeding would necessarily call into question the validity of the state's decree revoking [plaintiff's] parole and ordering him back to prison. *Heck* therefore applies, and the § 1983 action is not cognizable in a federal court").

Further, to the extent Fata seeks to challenge the constitutionality of his probation violation conviction and sentence in federal court, such relief is only available to him in a *habeas* action. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973) ("[W]hen a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus."); *see also Butterfield v. Bail*, 120 F.3d 1023, 1024 (9th Cir. 1997) ("Few things implicate the validity of continued confinement more directly than the allegedly improper denial of parole."). If Fata successfully invalidates his conviction, then and only then would any related damages claims be cognizable.

IV. CONCLUSION

For the foregoing reasons, the Court will dismiss the Complaint without prejudice to Fata challenging the revocation of his probation and related imprisonment in a *habeas* proceeding or filing a new civil rights complaint only in the event his conviction is reversed, vacated, or otherwise invalidated. *See Curry v. Yachera*, 835 F.3d 373, 379 (3d Cir. 2016) (*Heck*-barred claims must be dismissed without prejudice). Leave to amend will not be given at this time because the Court concludes that amendment would be futile.² *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 111 (3d Cir. 2002). His motions will be denied. An appropriate Order follows, which dismisses this case.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

² On January 21, 2025, Fata filed a "Statement of Claim" indicating that he sought to add a claim and two additional Defendants to this case. (*See* ECF No. 26 at 1.) The allegations in this filing pertain to Fata's failed efforts to secure early parole and his unsuccessful attempts to obtain a suitable home plan. (*Id.* at 2-3.) Because the claims Fata seeks to add are also barred by *Heck*, leave to amend is futile. *See McKinney*, 405 F. App'x. at 647.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABRAHIM FATA,
Plaintiff,

v.

JACQUELINE AMANTINE, *et al.*,
Defendants.

CIVIL ACTION NO. 24-CV-4862

MEMORANDUM

GOLDBERG, J.

MAY 20, 2025

Plaintiff Abraham Fata, a prisoner currently incarcerated at Lehigh County Jail, brings this *pro se* civil action¹ raising claims concerning his vehicle and other personal property against Defendants Jacqueline Amantine and her son.² (ECF No. 2 ("Compl.") at 1.) He also alleges an ongoing conspiracy "by Pennsylvania and New Jersey societies/communities, and governments . . . since 2017." (ECF No. 2-1 at 3.) Fata seeks leave to proceed *in forma pauperis*, and he has also filed the following motions: a "Motion to Enforce 18 USCS § 1514 Civil Action to Restrain Harassment of a Victim or Witness," a "Motion to Immediately Place an Injunction and Restraining Permanent Order," a Motion for Sanctions, a Motion for Judgment, and a Motion for

¹ Fata initiated this action by filing a "Petition to File a Civil and Criminal Complaint." (See ECF No. 2.) To the extent that Fata seeks to initiate criminal charges against any Defendant, the Court has no authority to order such relief. See *Kent v. Ed Carber Inc.*, 467 F. App'x 112, 113 (3d Cir. 2012) (*per curiam*) (affirming dismissal of claims seeking initiation of criminal charges because "a private person does not have a 'judicially cognizable interest in the prosecution . . . of another'" (quoting *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973).))

² Fata asserts that he is not sure of the correct spelling and accuracy of Jacqueline's name, and he has used various spellings throughout the Complaint and attached exhibits. (See, e.g., Compl. at 1, ECF No. 2-1 at 12.) To maintain consistency, the Court will refer to this Defendant as Jacqueline Amantine. Fata avers that Jacqueline has two sons, but he does not indicate which son he intends to name as a Defendant. (ECF No. 2-1 at 12.)

Contempt of Court. (See ECF Nos. 3, 11, 13, 15, 18.) For the following reasons, the Court will grant Fata leave to proceed *in forma pauperis*, dismiss the Complaint in its entirety, and deny his outstanding motions.

I. FACTUAL ALLEGATIONS³

Fata avers that Defendant Jacqueline Amantine was “supporting [him] while in a mental facility due to various attacks,” and she is aware that he suffers from “anxiety, depression, and paranoia.” (Compl. at 2.) Fata claims that Amantine has his vehicle and his bank and identification cards. (*Id.*) He also avers that she “has all the means to get [him] out of incarceration . . . by providing a home plan.” (*Id.*) Fata alleges that his daughter, A.F., has communicated with Jacqueline while he’s been incarcerated, and notes that A.F. “had a change in character mid-February [or] mid-March.” (*Id.* at 3.) His daughter was “provoking [him] to anger, and depression” and his son eventually started behaving the same way. (*Id.*)

On April 7, 2024, Officer Cody M. Peters issued Fata a summary violation with respect to his vehicle.⁴ (*Id.* at 2; ECF No. 2-1 at 1.) Fata pled “not guilty” to the violation by letter dated May 10, 2024, indicating that he had been incarcerated since October 25, 2023. (Compl. at 2; ECF No. 2-1 at 2.) On June 4, 2024, Fata spoke with Officer Peters who assured Fata that his vehicle had not been towed. (Compl. at 2.) Based on this allegation, it appears that Fata contends that Jacqueline is still in possession of his vehicle.

³ The following allegations are taken from the Complaint and the attachments thereto. The Court adopts the pagination supplied by the CM/ECF docketing system. Spelling, punctuation, and capitalization errors are cleaned up where necessary.

⁴ Fata provides a case number for the summary violation (*see* Compl. at 1), but the provided case number does not yield any results on the Unified Judicial System of Pennsylvania Web Portal. It appears from an exhibit to the Complaint that Officer Peters issued a violation to Fata on April 7, 2024, noting a charge of driving an unregistered vehicle in violation of 75 Pa. C.S. § 1575(a). (*See* ECF No. 2-1 at 1.)

Jacqueline allegedly told Fata that she would “pay the filing fee for [his] taxes, and [that Fata] can use her address.” (*Id.* at 3.) Fata alleges that he submitted a “home plan” to Jacqueline on August 16, 2024. (*Id.* at 2.) He called her on August 21, 2024, and she told him that she would call him back. (*Id.*) He tried calling Jacqueline on August 27th, but her phone was “off/blocked.” (*Id.*) On August 28, 2024, he received “a notice of her intent” to press charges against him in the event he tried to contact her again. (Compl. at 2, *see also* ECF No. 2-1 at 5.) The last contact Fata had with Jacqueline was on November 13, 2024. (Compl. at 2.)

Fata claims that during the last phone call he had with his daughter, he felt as though Jacqueline had been “conspiring to corrupt [his] daughter to be a liar of some sort.” (*Id.* at 3.) He maintains that “there are numerous police reports on situations [involving his] daughter, in both Pennsylvania and New Jersey from [their] relatives.” (*Id.*) He contends that police reports have been made “in multiple police stations in PA and NJ state about corrupting [his] daughter, and using [his] daughter to make false reports, and playing with [his] daughter’s mind, confusing her, intentionally inflicting mental and emotional distress.” (*Id.*) Fata avers that all the reports are “false” and have ruined “her way of thinking.” (*Id.*)

In an attachment to the Complaint, Fata alleges that “there is a conspiracy to cover up a sexual abuse on [his] two kids, and to frame [him].” (ECF No. 2-1 at 3.) He contends that he has “been oppressed by Pennsylvania and New Jersey societies/communities, and governments” since 2017, “to the extreme of [his] death, by either manipulating a fatal ‘accident’ or ‘situation,’ or to push [him] to suicide.” (*Id.*) Fata alleges that he has suffered multiple physical injuries and he has “made police reports all over PA and NJ counties.” (*Id.*) He avers that he is not suicidal despite being told by “society/communities and governments directly and indirectly . . . to commit suicide.” (*Id.*) He alleges that the conspiracy was started by a “church congregation/organization” with “ministries/charities” and “this explains [the]

connection/networks with government officials.” (*Id.* at 4.) Fata maintains that he has “strong/obvious evidence” and “the judge should’ve made completely different judgments.” (*Id.*) He asserts that “no justice” was given to the situation involving his children and he is “being oppressed.” (*Id.*)

As the basis for his claims, Fata identifies more than 55 criminal and civil rights statutes, both state and federal, in list form.⁵ (*Id.* at 4-8.) The criminal statutes pertain to, *inter alia*, wire and electronic communication interception, harassment of a victim or witness, slavery and trafficking, RICO, foreign intelligence surveillance, maritime assaults, kidnapping and hostage taking, conspiracy, aggravated assault, false imprisonment, theft, tampering with records, intimidation of witnesses, and corruption of a minor.⁶ (*Id.*) Specifically, Fata lists, without explanation, federal civil statutes, 42 U.S.C. §§ 1982, 1985, 1986, 1987, and 1988.⁷ (*Id.* at 4.)

⁵ Merely listing statutes does not state a plausible claim for a violation thereof because a passing reference without factual support is not sufficient to bring claims before a court. *Brown v. Pennsylvania, Wayne Cnty.*, No. 22-1506, 2023 WL 3376547, at *2 (3d Cir. May 11, 2023), *cert. dismissed sub nom. Brown v. Pennsylvania*, 144 S. Ct. 272 (2023), *reconsideration denied*, 144 S. Ct. 417 (2023); *see also Campbell v. LVNV Finding, LLC and Resurgent Capital Servs.*, No. 21-5388, 2022 WL 6172286, at *7 (E.D. Pa. Oct. 7, 2022) (stating that a “‘passing reference’ to jurisprudential precepts without more does not bring that issue before the Court in that it provides no basis for a ruling one way or the other.”) (citing *Laborers’ Int’l Union of N. Am., AFL-CIO v. Foster Wheeler Energy Corp.*, 26 F.3d 375, 398 (3d Cir. 1994)).

⁶ Criminal statutes generally do not give rise to a basis for civil liability. *See Brown v. City of Philadelphia Office of Human Res.*, 735 F. App’x 55, 56 (3d Cir. 2018) (*per curiam*) (“Brown alleges that the defendants violated various criminal statutes, but most do not provide a private cause of action.”). Indeed, the United States Supreme Court has stated that, unless specifically provided for, federal criminal statutes rarely create private rights of action. *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 377 (1958) (stating that where a statute “contains only penal sanctions for violation of its provisions; in the absence of a clear expression of congressional intent to the contrary, these sanctions should under familiar principles be considered exclusive, rather than supplemented by civil sanctions of a distinct statute”); *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994) (“We have been quite reluctant to infer a private right of action from a criminal prohibition alone.”).

⁷ 42 U.S.C. § 1982 prohibits racial discrimination in transactions relating to real and personal property. 42 U.S.C. § 1985(3) creates a cause of action against any two persons who “conspire .

Fata also asserts, without further detail, that his rights under the Fourth, Ninth, and Fourteenth Amendments to the United States Constitution have been violated. (*Id.* at 5.) He alleges state law claims including assault, battery, willful misconduct, negligence, and malicious and false imprisonment, again without further explanation. (*Id.* at 4-5.) Fata seeks monetary damages in the amount of \$100,000 to compensate him and his children. (*Id.* at 9.)

In addition to his Complaint, Fata has filed several motions. In his "Motion to Enforce 18 USCS § 1514 Civil Action to Restrain Harassment of a Victim or Witness," he seeks a protective order to prevent Jacqueline "from tampering with [his] property" and payment to a locksmith "to unlock the door only with [his] authorization." (*See* ECF No. 3.) Fata's "Motion to Immediately Place an Injunction and Restraining Permanent Order," seeks an order directing that his vehicle remain parked at Jacqueline's residence and that all of his property be secured in

... for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws. . . ." 42 U.S.C. § 1985(3). "[Section] 1986 constitutes an additional safeguard for those rights protected under 42 U.S.C. § 1985, and 'transgressions of § 1986 by definition depend on a preexisting violation of § 1985.'" *Clark v. Clabaugh*, 20 F.3d 1290, 1295 (3d Cir. 1994) (quoting *Rogin v. Bensalem Twp.*, 616 F.2d 680, 696 (3d Cir. 1980)). Fata does not include any allegations about race or racial animus and there is no suggestion that any contractual relations or conspiracies exist among the named Defendants. Accordingly, any claims alleging violations of §§ 1982, 1985, and 1986 will be dismissed. *See Johnson v. Person*, 781 F. App'x 69, 73 (3d Cir. 2019) (affirming dismissal of claims brought pursuant to §§ 1981 and 1982 for failure to state a claim because there were no contract or property rights involved in the alleged deprivation of rights); *Groce v. City of Philadelphia. L. Dep't*, No. 21-5132, 2022 WL 493418, at *7 (E.D. Pa. Feb. 17, 2022) (dismissing conspiracy claim as wholly conclusory where the plaintiff failed to allege facts regarding the formation of a conspiracy between any Defendants or any other individuals, the period of the conspiracy, or actions taken by the alleged conspirators to achieve the alleged purpose thereof). 42 U.S.C § 1987 does not give rise to a private cause of action. *See Wolfe v. Beard*, No. 10-2566, 2010 WL 5173199, at *12 (E.D. Pa. Dec. 9, 2010) ("Section 1987 empowers federal officials to prosecute violations of certain statutorily enumerated crimes. . . . [Section] 1987 does not provide a private right of action.") (citations omitted). 42 U.S.C § 1988, which provides for an award of attorneys' fees in certain circumstances, does not provide a basis for an independent right of action. *See Vecchia v. Town of Hempstead*, 927 F. Supp 579, 580-81 (E.D.N.Y 1996) (citing *North Carolina Dep't of Transp. v. Crest Street Comm. Council, Inc.*, 479 U.S. 6, 14 (1986)). The § 1987 and § 1988 claims will also be dismissed.

the locked vehicle. (See ECF No. 11.) Fata also requests that the Defendants pay for a locksmith “to unlock the vehicle, **ONLY** with [his] verification.” (*Id.* at 2.) Fata seeks sanctions against the Defendants for failing to comply with his motion requesting an “injunction/restraining order” (see ECF No. 13) and judgment in his favor (see ECF No. 15). Finally, Fata seeks an order from this Court holding Officer Peters in contempt for failing to respond to a subpoena issued by Fata on December 26, 2024. (See ECF No. 18.)

II. STANDARD OF REVIEW

The Court will grant Fata leave to proceed *in forma pauperis* because it appears that he is incapable of paying the fees to commence this case.⁸ Accordingly, 28 U.S.C. § 1915(e)(2)(B)(ii) requires the Court to dismiss the Complaint if it fails to state a claim. Whether a complaint fails to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), see *Tourscher v. McCullough*, 184 F.3d 236, 240 (3d Cir. 1999), which requires the Court to determine whether the complaint contains “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) (quotations omitted).

Additionally, 28 U.S.C. § 1915(e)(2)(B)(i) requires the Court to dismiss the Complaint if it frivolous. A complaint is frivolous if it “lacks an arguable basis either in law or in fact,” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The use of the term “frivolous” in § 1915 “embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Id.*

⁸ Fata has set forth the steps taken to secure his prisoner account statement. (See ECF No. 6.) Although he has not been able to obtain a certified copy of his prisoner account statement for the time period from March 11, 2024 through September 11, 2024, this Court finds that Fata has substantially complied with the directives of 28 U.S.C. § 1915(a)(2) and will permit him to proceed *in forma pauperis* in this matter. Because Fata is a prisoner, he will be obligated to pay the filing fee in installments in accordance with the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

Section 1915 accords judges “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Id.* at 327. “[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible[.]” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). A claim is legally baseless if it is “based on an indisputably meritless legal theory.” *Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995). As Fata is proceeding *pro se*, the Court construes his allegations liberally. *Vogt v. Wetzel*, 8 F.4th 182, 185 (3d Cir. 2021) (citing *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244-45 (3d Cir. 2013)).

Also, when allowing a plaintiff to proceed *in forma pauperis*, the Court must review the pleadings and dismiss the matter if it determines, *inter alia*, that the action fails to set forth a proper basis for this Court’s subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *Group Against Smog and Pollution, Inc. v. Shenango, Inc.*, 810 F.3d 116, 122 n.6 (3d Cir. 2016) (explaining that “an objection to subject matter jurisdiction may be raised at any time [and] a court may raise jurisdictional issues *sua sponte*”). A plaintiff commencing an action in federal court bears the burden of establishing federal jurisdiction. *See Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015) (“The burden of establishing federal jurisdiction rests with the party asserting its existence.” (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006))).

III. DISCUSSION

A. Claims Brought on Behalf of Others

Fata is, in part, attempting to bring claims on behalf of his children. (Compl. at 1, 9.) Under 28 U.S.C. § 1654, parties “may plead and conduct their own cases personally or by counsel” in the federal courts. Section 1654 thus ensures that a person may conduct his or her

own case *pro se* or retain counsel to do so. See *Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 882 (3d Cir. 1991) (“The statutory right to proceed *pro se* reflects a respect for the choice of an individual citizen to plead his or her own cause.” (quoting *Cheung v. Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990))). Although an individual may represent himself *pro se*, a non-attorney may not represent other parties in federal court. See *Collinsgru v. Palmyra Bd. of Educ.*, 161 F.3d 225, 232 (3d Cir. 1998) (“The rule that a non-lawyer may not represent another person in court is a venerable common law rule.”), *abrogated on other grounds* by *Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007). Furthermore, “a plaintiff must assert his or her own legal interests rather than those of a third party” to have standing to bring a claim. See *Twp. of Lyndhurst, N.J. v. Priceline.com, Inc.*, 657 F.3d 148, 154 (3d Cir. 2011) (quotations omitted)). For these reasons, any claims that Fata brings on behalf of his children must be dismissed without prejudice for lack of standing. See, e.g., *Chang v. Dep’t of Servs. for Child., Youth, & their Fams., Div. of Fam. Servs.*, 790 F. App’x 435, 437-38 (3d Cir. 2019) (*per curiam*) (father lacked standing to address children’s claims on appeal).

B. Fata’s Claims

Fata alleges that there is a vast conspiracy to frame him and cover up sexual abuse on his children. (See ECF No. 2-1 at 3-4.) He asserts that the conspiracy, which spans across two states, was started in 2017 by a “church congregation/organization” in connection with “government officials” to oppress him and encourage him “to commit suicide,” making his “life impossible to live.” (*Id.*)

Fata’s allegations concerning a vast conspiracy are wholly incredible and lack a basis in fact. Accordingly, the Court will dismiss any claims based on Fata’s conspiracy allegations as factually baseless, without leave to amend. See, e.g., *Caterbone v. Nat’l Sec. Agency*, 698 F. App’x 678, 679 (3d Cir. 2017) (*per curiam*) (dismissing appeal as lacking an arguable basis in

fact where underlying allegations were based on plaintiff's assertion that he was a "victim of U.S. sponsored mind control and cointelpro harassment program"); *Mina v. Chester Cnty.*, 679 F. App'x 192, 195 (3d Cir. 2017) (*per curiam*) (affirming dismissal of plaintiff's claims that 62 defendants had a vast conspiracy against him spanning twenty years); *Price v. Fed. Bureau of Investigation*, No. 20-3015, 2020 WL 4368063, at *3 (E.D. Pa. July 30, 2020), *aff'd*, 845 F. App'x 106 (3d Cir. 2021) (finding plaintiff's allegations to be factually frivolous where plaintiff asserted that "numerous law enforcement agencies, attorneys, prison officials, and medical professionals have used neurological and psychological technology to control the 'four basic groups of his brain and mental functions' and "that the use of this 'technology' and 'mind control' has caused him numerous impairments and drove him to criminal and erratic behavior"); *Jorge v. Torres*, No. 18-14674, 2019 WL 2385942, at *3 (D.N.J. June 6, 2019) ("Plaintiff's factual allegations that the Police are monitoring his every move and that the Police do so by telephone recruitment 'of informants, spies, and willing constituents [sic]' is exactly the type of 'fantastic or delusional scenario[]' warranting dismissal under 28 U.S.C. § 1915(e)(2)(B)(i)." (alterations in original)).

Moreover, to the extent that Fata seeks to assert any federal constitutional claims against Jacqueline Amantine and her son, he has failed to state a plausible constitutional claim. The vehicle by which federal constitutional claims may be brought in federal court is 42 U.S.C. § 1983. "To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law."⁹ *West v. Atkins*, 487 U.S. 42, 48 (1988).

⁹ Whether a defendant is acting under color of state law — i.e., whether the defendant is a state actor — depends on whether there is "such a close nexus between the State and the challenged action' that seemingly private behavior may be fairly treated as that of the State itself." *Leshko v. Servis*, 423 F.3d 337, 339 (3d Cir. 2005) (internal quotations omitted). "To answer that

"The color of state law element is a threshold issue; there is no liability under § 1983 for those not acting under color of law." *Groman v. Twp. of Manalapan*, 47 F.3d 628, 638 (3d Cir. 1995).

Fata does not provide any factual allegations with respect to the Defendants that would support an inference that they were acting under color of state law when they allegedly failed to return Fata's vehicle and property. See *Massey v. Crady*, No. 17-241, 2018 WL 4328002, at *6 (W.D. Pa. Aug. 8, 2018) ("Private citizens . . . are not state actors, and therefore . . . any § 1983 claims against [them] should be dismissed."); *Brett v. Zimmerman*, No. 15-2414, 2018 WL 6576412, at *6 (M.D. Pa. Nov. 2, 2018) (recommending dismissal of § 1983 claims against private individual as frivolous), *report and recommendation adopted*, 2018 WL 6567721 (M.D. Pa. Dec. 13, 2018); *Toroney v. Woyten*, No. 86-4871, 1986 WL 11081, at *1 (E.D. Pa. Oct. 3, 1986) (dismissing § 1983 claims against private actor as frivolous); see also *Hussein v. New Jersey*, 403 F. App'x 712, 716 (3d Cir. 2010) (*per curiam*) (affirming dismissal of constitutional claims against landlord because landlord was not a state actor).

Finally, to the extent that Fata intended to raise any state law claims, the only independent basis for jurisdiction over any such claims is 28 U.S.C. § 1332(a), which grants a district court jurisdiction over a case in which "the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States."¹⁰ Section 1332(a) requires "complete diversity between all plaintiffs and all

question, [the Third Circuit has] outlined three broad tests generated by Supreme Court jurisprudence to determine whether state action exists: (1) whether the private entity has exercised powers that are traditionally the exclusive prerogative of the state; (2) whether the private party has acted with the help of or in concert with state officials; and (3) whether the state has so far insinuated itself into a position of interdependence with the acting party that it must be recognized as a joint participant in the challenged activity." *Kach v. Hose*, 589 F.3d 626, 646 (3d Cir. 2009) (internal quotations and alteration omitted).

¹⁰ Because the Court has dismissed Fata's federal claims, it will not exercise supplemental jurisdiction over any state law claims.

defendants,” which “means that, unless there is some other basis for jurisdiction, ‘no plaintiff [may] be a citizen of the same state as any defendant.’” *Lincoln Ben. Life Co.*, 800 F.3d 99, 104 (3d Cir. 2015) (quoting *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005) and *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010)). An individual is a citizen of the state where he is domiciled, meaning the state where he is physically present and intends to remain. See *Washington v. Hovenssa, LLC*, 652 F.3d 340, 344 (3d Cir. 2011). “[T]he domicile of a prisoner before his imprisonment presumptively remains his domicile during his imprisonment.” *Pierro v. Kugel*, 386 F. App’x 308, 309 (3d Cir. 2010).

Fata does not allege the state citizenship of any party to this suit, but provides Pennsylvania addresses for each of the Defendants, which suggests that both Defendants may be citizens of Pennsylvania. (See Compl. at 1.) Accordingly, Fata has not alleged a basis for the Court’s jurisdiction because he has failed to meet his burden of establishing complete diversity in this case. See *Quaker State Dyeing & Finishing Co., Inc. v. ITT Terryphone Corp.*, 461 F.2d 1140, 1143 (3d Cir. 1972) (stating that, in diversity cases, the plaintiff must demonstrate complete diversity between the parties and that the amount in controversy requirement has been met); *Jackson v. Rosen*, No. 20-2842, 2020 WL 3498131, at *8 (E.D. Pa. June 26, 2020). Because the Complaint fails to allege a basis for diversity jurisdiction, the Court will dismiss any state law claims for lack of subject matter jurisdiction.

IV. CONCLUSION

For the foregoing reasons, the Court will grant Fata leave to proceed *in forma pauperis* and dismiss his Complaint. The Court will dismiss any claims Fata sought to assert on behalf of others without prejudice for lack of standing. Fata’s conspiracy claims will be dismissed as factually frivolous. Any federal constitutional claims Fata sought to assert against Defendants will be dismissed with prejudice and without leave to amend for failure to state a claim pursuant

to 28 U.S.C. § 1915(e)(2)(B)(ii). Fata's state law claims will be dismissed without prejudice for lack of subject matter jurisdiction. The Court concludes that amendment would be futile because Fata cannot cure the noted deficiencies in the Complaint. *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108, 110 (3d Cir. 2002) (holding that district courts should dismiss complaints under the PLRA with leave to amend "unless amendment would be inequitable or futile."). His motions will be denied. A final Order follows, which dismisses this case.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABRAHIM FATA,
Plaintiff,

v.

CHARLES LANG, *et al.*,
Defendants.

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CIVIL ACTION NO. 24-CV-6934

MEMORANDUM

GOLDBERG, J.

APRIL 23, 2025

Plaintiff Abraham Fata, a prisoner currently incarcerated at Lehigh County Jail, brings this *pro se* civil action¹ raising claims against Defendants Charles and Martha Lang.² (ECF No. 2 (“Compl.”) at 1-2.) Fata also alleges an ongoing conspiracy “by Pennsylvania, and New Jersey societies/communities, and governments, since 2017.” (*Id.* at 7.) He seeks leave to proceed *in forma pauperis*. For the following reasons, the Court will grant Fata leave to proceed *in forma pauperis* and dismiss the Complaint in its entirety.

¹ Fata initiated this action by filing a “Petition for Private Civil and Criminal Complaint.” (*See* Compl. at 1.) To the extent that Fata seeks to initiate criminal charges against any Defendant, the Court has no authority to order such relief. *See Kent v. Ed Carber Inc.*, 467 F. App’x 112, 113 (3d Cir. 2012) (*per curiam*) (affirming dismissal of claims seeking initiation of criminal charges because “a private person does not have a ‘judicially cognizable interest in the prosecution . . . of another’”) (quoting *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973).)

² Fata indicates in his Notice to the Court that Defendants’ last name is misspelled on the docket, and the correct spelling should be “Lang.” (*See* ECF No. 4.) The Court will direct the Clerk of Court to amend the docket to reflect the correct spelling. For purposes of this Memorandum, the Court will adopt the proper spelling and refer to the Defendants as Charles and Martha Lang.

I. FACTUAL ALLEGATIONS³

The allegations in Fata's Complaint are disjointed and difficult to discern. From January 2021 through July 2022, Fata and his daughter resided with Defendant Charles Lang at Lang's house in Pike County, Pennsylvania. (Compl. at 2.) Defendant Martha Lang is married to Charles, but she allegedly resided in Monroe County.⁴ (*Id.*)

Fata asserts that his car was vandalized twice between March and April 2021. (*Id.*) During this time, Fata "was going through a custody issue with [his] son," and Charles allegedly started to behave irrationally. (*Id.*) Fata contends that the "irrational behavior" included Charles asking him to contribute more money towards groceries and household goods. (*Id.*) Fata avers that there were "others . . . oppressing [him] as well." (*Id.*) When his car was vandalized a second time, Fata called the police to report it. (*Id.*) When the police arrived, Charles told an officer that he wanted Fata out of the house. (*Id.*) Fata alleges that this statement was made "for no apparent reason." (*Id.*) Charles did not talk to Fata for a few days, but then allegedly apologized at which time Fata "learned [that Charles] had a drinking problem" of which Martha was not aware. (*Id.*)

In November or December 2021, Fata was permitted unsupervised visits with his son. (*Id.*) However, "someone made false children, and youth reports on [Fata]" and Charles allegedly became irrational for the second time. (*Id.*) He avers that Charles's irrational behavior consisted of "wanting to raise [the] rent" and seeking payment for an electric bill. (*Id.* at 3.)

³ The following allegations are taken from the Complaint and the attachments thereto. To afford Fata the most liberal construction of his claims, the Court also considered the Notice and Case Correspondence filed on January 27, 2025 (*see* ECF No. 4). The Court adopts the pagination supplied by the CM/ECF docketing system to all *pro se* submissions. Spelling, punctuation, and capitalization errors are cleaned up where necessary.

⁴ Fata alleges that Martha Lang is his aunt. (*See* Compl. at 2.)

Fata alleges that Charles “harass[ed] [him] religiously, and [was] very argumentative.” (*Id.*)

Fata also claims that “other oppression arose again.” (*Id.* at 2.)

In March 2022, Fata realized that it was not too late to try to obtain justice for his son, who he avers had been “a victim of a sex crime,” so he sought to pursue justice. (*Id.* at 3.) Fata claims that Charles “started acting up again,” and as Fata continued to pursue justice, Charles’s “oppression” continued and “Martha tagged along too.” (*Id.*) Fata asserts that Charles also “started openly having beer in the house.” (*Id.*)

When Fata started the “process of moving out, [Defendants’] oppression aggravated” and they made “false police reports” to evict him and “get [him] violated on probation.” (*Id.*) Defendants also sent an “indirect message, or signs of death,” causing Fata’s daughter to become frightened. (*Id.*) Fata avers that he told “the police [his] side,” telling them that there was “no need for an eviction” because he was trying to move out. (*Id.*) Fata contends that the Defendants’ conduct “correlates to others,” and “there were incidents where [he] could’ve been killed in a fatal accident.” (*Id.*) Fata claims that “Charlie’s signs of death, or death threats are obvious.” (*Id.*) Fata also avers that “someone was hacking [his] phone, threatening to turn [his] daughter into a stripper” and Charles “coincidentally” sent Fata a text to warn him “to be alert” just like “the death threats.” (*See* ECF No. 4 at 3.)

Fata also alleges that “[t]here is a conspiracy to coverup a sexual abuse on [his] two kids, and to frame [him].” (Compl. at 7.) He contends that he’s “been severely oppressed by Pennsylvania, and New Jersey societies/communities, and governments, since 2017, and to the extreme of [his] death, by either manipulating a fatal ‘accident’ or ‘situation,’ even to push [him] to suicide.” (*Id.*) He claims that “many rights have been deprived” and he has suffered multiple physical injuries and emotional anguish. (*Id.*) Fata further alleges that this conspiracy was started by a “Christian religious based organization that has invaded the communities/societies in

areas [his] children, and [he] were involved in” and that this conspiracy “recruited many . . . relatives, and government officials” to oppress him “religiously, psychologically, [and] systematically.” (*Id.*)

As the basis for his claims, Fata identifies several criminal and civil rights statutes in list form.⁵ (*Id.* at 4-6.) The criminal statutes pertain to conspiracy, assault and maiming within maritime jurisdiction, hate crimes, fraudulent claims, extortion and blackmail, kidnapping and hostage taking, RICO, tampering with and retaliation against witnesses or victims, perjury, stalking, and torture.⁶ (*Id.*) Specifically, Fata lists, without explanation, federal criminal statutes, 18 U.S.C. §§ 241, 242, and 249,⁷ and federal civil statutes, 42 U.S.C. §§ 1982, 1985,

⁵ Merely listing statutes does not state a plausible claim for a violation thereof because a passing reference without factual support is not sufficient to bring claims before a court. *Brown v. Pennsylvania, Wayne Cnty.*, No. 22-1506, 2023 WL 3376547, at *2 (3d Cir. May 11, 2023), *cert. dismissed sub nom. Brown v. Pennsylvania*, 144 S. Ct. 272 (2023), *reconsideration denied*, 144 S. Ct. 417 (2023); *see also Campbell v. LVNV Finding, LLC and Resurgent Capital Servs.*, No. 21-5388, 2022 WL 6172286, at *7 (E.D. Pa. Oct. 7, 2022) (stating that a “‘passing reference’ to jurisprudential precepts without more does not bring that issue before the Court in that it provides no basis for a ruling one way or the other.”) (citing *Laborers’ Int’l Union of N. Am., AFL-CIO v. Foster Wheeler Energy Corp.*, 26 F.3d 375, 398 (3d Cir. 1994)).

⁶ Criminal statutes generally do not give rise to a basis for civil liability. *See Brown v. City of Philadelphia Office of Human Res.*, 735 F. App’x 55, 56 (3d Cir. 2018) (*per curiam*) (“Brown alleges that the defendants violated various criminal statutes, but most do not provide a private cause of action.”). Indeed, the United States Supreme Court has stated that, unless specifically provided for, federal criminal statutes rarely create private rights of action. *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 377 (1958) (stating that where a statute “contains only penal sanctions for violation of its provisions; in the absence of a clear expression of congressional intent to the contrary, these sanctions should under familiar principles be considered exclusive, rather than supplemented by civil sanctions of a distinct statute”); *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994) (“We have been quite reluctant to infer a private right of action from a criminal prohibition alone.”).

⁷ The federal criminal statutes cited by Fata do not provide an individual a private cause of action. *See Rodriguez v. Salus*, 623 F. App’x 588, 589 n.1 (3d Cir. 2015) (*per curiam*) (finding that the plaintiff’s claims attempting to initiate criminal charges under 18 U.S.C. § 241 were properly dismissed because “there is no federal right to require the government to initiate criminal proceedings.” (citing *Linda R.S.*, 410 U.S. at 619); *Carpenter v. Ashby*, 351 F. App’x 684, 688 (3d Cir. 2009) (*per curiam*) (no civil cause of action created by 18 U.S.C. § 242);

1987, and 1988.⁸ (*Id.* at 4-5.) Fata also asserts, without further detail, that his rights under the First, Ninth, and Fourteenth Amendments to the United States Constitution have been violated. (*Id.* at 4.) He invokes state law claims including assault, battery, willful misconduct, negligence, and loss of wages, again without further explanation. (*Id.*) He seeks “\$50,000 dollars per Defendant” and requests that the Defendants be “arrested and brought to justice.”⁹ (*Id.* at 6.)

Colon-Montanez v. Pennsylvania Healthcare Serv. Staffs, 530 F. App’x 115, 118 (3d Cir. 2013) (*per curiam*) (“[T]hese criminal statutes [18 U.S.C. §§ 241 and 242] provide no private right of action for use by a litigant such as Colon-Montanez.”); *Wolfe v. Beard*, No. 10-2566, 2011 WL 601632, at *2 (E.D. Pa. Feb. 15, 2011) (“[T]here is no private right of action under 18 U.S.C. § 249.”). Any claims purportedly based on these statutes will be dismissed.

⁸ 42 U.S.C. § 1982 prohibits racial discrimination in transactions relating to real and personal property. 42 U.S.C. § 1985(3) creates a cause of action against any two persons who “conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws. . . .” 42 U.S.C. § 1985(3). Fata does not include any allegations about race or racial animus and there is no suggestion that any contractual relations or conspiracies exist among the named Defendants. Accordingly, any claims alleging violations of §§ 1982 and 1985 will be dismissed. *See Johnson v. Person*, 781 F. App’x 69, 73 (3d Cir. 2019) (affirming dismissal of claims brought pursuant to §§ 1981 and 1982 for failure to state a claim because there were no contract or property rights involved in the alleged deprivation of rights); *Groce v. City of Philadelphia. L. Dep’t*, No. 21-5132, 2022 WL 493418, at *7 (E.D. Pa. Feb. 17, 2022) (dismissing conspiracy claim as wholly conclusory where the plaintiff failed to allege facts regarding the formation of a conspiracy between any Defendants or any other individuals, the period of the conspiracy, or actions taken by the alleged conspirators to achieve the alleged purpose thereof). 42 U.S.C. § 1987 does not give rise to a private cause of action. *See Wolfe v. Beard*, 2010 WL 5173199, at *12 (E.D. Pa. Dec. 9, 2010) (“Section 1987 empowers federal officials to prosecute violations of certain statutorily enumerated crimes. . . . [Section] 1987 does not provide a private right of action.”) (citations omitted). 42 U.S.C. § 1988, which provides for an award of attorneys’ fees in certain circumstances, does not provide a basis for an independent right of action. *See Vecchia v. Town of Hempstead*, 927 F. Supp 579, 580-81 (E.D.N.Y. 1996) (citing *North Carolina Dep’t of Transp. v. Crest Street Comm. Council, Inc.*, 479 U.S. 6, 14 (1986)). The § 1987 and § 1988 claims will also be dismissed.

⁹ The Court has no authority to order such relief. *See Kent*, 467 F. App’x at 113.

II. STANDARD OF REVIEW

The Court will grant Fata leave to proceed *in forma pauperis* because it appears that he is incapable of paying the fees to commence this case.¹⁰ Accordingly, 28 U.S.C. § 1915(e)(2)(B)(ii) requires the Court to dismiss the Complaint if it fails to state a claim. Whether a complaint fails to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), *see Tourscher v. McCullough*, 184 F.3d 236, 240 (3d Cir. 1999), which requires the Court to determine whether the complaint contains “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) (quotations omitted).

Additionally, 28 U.S.C. § 1915(e)(2)(B)(i) requires the Court to dismiss the Complaint if it is frivolous. A complaint is frivolous if it “lacks an arguable basis either in law or in fact,” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The use of the term “frivolous” in § 1915 “embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Id.* Section 1915 accords judges “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless[.]” including claims that describe “fantastic or delusional scenarios[.]” *Id.* at 327. “[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible[.]” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). A claim is legally baseless if it is “based on an indisputably meritless legal theory.” *Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995). As Fata is proceeding *pro se*, the Court construes his allegations liberally. *Vogt*

¹⁰ Fata has set forth the steps taken to secure his six-month prisoner account statement. (See ECF No. 6.) This Court finds that Fata has substantially complied with the directives of 28 U.S.C. § 1915(a)(2) and will permit him to proceed *in forma pauperis* in this matter. Because Fata is a prisoner, he will be obligated to pay the filing fee in installments in accordance with the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

v. Wetzel, 8 F.4th 182, 185 (3d Cir. 2021) (citing *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244-45 (3d Cir. 2013)).

Also, when allowing a plaintiff to proceed *in forma pauperis*, the Court must review the pleadings and dismiss the matter if it determines, *inter alia*, that the action fails to set forth a proper basis for this Court's subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."); *Group Against Smog and Pollution, Inc. v. Shenango, Inc.*, 810 F.3d 116, 122 n.6 (3d Cir. 2016) (explaining that "an objection to subject matter jurisdiction may be raised at any time [and] a court may raise jurisdictional issues *sua sponte*"). A plaintiff commencing an action in federal court bears the burden of establishing federal jurisdiction. *See Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015) ("The burden of establishing federal jurisdiction rests with the party asserting its existence." (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006))).

III. DISCUSSION

Fata alleges that there is a vast conspiracy to frame him and cover up sexual abuse of his children. (Compl. at 7.) He asserts that the conspiracy, which spans across two states, was started in 2017 by a "Christian religious based organization, that has invaded the communities/societies in areas [his] children, and [he] were involved in" and that members of the conspiracy have "recruited many . . . relatives, and government officials" to oppress him "religiously, psychologically, [and] systematically." (*Id.*) Fata has allegedly sustained multiple physical and emotional injuries, and he avers that the conspiracy is attempting to push him to suicide. (*Id.*) He claims that "many rights have been deprived." (*Id.*)

Fata's allegations concerning a vast conspiracy, oppression by multiple state governments, and receipt of death threats are wholly incredible and lack a basis in fact.

Accordingly, the Court will dismiss any claims based on Fata's conspiracy allegations as factually baseless, without leave to amend. *See, e.g., Caterbone v. Nat'l Sec. Agency*, 698 F. App'x 678, 679 (3d Cir. 2017) (*per curiam*) (dismissing appeal as lacking an arguable basis in fact where underlying allegations were based on plaintiff's assertion that he was a "victim of U.S. sponsored mind control and cointelpro harassment program"); *Mina v. Chester Cnty.*, 679 F. App'x 192, 195 (3d Cir. 2017) (*per curiam*) (affirming dismissal of plaintiff's claims that 62 defendants had a vast conspiracy against him spanning twenty years); *Price v. Fed. Bureau of Investigation*, No. 20-3015, 2020 WL 4368063, at *3 (E.D. Pa. July 30, 2020), *aff'd*, 845 F. App'x 106 (3d Cir. 2021) (finding plaintiff's allegations to be factually frivolous where plaintiff asserted that "numerous law enforcement agencies, attorneys, prison officials, and medical professionals have used neurological and psychological technology to control the 'four basic groups of his brain and mental functions' and 'that the use of this 'technology' and 'mind control' has caused him numerous impairments and drove him to criminal and erratic behavior'"); *Nobile v. Queen Leticia of Spain*, No. 23-9081, 2023 WL 8258336, at *2 (S.D.N.Y. Nov. 27, 2023) (plaintiff's factual allegations that defendants have been committing crimes and making death threats against her are conclusory suspicions that "must be dismissed as frivolous"); *Jorge v. Torres*, No. 18-14674, 2019 WL 2385942, at *3 (D.N.J. June 6, 2019) ("Plaintiff's factual allegations that the Police are monitoring his every move and that the Police do so by telephone recruitment 'of informants, spies, and willing constituents [sic]' is exactly the type of 'fantastic or delusional scenario[]' warranting dismissal under 28 U.S.C. § 1915(e)(2)(B)(i)." (alterations in original)).

Moreover, to the extent that Fata seeks to assert any federal constitutional claims against the Defendants, he has failed to allege a plausible constitutional claim. The vehicle by which federal constitutional claims may be brought in federal court is 42 U.S.C. § 1983. "To state a

claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.”¹¹ *West v. Atkins*, 487 U.S. 42, 48 (1988). “The color of state law element is a threshold issue; there is no liability under § 1983 for those not acting under color of law.” *Groman v. Twp. of Manalapan*, 47 F.3d 628, 638 (3d Cir. 1995).

Fata does not provide any factual allegations with respect to the Defendants that would support an inference that they were acting under color of state law. See *Massey v. Crady*, No. 17-241, 2018 WL 4328002, at *6 (W.D. Pa. Aug. 8, 2018) (“Private citizens . . . are not state actors, and therefore . . . any § 1983 claims against [them] should be dismissed.”); *Brett v. Zimmerman*, No. 15-2414, 2018 WL 6576412, at *6 (M.D. Pa. Nov. 2, 2018) (recommending dismissal of § 1983 claims against private individual as frivolous), *report and recommendation adopted*, 2018 WL 6567721 (M.D. Pa. Dec. 13, 2018); *Toroney v. Woyten*, No. 86-4871, 1986 WL 11081, at *1 (E.D. Pa. Oct. 3, 1986) (dismissing § 1983 claims against private actor as frivolous).

Finally, to the extent that Fata intended to raise any state law claims, the only independent basis for jurisdiction over any such claims is 28 U.S.C. § 1332(a), which grants a district court jurisdiction over a case in which “the matter in controversy exceeds the sum or

¹¹ Whether a defendant is acting under color of state law — i.e., whether the defendant is a state actor — depends on whether there is “such a close nexus between the State and the challenged action” that seemingly private behavior may be fairly treated as that of the State itself.” *Leshko v. Servis*, 423 F.3d 337, 339 (3d Cir. 2005) (internal quotations omitted). “To answer that question, [the Third Circuit has] outlined three broad tests generated by Supreme Court jurisprudence to determine whether state action exists: (1) whether the private entity has exercised powers that are traditionally the exclusive prerogative of the state; (2) whether the private party has acted with the help of or in concert with state officials; and (3) whether the state has so far insinuated itself into a position of interdependence with the acting party that it must be recognized as a joint participant in the challenged activity.” *Kach v. Hose*, 589 F.3d 626, 646 (3d Cir. 2009) (internal quotations and alteration omitted).

value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.”¹² Section 1332(a) requires “‘complete diversity between all plaintiffs and all defendants,’” which “means that, unless there is some other basis for jurisdiction, ‘no plaintiff [may] be a citizen of the same state as any defendant.’” *Lincoln Ben. Life Co.*, 800 F.3d 99, 104 (3d Cir. 2015) (quoting *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005) and *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010)). An individual is a citizen of the state where he is domiciled, meaning the state where he is physically present and intends to remain. See *Washington v. Hovenssa, LLC*, 652 F.3d 340, 344 (3d Cir. 2011). “[T]he domicile of a prisoner before his imprisonment presumptively remains his domicile during his imprisonment.” *Pierro v. Kugel*, 386 F. App’x 308, 309 (3d Cir. 2010).

Fata does not allege the state citizenship of any party to this suit, but provides Pennsylvania addresses for each of the Defendants, which suggests that both Defendants may be citizens of Pennsylvania. (See Compl. at 1.) Accordingly, Fata has not alleged a basis for the Court’s jurisdiction because he has failed to meet his burden of establishing complete diversity in this case. See *Quaker State Dyeing & Finishing Co., Inc. v. ITT Terryphone Corp.*, 461 F.2d 1140, 1143 (3d Cir. 1972) (stating that, in diversity cases, the plaintiff must demonstrate complete diversity between the parties and that the amount in controversy requirement has been met); *Jackson v. Rosen*, No. 20-2842, 2020 WL 3498131, at *8 (E.D. Pa. June 26, 2020). Because the Complaint fails to allege a basis for diversity jurisdiction, the Court will dismiss any state law claims for lack of subject matter jurisdiction.

¹² Because the Court has dismissed Fata’s federal claims, it will not exercise supplemental jurisdiction over any state law claims.

IV. CONCLUSION

For the foregoing reasons, the Court will grant Fata leave to proceed *in forma pauperis* and dismiss his Complaint. Fata's conspiracy claims will be dismissed as factually frivolous. Any federal constitutional claims Fata sought to assert against Defendants will be dismissed with prejudice and without leave to amend for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Fata's state law claims will be dismissed without prejudice for lack of subject matter jurisdiction. The Court concludes that amendment would be futile because Fata cannot cure the noted deficiencies in the Complaint. *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108, 110 (3d Cir. 2002) (holding that district courts should dismiss complaints under the PLRA with leave to amend "unless amendment would be inequitable or futile."). A final Order follows, which dismisses this case.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABRAHIM FATA, :
Plaintiff, :
 :
v. : CIVIL ACTION NO. 24-CV-6935
 :
ARACELLY DELGADO, *et al.*, :
Defendants. :

MEMORANDUM

GOLDBERG, J.

APRIL 23, 2025

Plaintiff Abraham Fata, a prisoner currently incarcerated at Lehigh County Jail, brings this *pro se* civil action raising claims concerning his personal property against Defendants Aracelly and Chris Delgado. (ECF No. 2 (“Compl.”).) He also alleges an ongoing conspiracy “by Pennsylvania, and New Jersey societies/communities, and governments, since 2017.” (Compl. at 8.) Fata seeks leave to proceed *in forma pauperis*, and he has also filed a Motion for Stay of Proceedings (ECF No. 5). For the following reasons, the Court will grant Fata leave to proceed *in forma pauperis*, dismiss the Complaint in its entirety, and deny his outstanding motion.

I. FACTUAL ALLEGATIONS

Fata avers that he rented a room from Defendant Aracelly Delgado in November 2022. (Compl. at 2.) His plan was to rent the room until his “legal issues [were] solved” and move out within three months. (*Id.*) Fata was introduced to Aracelly’s son, Chris Delgado.¹ (*Id.*) Fata asserts that by mid-July, the Delgados “started being hostile, and distant.” (*Id.*) Aracelly wanted

¹ Fata asserts that he is unsure of Chris’s last name, but he nonetheless refers to him as Chris Delgado in the Complaint. (Compl. at 2.) To maintain consistency, the Court will also refer to this Defendant as Chris Delgado.

to increase the monthly rent by \$100, but since Fata had recently lost his job, she agreed to keep the monthly rent at \$550. (*Id.*) In August, Fata began paying Chris \$80 per month so that he could store his tools in Chris's backyard. (*Id.* at 2-3.)

Fata alleges that by September, the Delgados were increasingly hostile and "ignorant." (*Id.* at 3.) They wouldn't let him use the broom to clean his room, and he was not permitted to wash his dishes, use the refrigerator, or have his children visit. (*Id.*) Fata also contends that they didn't "remember [that the] rent went back to \$550." (*Id.*) Fata also alleges that he was "attacked by an officer" on September 23, 2023 and the Delgados were notified of this incident. (*Id.*) Fata asserts that he paid his rent and storage fee for October. (*Id.*)

On October 25, 2023, Fata was arrested and incarcerated. (*Id.*) Fata alleges that his friend attempted to retrieve his "belongings" from the Delgados but they would "not pick[] up the phone." (*Id.*) When Fata was finally able to get in touch with them, the Delgados told Fata that "they threw [his] belongings in the garbage." (*Id.*) On a later call, Fata was told something "different." (*Id.*) Fata claims that his daughter has been making weekly payments to the Delgados, and he has been keeping the Delgados updated as to his expected release from prison. (*Id.* at 3-4.)

Fata avers that the Delgados are aware that he is "being oppressed by government officials, systematically." (*Id.* at 4.) He claims that Aracelly wrote to him in December 2024, but the letter was sent back because it did not comply with the jail's mail policies. (*Id.*) He asserts that he spoke with both of the Delgados by phone sometime in December, but they were hostile, and Aracelly yelled at him, telling him that "your problem is your problem." (*Id.*) Fata contends that the Delgados are "assisting with the oppression, as they have no reason to act the way they are," and he asserts that they have "had many chances to be civil, and return [his] property." (*Id.*)

Fata alleges that “[t]here is a conspiracy to coverup a sexual abuse on [his] two kids, and to frame [him].” (*Id.* at 8.) He contends that he’s “been severely [sic] oppressed by Pennsylvania, and New Jersey societies/communities, and governments, since 2017, and to the extreme of [his] death, by either manipulating a fatal ‘accident’ or ‘situation’, even to push [him] to suicide.” (*Id.*) He also alleges that this conspiracy was started by a “[C]hristian religious based organization that has invaded the communities/societies in areas [his] children, and [he] were involved in” and that this conspiracy “recruited many . . . relatives, and government officials” to oppress him “religiously, psychologically, [and] systematically.” (*Id.*)

As the basis for his claims, Fata identifies several criminal and civil rights statutes in list form.² (*Id.* at 6-7.) The criminal statutes pertain to conspiracy, hate crimes, embezzlement and theft within maritime jurisdiction, obstruction of justice, RICO, domestic violence, stalking, and torture.³ (*Id.*) Specifically, Fata lists, without explanation, federal criminal statutes, 18 U.S.C.

² A passing reference without factual support is not sufficient to bring claims before a court. *Brown v. Pennsylvania, Wayne Cnty.*, No. 22-1506, 2023 WL 3376547, at *2 (3d Cir. May 11, 2023), *cert. dismissed sub nom. Brown v. Pennsylvania*, 144 S. Ct. 272 (2023), *reconsideration denied*, 144 S. Ct. 417 (2023); *see also Campbell v. LYNV Finding, LLC and Resurgent Capital Servs.*, No. 21-5388, 2022 WL 6172286, at *7 (E.D. Pa. Oct. 7, 2022) (stating that a “‘passing reference’ to jurisprudential precepts without more does not bring that issue before the Court in that it provides no basis for a ruling one way or the other.”) (citing *Laborers’ Int’l Union of N. Am., AFL-CIO v. Foster Wheeler Energy Corp.*, 26 F.3d 375, 398 (3d Cir. 1994)).

³ Criminal statutes generally do not give rise to a basis for civil liability. *See Brown v. City of Philadelphia Office of Human Res.*, 735 F. App’x 55, 56 (3d Cir. 2018) (*per curiam*) (“Brown alleges that the defendants violated various criminal statutes, but most do not provide a private cause of action.”). Indeed, the United States Supreme Court has stated that, unless specifically provided for, federal criminal statutes rarely create private rights of action. *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 377 (1958) (stating that where a statute “contains only penal sanctions for violation of its provisions; in the absence of a clear expression of congressional intent to the contrary, these sanctions should under familiar principles be considered exclusive, rather than supplemented by civil sanctions of a distinct statute”); *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994) (“We have been quite reluctant to infer a private right of action from a criminal prohibition alone.”).

§§ 241, 242, and 249,⁴ and federal civil statutes, 42 U.S.C. §§ 1981, 1982, 1985, and 1988.⁵ (*Id.* at 6.) Fata also asserts, without further detail, that his rights under the Fourth, Ninth, and Fourteenth Amendments to the United States Constitution have been violated. (*Id.* at 6.) He alleges state law claims including assault, battery, willful misconduct, negligence, and abuse of the legal system, again without further explanation. (*Id.*) He seeks “\$25,000 dollar per defendant” and requests that the Delgados be “arrested, and brought to justice.”⁶ (*Id.* at 5.)

⁴ The federal criminal statutes cited by Fata do not provide an individual a private cause of action. See *Rodriguez v. Salus*, 623 F. App’x 588, 589 n.1 (3d Cir. 2015) (*per curiam*) (finding that the plaintiff’s claims attempting to initiate criminal charges under 18 U.S.C. § 241 were properly dismissed because “there is no federal right to require the government to initiate criminal proceedings.” (citing *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973))); *Carpenter v. Ashby*, 351 F. App’x 684, 688 (3d Cir. 2009) (*per curiam*) (no civil cause of action created by 18 U.S.C. § 242); *Colon-Montanez v. Pennsylvania Healthcare Serv. Staffs*, 530 F. App’x 115, 118 (3d Cir. 2013) (*per curiam*) (“[T]hese criminal statutes [18 U.S.C. §§ 241 and 242] provide no private right of action for use by a litigant such as Colon-Montanez.”); *Wolfe v. Beard*, No. 10-2566, 2011 WL 601632, at *2 (E.D. Pa. Feb. 15, 2011) (“[T]here is no private right of action under 18 U.S.C. § 249.”). Any claims purportedly based on these statutes must be dismissed.

⁵ 42 U.S.C § 1981 prohibits racial discrimination in the making and enforcement of contracts and property transactions contracts. 42 U.S.C. § 1982 prohibits racial discrimination in transactions relating to real and personal property. 42 U.S.C. § 1985(3) creates a cause of action against any two persons who “conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws. . . .” 42 U.S.C. § 1985(3). Fata does not include any allegations about race or racial animus and there is no suggestion that any contractual relations or conspiracies exist among the named Defendants. Accordingly, §§ 1981, 1982 and 1985 are not applicable. See *Johnson v. Pers.*, 781 F. App’x 69, 73 (3d Cir. 2019) (affirming dismissal of claims brought pursuant to §§ 1981 and 1982 for failure to state a claim because there were no contract or property rights involved in the alleged deprivation of rights); *Groce v. City of Philadelphia. L. Dep’t*, No. 21-5132, 2022 WL 493418, at *7 (E.D. Pa. Feb. 17, 2022) (dismissing conspiracy claim as wholly conclusory where the plaintiff failed to alleged facts regarding the formation of a conspiracy between any Defendants or any other individuals, the period of the conspiracy, or actions taken by the alleged conspirators to achieve the alleged purpose thereof). 42 U.S.C § 1988, which provides for an award of attorneys’ fees in certain circumstances, does not provide a basis for an independent right of action. See *Vecchia v. Town of Hempstead*, 927 F. Supp 579, 580-81 (E.D.N.Y 1996) (citing *North Carolina Dep’t of Transp. v. Crest Street Comm. Council, Inc.*, 479 U.S. 6, 14 (1986)). These claims will be dismissed.

⁶ To the extent that Fata seeks to initiate criminal charges against any Defendant, the Court has no authority to order such relief. See *Kent v. Ed Carber Inc.*, 467 F. App’x 112, 113 (3d Cir.

II. STANDARD OF REVIEW

The Court will grant Fata leave to proceed *in forma pauperis* because it appears that he is incapable of paying the fees to commence this case.⁷ Accordingly, 28 U.S.C. § 1915(e)(2)(B)(ii) requires the Court to dismiss the Complaint if it fails to state a claim. Whether a complaint fails to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), *see Tourscher v. McCullough*, 184 F.3d 236, 240 (3d Cir. 1999), which requires the Court to determine whether the complaint contains “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) (quotations omitted).

Additionally, 28 U.S.C. § 1915(e)(2)(B)(i) requires the Court to dismiss the Complaint if it is frivolous. A complaint is frivolous if it “lacks an arguable basis either in law or in fact,” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The use of the term “frivolous” in § 1915 “embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Id.* Section 1915 accords judges “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Id.* at 327. “[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible[.]” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). A claim is

2012) (*per curiam*) (affirming dismissal of claims seeking initiation of criminal charges because “a private person does not have a ‘judicially cognizable interest in the prosecution . . . of another’”) (quoting *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973)).)

⁷ Fata has set forth the steps taken to secure his prisoner account statement. (*See* ECF No. 6.) Although he has not been able to obtain a certified copy of his prisoner account statement for the time period from June 30, 2024 through December 30, 2024, this Court finds that Fata has substantially complied with the directives of 28 U.S.C. § 1915(a)(2) and will permit him to proceed *in forma pauperis* in this matter. Because Fata is a prisoner, he will be obligated to pay the filing fee in installments in accordance with the Prison Litigation Reform Act. *See* 28 U.S.C. § 1915(b).

legally baseless if it is “based on an indisputably meritless legal theory.” *Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995). As Fata is proceeding *pro se*, the Court construes his allegations liberally. *Vogt v. Wetzel*, 8 F.4th 182, 185 (3d Cir. 2021) (citing *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244-45 (3d Cir. 2013)).

Also, when allowing a plaintiff to proceed *in forma pauperis*, the Court must review the pleadings and dismiss the matter if it determines, *inter alia*, that the action fails to set forth a proper basis for this Court’s subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *Group Against Smog and Pollution, Inc. v. Shenango, Inc.*, 810 F.3d 116, 122 n.6 (3d Cir. 2016) (explaining that “an objection to subject matter jurisdiction may be raised at any time [and] a court may raise jurisdictional issues *sua sponte*”). A plaintiff commencing an action in federal court bears the burden of establishing federal jurisdiction. *See Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015) (“The burden of establishing federal jurisdiction rests with the party asserting its existence.” (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006))).

III. DISCUSSION

Fata alleges that there is a vast conspiracy to frame him and coverup sexual abuse on his children. (Compl. at 8.) He asserts that the conspiracy, which spans across two states, was started in 2017 by a “[C]hristian religious based organization that has invaded the communities/societies in areas [his] children, and [he] were involved in” and that members of the conspiracy have “recruited many . . . relatives, and government officials” to oppress him “religiously, psychologically, [and] systematically.” (*Id.*) Fata avers that the Delgados are aware that he is “being oppressed by government officials” and he maintains that by their actions, they are “assisting with the oppression.” (*Id.* at 4.)

Fata's allegations concerning a vast conspiracy are wholly incredible and lack a basis in fact. Accordingly, the Court will dismiss any claims based on Fata's conspiracy allegations as factually baseless, without leave to amend. *See, e.g., Caterbone v. Nat'l Sec. Agency*, 698 F. App'x 678, 679 (3d Cir. 2017) (*per curiam*) (dismissing appeal as lacking an arguable basis in fact where underlying allegations were based on plaintiff's assertion that he was a "victim of U.S. sponsored mind control and cointelpro harassment program"); *Mina v. Chester Cnty.*, 679 F. App'x 192, 195 (3d Cir. 2017) (*per curiam*) (affirming dismissal of plaintiff's claims that 62 defendants had a vast conspiracy against him spanning twenty years); *Price v. Fed. Bureau of Investigation*, No. 20-3015, 2020 WL 4368063, at *3 (E.D. Pa. July 30, 2020), *aff'd*, 845 F. App'x 106 (3d Cir. 2021) (finding plaintiff's allegations to be factually frivolous where plaintiff asserted that "numerous law enforcement agencies, attorneys, prison officials, and medical professionals have used neurological and psychological technology to control the 'four basic groups of his brain and mental functions' and "that the use of this 'technology' and 'mind control' has caused him numerous impairments and drove him to criminal and erratic behavior"); *Jorge v. Torres*, No. 18-14674, 2019 WL 2385942, at *3 (D.N.J. June 6, 2019) ("Plaintiff's factual allegations that the Police are monitoring his every move and that the Police do so by telephone recruitment 'of informants, spies, and willing constituents [sic]' is exactly the type of 'fantastic or delusional scenario[]' warranting dismissal under 28 U.S.C. § 1915(e)(2)(B)(i)." (alterations in original)).

Moreover, to the extent that Fata seeks to assert any federal constitutional claims against the Delgados, he has failed to state a plausible constitutional claim. The vehicle by which federal constitutional claims may be brought in federal court is 42 U.S.C. § 1983. "To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a

person acting under color of state law.”⁸ *West v. Atkins*, 487 U.S. 42, 48 (1988). “The color of state law element is a threshold issue; there is no liability under § 1983 for those not acting under color of law.” *Groman v. Twp. of Manalapan*, 47 F.3d 628, 638 (3d Cir. 1995).

Fata does not provide any factual allegations with respect to the Delgados that would support an inference that they were acting under color of state law when they allegedly failed to return Fata’s property. See *Massey v. Crady*, No. 17-241, 2018 WL 4328002, at *6 (W.D. Pa. Aug. 8, 2018) (“Private citizens . . . are not state actors, and therefore . . . any § 1983 claims against [them] should be dismissed.”); *Brett v. Zimmerman*, No. 15-2414, 2018 WL 6576412, at *6 (M.D. Pa. Nov. 2, 2018) (recommending dismissal of § 1983 claims against private individual as frivolous), *report and recommendation adopted*, 2018 WL 6567721 (M.D. Pa. Dec. 13, 2018); *Toroney v. Woyten*, No. 86-4871, 1986 WL 11081, at *1 (E.D. Pa. Oct. 3, 1986) (dismissing § 1983 claims against private actor as frivolous); see also *Hussein v. New Jersey*, 403 F. App’x 712, 716 (3d Cir. 2010) (*per curiam*) (affirming dismissal of constitutional claims against landlord because landlord was not a state actor).

Finally, to the extent that Fata intended to raise any state law claims, the only independent basis for jurisdiction over any such claims is 28 U.S.C. § 1332(a), which grants a district court jurisdiction over a case in which “the matter in controversy exceeds the sum or

⁸ Whether a defendant is acting under color of state law — i.e., whether the defendant is a state actor — depends on whether there is “such a close nexus between the State and the challenged action” that seemingly private behavior may be fairly treated as that of the State itself.” *Leshko v. Servis*, 423 F.3d 337, 339 (3d Cir. 2005) (internal quotations omitted). “To answer that question, [the Third Circuit has] outlined three broad tests generated by Supreme Court jurisprudence to determine whether state action exists: (1) whether the private entity has exercised powers that are traditionally the exclusive prerogative of the state; (2) whether the private party has acted with the help of or in concert with state officials; and (3) whether the state has so far insinuated itself into a position of interdependence with the acting party that it must be recognized as a joint participant in the challenged activity.” *Kach v. Hose*, 589 F.3d 626, 646 (3d Cir. 2009) (internal quotations and alteration omitted).

value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.”⁹ Section 1332(a) requires “‘complete diversity between all plaintiffs and all defendants,’” which “means that, unless there is some other basis for jurisdiction, ‘no plaintiff [may] be a citizen of the same state as any defendant.’” *Lincoln Ben. Life Co.*, 800 F.3d 99, 104 (3d Cir. 2015) (quoting *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005) and *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010)). An individual is a citizen of the state where he is domiciled, meaning the state where he is physically present and intends to remain. *See Washington v. Hovensa, LLC*, 652 F.3d 340, 344 (3d Cir. 2011). “[T]he domicile of a prisoner before his imprisonment presumptively remains his domicile during his imprisonment.” *Pierro v. Kugel*, 386 F. App’x 308, 309 (3d Cir. 2010).

Fata does not allege the state citizenship of any party to this suit, but provides Pennsylvania addresses for each of the Defendants, which suggests that both Defendants may be citizens of Pennsylvania. (*See* Compl. at 1.) Moreover, because Fata seeks damages in the amount of \$50,000 (*id.* at 5), it does not appear that the amount in controversy has been met. Accordingly, Fata has not alleged a basis for the Court’s jurisdiction because he has failed to meet his burden of establishing complete diversity in this case. *See Quaker State Dyeing & Finishing Co., Inc. v. ITT Terryphone Corp.*, 461 F.2d 1140, 1143 (3d Cir. 1972) (stating that in diversity cases, the plaintiff must demonstrate complete diversity between the parties and that the amount in controversy requirement has been met); *Jackson v. Rosen*, No. 20-2842, 2020 WL 3498131, at *8 (E.D. Pa. June 26, 2020). Because the Complaint fails to allege a basis for diversity jurisdiction, the Court will dismiss any state law claims for lack of subject matter jurisdiction.

⁹ Because the Court has dismissed Fata’s federal claims, it will not exercise supplemental jurisdiction over any state law claims.

IV. CONCLUSION

For the foregoing reasons, the Court will grant Fata leave to proceed *in forma pauperis* and dismiss his Complaint. The Court will dismiss Fata's conspiracy claims as factually frivolous. Any federal constitutional claims Fata sought to assert will be dismissed with prejudice and without leave to amend for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Fata's state law claims will be dismissed without prejudice for lack of subject matter jurisdiction. The Court concludes that amendment would be futile because Fata cannot cure the noted deficiencies in the Complaint. *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108, 110 (3d Cir. 2002) (holding that district courts should dismiss complaints under the PLRA with leave to amend "unless amendment would be inequitable or futile."). His motion for a stay will be denied.¹⁰ A final Order follows, which dismisses this case.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

¹⁰ Fata seeks a stay of proceedings pursuant to Federal Rule of Civil Procedure 62(b). (ECF No. 5.) Rule 62 governs when a party is entitled to a stay of proceedings to enforce a judgment. *See* Fed. R. Civ. P. 62. The rule is not applicable to this case.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABRAHIM FATA,
Plaintiff,

v.

ABRAHAM ORTIZ, *et al.*,
Defendants.

CIVIL ACTION NO. 24-CV-6936

MEMORANDUM

GOLDBERG, J.

APRIL 23, 2025

Plaintiff Abraham Fata, a prisoner currently incarcerated at Lehigh County Jail, brings this *pro se* civil action raising claims concerning the alleged sexual abuse of his son against Defendants Abraham Ortiz and Pamela Perez. (ECF No. 2 (“Compl.”).) Fata also alleges an ongoing conspiracy “by Pennsylvania, and New Jersey societies/communities, and governments, since 2017.” (Compl. at 6.) He seeks leave to proceed *in forma pauperis*. For the following reasons, the Court will grant Fata leave to proceed *in forma pauperis* and dismiss the Complaint in its entirety.

I. FACTUAL ALLEGATIONS¹

Fata avers that in 2016, there was a “sexual attack” on his son, E.F., when his son was four years old. (Compl. at 2.) Fata alleges that the offender is Ortiz, and he asserts that Ortiz introduced “sex to [his] son, by showing him pornography.” (*Id.*) Fata claims that as a result, his son began acting differently and tries to “have sexual contact” with “girls his age.” (*Id.*) Fata

¹ The following allegations are taken from the Complaint and the attachments thereto. To afford Fata the most liberal construction of his claims, the Court also considered the Amended Statement filed on February 10, 2025 (*see* ECF No. 5). The Court adopts the pagination supplied by the CM/ECF docketing system to all *pro se* submissions. Spelling, punctuation, and capitalization errors are cleaned up where necessary.

avers that Ortiz and Perez also “coach [his] son to believe” that Fata is not his father, and they manipulate his son by spoiling him and telling him not to respect Fata. (*Id.*) Fata reported these allegations to the “courts” and “had the courts order” an evaluation of E.F. (*Id.*) Fata contends that Perez “interrupted” and did not fully comply with the court orders.

Fata alleges that when “E.F. started exposing to authorities,” Ortiz hit E.F., giving him a minor cut and bruise on his eyebrow. (*Id.*) Fata claims that his son is afraid of Ortiz and Perez, and he is also afraid to report “the incident to authorities.” (*Id.*) He asserts that his son is living with “low self esteem, fear, and confusion of who [Fata] is,” and Fata avers that he is assisting in recovery efforts by providing counseling to his son. (*Id.*)

Fata also alleges that “[t]here is a conspiracy to coverup a sexual abuse on [his] two kids, and to frame [him].” (*Id.* at 6.) He contends that he’s “been severely oppressed by Pennsylvania, and New Jersey societies/communities, and governments, since 2017, and to the extreme of [his] death, by either manipulating a fatal ‘accident’ or ‘situation,’ even to push [him] to suicide.” (*Id.*) He claims that “many rights have been deprived” and he has suffered multiple physical injuries and emotional anguish. (*Id.*) Fata further alleges that this conspiracy was started by a “Christian religious based organization that has invaded the communities/societies in areas [his] children, and [he] were involved in” and that this conspiracy “recruited many . . . relatives, and government officials” to oppress him “religiously, psychologically, [and] systematically.” (*Id.*)

As the basis for his claims, Fata identifies several criminal and civil rights statutes in list form.² (*Id.* at 4-5.) The criminal statutes pertain to conspiracy, assault within maritime

² Merely listing statutes does not state a plausible claim for a violation thereof because a passing reference without factual support is not sufficient to bring claims before a court. *Brown v. Pennsylvania, Wayne Cnty.*, No. 22-1506, 2023 WL 3376547, at *2 (3d Cir. May 11, 2023), *cert. dismissed sub nom. Brown v. Pennsylvania*, 144 S. Ct. 272 (2023), *reconsideration denied*, 144

jurisdiction, obstruction of court orders, RICO, tampering with and retaliation against witnesses or victims, stalking, failure to report child abuse, and the sexual exploitation of children.³ (*Id.*) Specifically, Fata lists, without explanation, federal criminal statutes, 18 U.S.C. §§ 241 and 242,⁴ and federal civil statutes, 42 U.S.C. §§ 1981, 1985, and 1988.⁵ (*Id.* at 4.) Fata also asserts,

S. Ct. 417 (2023); see also *Campbell v. LVNV Finding, LLC and Resurgent Capital Servs.*, No. 21-5388, 2022 WL 6172286, at *7 (E.D. Pa. Oct. 7, 2022) (stating that a “‘passing reference’ to jurisprudential precepts without more does not bring that issue before the Court in that it provides no basis for a ruling one way or the other.”) (citing *Laborers’ Int’l Union of N. Am., AFL-CIO v. Foster Wheeler Energy Corp.*, 26 F.3d 375, 398 (3d Cir. 1994)).

³ Criminal statutes generally do not give rise to a basis for civil liability. See *Brown v. City of Philadelphia Office of Human Res.*, 735 F. App’x 55, 56 (3d Cir. 2018) (*per curiam*) (“Brown alleges that the defendants violated various criminal statutes, but most do not provide a private cause of action.”). Indeed, the United States Supreme Court has stated that, unless specifically provided for, federal criminal statutes rarely create private rights of action. *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 377 (1958) (stating that where a statute “contains only penal sanctions for violation of its provisions; in the absence of a clear expression of congressional intent to the contrary, these sanctions should under familiar principles be considered exclusive, rather than supplemented by civil sanctions of a distinct statute”); *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994) (“We have been quite reluctant to infer a private right of action from a criminal prohibition alone.”).

⁴ The federal criminal statutes cited by Fata do not provide an individual a private cause of action. See *Rodriguez v. Salus*, 623 F. App’x 588, 589 n.1 (3d Cir. 2015) (*per curiam*) (finding that the plaintiff’s claims attempting to initiate criminal charges under 18 U.S.C. § 241 were properly dismissed because “there is no federal right to require the government to initiate criminal proceedings.” (citing *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973))); *Carpenter v. Ashby*, 351 F. App’x 684, 688 (3d Cir. 2009) (*per curiam*) (no civil cause of action created by 18 U.S.C. § 242); *Colon-Montanez v. Pennsylvania Healthcare Serv. Staffs*, 530 F. App’x 115, 118 (3d Cir. 2013) (*per curiam*) (“[T]hese criminal statutes [18 U.S.C. §§ 241 and 242] provide no private right of action for use by a litigant such as Colon-Montanez.”). Any claims purportedly based on these statutes will be dismissed.

⁵ 42 U.S.C. § 1981 prohibits racial discrimination in the making and enforcement of contracts and property transactions contracts. 42 U.S.C. § 1985(3) creates a cause of action against any two persons who “conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws. . . .” 42 U.S.C. § 1985(3). Fata does not include any allegations about race or racial animus and there is no suggestion that any contractual relations or conspiracies exist among the named Defendants. Accordingly, any claims alleging violations of §§ 1981 and 1985 will be dismissed. See *Johnson v. Person*, 781 F. App’x 69, 73 (3d Cir. 2019) (affirming dismissal of claims brought pursuant to §§ 1981 and 1982 for failure to state a claim because

without further detail, that his rights under the Ninth and Fourteenth Amendments to the United States Constitution have been violated. (*Id.* at 4.) He invokes state law claims including assault, battery, willful misconduct, negligence, and loss of wages, again without further explanation. (*Id.*) He seeks “\$25,000 dollars per Defendant” and requests that the Defendants be “arrested, and brought to justice.”⁶ (*Id.* at 3.)

II. STANDARD OF REVIEW

The Court will grant Fata leave to proceed *in forma pauperis* because it appears that he is incapable of paying the fees to commence this case.⁷ Accordingly, 28 U.S.C. § 1915(e)(2)(B)(ii) requires the Court to dismiss the Complaint if it fails to state a claim. Whether a complaint fails to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), *see Tourscher v. McCullough*, 184

there were no contract or property rights involved in the alleged deprivation of rights); *Groce v. City of Philadelphia. L. Dep’t*, No. 21-5132, 2022 WL 493418, at *7 (E.D. Pa. Feb. 17, 2022) (dismissing conspiracy claim as wholly conclusory where the plaintiff failed to alleged facts regarding the formation of a conspiracy between any Defendants or any other individuals, the period of the conspiracy, or actions taken by the alleged conspirators to achieve the alleged purpose thereof). 42 U.S.C § 1988, which provides for an award of attorneys’ fees in certain circumstances, does not provide a basis for an independent right of action. *See Vecchia v. Town of Hempstead*, 927 F. Supp 579, 580-81 (E.D.N.Y 1996) (citing *North Carolina Dep’t of Transp. v. Crest Street Comm. Council, Inc.*, 479 U.S. 6, 14 (1986)). Any § 1988 claims will also be dismissed.

⁶ To the extent that Fata seeks to initiate criminal charges against any Defendant, the Court has no authority to order such relief. *See Kent v. Ed Carber Inc.*, 467 F. App’x 112, 113 (3d Cir. 2012) (*per curiam*) (affirming dismissal of claims seeking initiation of criminal charges because “a private person does not have a ‘judicially cognizable interest in the prosecution . . . of another’”) (quoting *Linda R.S.*, 410 U.S. at 619.)

⁷ Fata has set forth the steps taken to secure his prisoner account statement. (*See* ECF No. 6.) Although he has not been able to obtain a certified copy of his prisoner account statement for the time period from June 30, 2024 through December 30, 2024, this Court finds that Fata has substantially complied with the directives of 28 U.S.C. § 1915(a)(2) and will permit him to proceed *in forma pauperis* in this matter. Because Fata is a prisoner, he will be obligated to pay the filing fee in installments in accordance with the Prison Litigation Reform Act. *See* 28 U.S.C. § 1915(b).

F.3d 236, 240 (3d Cir. 1999), which requires the Court to determine whether the complaint contains “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) (quotations omitted).

Additionally, 28 U.S.C. § 1915(e)(2)(B)(i) requires the Court to dismiss the Complaint if it frivolous. A complaint is frivolous if it “lacks an arguable basis either in law or in fact,” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The use of the term “frivolous” in § 1915 “embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Id.* Section 1915 accords judges “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless[.]” including claims that describe “fantastic or delusional scenarios[.]” *Id.* at 327. “[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible[.]” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). A claim is legally baseless if it is “based on an indisputably meritless legal theory.” *Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995). As Fata is proceeding *pro se*, the Court construes his allegations liberally. *Vogt v. Wetzel*, 8 F.4th 182, 185 (3d Cir. 2021) (citing *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244-45 (3d Cir. 2013)).

Also, when allowing a plaintiff to proceed *in forma pauperis*, the Court must review the pleadings and dismiss the matter if it determines, *inter alia*, that the action fails to set forth a proper basis for this Court’s subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *Group Against Smog and Pollution, Inc. v. Shenango, Inc.*, 810 F.3d 116, 122 n.6 (3d Cir. 2016) (explaining that “an objection to subject matter jurisdiction may be raised at any time [and] a court may raise jurisdictional issues *sua sponte*”). A plaintiff commencing an action in federal court bears the burden of establishing federal jurisdiction. *See Lincoln Ben. Life Co. v.*

AEI Life, LLC, 800 F.3d 99, 105 (3d Cir. 2015) (“The burden of establishing federal jurisdiction rests with the party asserting its existence.” (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006))).

III. DISCUSSION

A. Claims Brought on Behalf of Others

While unclear, Fata may be asserting claims on behalf of his son, E.F. (Compl. at 2.) Under 28 U.S.C. § 1654, parties “may plead and conduct their own cases personally or by counsel” in the federal courts. Section 1654 thus ensures that a person may conduct his or her own case *pro se* or retain counsel to do so. See *Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 882 (3d Cir. 1991) (“The statutory right to proceed *pro se* reflects a respect for the choice of an individual citizen to plead his or her own cause.” (quoting *Cheung v. Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990))). Although an individual may represent himself *pro se*, a non-attorney may not represent other parties in federal court. See *Collinsgru v. Palmyra Bd. of Educ.*, 161 F.3d 225, 232 (3d Cir. 1998) (“The rule that a non-lawyer may not represent another person in court is a venerable common law rule.”), *abrogated on other grounds by Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007). Furthermore, “a plaintiff must assert his or her own legal interests rather than those of a third party” to have standing to bring a claim. See *Twp. of Lyndhurst, N.J. v. Priceline.com, Inc.*, 657 F.3d 148, 154 (3d Cir. 2011) (quotations omitted). For these reasons, any claims that Fata brings on behalf of his son must be dismissed without prejudice for lack of standing. See, e.g., *Chang v. Dep’t of Servs. for Child., Youth, & their Fams., Div. of Fam. Servs.*, 790 F. App’x 435, 437-38 (3d Cir. 2019) (*per curiam*) (father lacked standing to address children’s claims on appeal).

B. Fata's Claims

Fata alleges that there is a vast conspiracy to frame him and coverup sexual abuse of his children. (Compl. at 6.) He asserts that the conspiracy, which spans across two states, was started in 2017 by a “Christian religious based organization that has invaded the communities/societies in areas [his] children, and [he] were involved in” and that members of the conspiracy have “recruited many . . . relatives, and government officials” to oppress him “religiously, psychologically, [and] systematically.” (*Id.*) Fata claims that “many rights have been deprived.” (*Id.*)

Fata’s allegations concerning a vast conspiracy are wholly incredible and lack a basis in fact. Accordingly, the Court will dismiss any claims based on Fata’s conspiracy allegations as factually baseless, without leave to amend. *See, e.g., Caterbone v. Nat’l Sec. Agency*, 698 F. App’x 678, 679 (3d Cir. 2017) (*per curiam*) (dismissing appeal as lacking an arguable basis in fact where underlying allegations were based on plaintiff’s assertion that he was a “victim of U.S. sponsored mind control and cointelpro harassment program”); *Mina v. Chester Cnty.*, 679 F. App’x 192, 195 (3d Cir. 2017) (*per curiam*) (affirming dismissal of plaintiff’s claims that 62 defendants had a vast conspiracy against him spanning twenty years); *Price v. Fed. Bureau of Investigation*, No. 20-3015, 2020 WL 4368063, at *3 (E.D. Pa. July 30, 2020), *aff’d*, 845 F. App’x 106 (3d Cir. 2021) (finding plaintiff’s allegations to be factually frivolous where plaintiff asserted that “numerous law enforcement agencies, attorneys, prison officials, and medical professionals have used neurological and psychological technology to control the ‘four basic groups of his brain and mental functions’ and “that the use of this ‘technology’ and ‘mind control’ has caused him numerous impairments and drove him to criminal and erratic behavior”); *Jorge v. Torres*, No. 18-14674, 2019 WL 2385942, at *3 (D.N.J. June 6, 2019) (“Plaintiff’s factual allegations that the Police are monitoring his every move and that the Police do so by

telephone recruitment ‘of informants, spies, and willing constituents [sic]’ is exactly the type of ‘fantastic or delusional scenario[]’ warranting dismissal under 28 U.S.C. § 1915(e)(2)(B)(i).” (alterations in original)).

Moreover, to the extent that Fata seeks to assert any federal constitutional claims against the Defendants, he has failed to state a plausible constitutional claim. The vehicle by which federal constitutional claims may be brought in federal court is 42 U.S.C. § 1983. “To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.”⁸ *West v. Atkins*, 487 U.S. 42, 48 (1988). “The color of state law element is a threshold issue; there is no liability under § 1983 for those not acting under color of law.” *Groman v. Twp. of Manalapan*, 47 F.3d 628, 638 (3d Cir. 1995).

Fata does not provide any factual allegations with respect to the Defendants that would support an inference that they were acting under color of state law. *See Massey v. Crady*, No. 17-241, 2018 WL 4328002, at *6 (W.D. Pa. Aug. 8, 2018) (“Private citizens . . . are not state actors, and therefore . . . any § 1983 claims against [them] should be dismissed.”); *Brett v. Zimmerman*, No. 15-2414, 2018 WL 6576412, at *6 (M.D. Pa. Nov. 2, 2018) (recommending dismissal of § 1983 claims against private individual as frivolous), *report and recommendation*

⁸ Whether a defendant is acting under color of state law — i.e., whether the defendant is a state actor — depends on whether there is “such a close nexus between the State and the challenged action’ that seemingly private behavior may be fairly treated as that of the State itself.” *Leshko v. Servis*, 423 F.3d 337, 339 (3d Cir. 2005) (internal quotations omitted). “To answer that question, [the Third Circuit has] outlined three broad tests generated by Supreme Court jurisprudence to determine whether state action exists: (1) whether the private entity has exercised powers that are traditionally the exclusive prerogative of the state; (2) whether the private party has acted with the help of or in concert with state officials; and (3) whether the state has so far insinuated itself into a position of interdependence with the acting party that it must be recognized as a joint participant in the challenged activity.” *Kach v. Hose*, 589 F.3d 626, 646 (3d Cir. 2009) (internal quotations and alteration omitted).

adopted, 2018 WL 6567721 (M.D. Pa. Dec. 13, 2018); *Toroney v. Woyten*, No. 86-4871, 1986 WL 11081, at *1 (E.D. Pa. Oct. 3, 1986) (dismissing § 1983 claims against private actor as frivolous).

Finally, to the extent that Fata intended to raise any state law claims, the only independent basis for jurisdiction over any such claims is 28 U.S.C. § 1332(a), which grants a district court jurisdiction over a case in which “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.”⁹ Section 1332(a) requires “‘complete diversity between all plaintiffs and all defendants,’” which “means that, unless there is some other basis for jurisdiction, ‘no plaintiff [may] be a citizen of the same state as any defendant.’” *Lincoln Ben. Life Co.*, 800 F.3d 99, 104 (3d Cir. 2015) (quoting *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005) and *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010)). An individual is a citizen of the state where he is domiciled, meaning the state where he is physically present and intends to remain. *See Washington v. Hovensa, LLC*, 652 F.3d 340, 344 (3d Cir. 2011). “[T]he domicile of a prisoner before his imprisonment presumptively remains his domicile during his imprisonment.” *Pierro v. Kugel*, 386 F. App’x 308, 309 (3d Cir. 2010).

Fata does not allege the state citizenship of any party to this suit, but provides Pennsylvania addresses for each of the Defendants, which suggests that both Defendants may be citizens of Pennsylvania. (*See* Compl. at 1.) Moreover, because Fata seeks damages in the amount of \$50,000 (*id.* at 3), it does not appear that the amount in controversy has been met. Accordingly, Fata has not alleged a basis for the Court’s jurisdiction because he has failed to meet his burden of establishing complete diversity in this case. *See Quaker State Dyeing &*

⁹ Because the Court has dismissed Fata’s federal claims, it will not exercise supplemental jurisdiction over any state law claims.

Finishing Co., Inc. v. ITT Terryphone Corp., 461 F.2d 1140, 1143 (3d Cir. 1972) (stating that, in diversity cases, the plaintiff must demonstrate complete diversity between the parties and that the amount in controversy requirement has been met); *Jackson v. Rosen*, No. 20-2842, 2020 WL 3498131, at *8 (E.D. Pa. June 26, 2020). Because the Complaint fails to allege a basis for diversity jurisdiction, the Court will dismiss any state law claims for lack of subject matter jurisdiction.

IV. CONCLUSION

For the foregoing reasons, the Court will grant Fata leave to proceed *in forma pauperis* and dismiss his Complaint. The Court will dismiss any claims Fata sought to assert on behalf of others without prejudice for lack of standing. Fata's conspiracy claims will be dismissed as factually frivolous. Any federal constitutional claims Fata sought to assert will be dismissed with prejudice and without leave to amend for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Fata's state law claims will be dismissed without prejudice for lack of subject matter jurisdiction. The Court concludes that amendment would be futile because Fata cannot cure the noted deficiencies in the Complaint. *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108, 110 (3d Cir. 2002) (holding that district courts should dismiss complaints under the PLRA with leave to amend "unless amendment would be inequitable or futile."). A final Order follows, which dismisses this case.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

EXHIBIT

D

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ABRAHIM FATA,
Plaintiff,

v.

ABRAHAM ORTIZ, et al.,
Defendants.

CIVIL ACTION NO. 24-CV-2402

ORDER

AND NOW, this 16th day of April, 2025, upon consideration of Plaintiff Abraham Fata's Motion for Recusal (ECF No. 36),¹ it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to reopen this case for purposes of deciding the foregoing motion.
2. Fata's motion is **DENIED** because recusal is not justified based upon a litigant's dissatisfaction with a Judge's rulings or case management. *See Liteky v. United States*, 510 U.S. 540, 554 (1994) (explaining that recusal is rarely justified based upon rulings made by the Court); *In re Brown*, 623 F. App'x 575, 576 (3d Cir. 2015) (*per curiam*) (recusal is not required merely because of a litigant's "dissatisfaction with District Court rulings").
3. The Clerk of Court is **DIRECTED** to close this case.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

¹ On March 7, 2025, Fata filed a "Motion to Recuse Judge Goldberg," wherein he seeks recusal of the undersigned "from this case, and all related case[s]." (See ECF No. 36.) This is Fata's third motion seeking recusal. (See ECF Nos. 22, 29.) In the current motion, Fata expresses his dissatisfaction with the Court's dismissal of this case and the denial of his motion for an injunction and temporary restraining order in Civil Action No. 24-4861, asserting that his "claims are far from frivolous." (See ECF No. 36 at 2.)