

NOT PRECEDENTIAL

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

No. 25-3028

DWAYNE A. REID, JR.,
Appellant

v.

JULIA K. MUNLEY, in her individual capacity; PHILLIP J. CARABALLO, in his individual; WILLIAM I. ARBUCKLE, in his individual capacity; MONICA M. LITTMAN in her individual capacity; SONYA KIVISTO, in her individual capacity

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1:25-cv-00844)
District Judge: Honorable Keli M. Neary

Submitted Pursuant to Third Circuit LAR 34.1(a)
July 8, 2026
Before: BIBAS, CHUNG, and BOVE, *Circuit Judges*

(Opinion filed: July 8, 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 Dwayne A. Reid, Jr., proceeding pro se, appeals from the District Court's dismissal of his complaint. For the following reasons, we will affirm.

In May 2025, Reid brought a civil rights action against three judges of the Middle District of Pennsylvania—Magistrate Judges Phillip J. Caraballo and William I. Arbuckle, and District Judge Julia K. Munley (“the Judges”)—and attorneys Monica M. Littman and Sonya Kivisto. He alleges that the defendants violated his civil rights through actions they took in another civil case pending in the Middle District, *Reid v. Portfolio Recovery Associates, LLC*, No. 1:24-cv-2101 (M.D. Pa. filed Dec. 5, 2024). On July 18, 2025, the District Court sua sponte dismissed Reid's claims against the Judges with prejudice based on judicial immunity. The court also ordered Reid to show cause as to why his claims against Littman and Kivisto should not be dismissed with prejudice. However, Reid “essentially ignore[d] the court's direction,” ECF 32 at 4, and instead focused on arguing for reconsideration of the dismissal of the claims against the Judges. The District Court then dismissed the remaining claims because Reid failed to show that the attorneys acted under color of state law or took any actions other than simply representing an adverse party in a lawsuit he filed. The court also declined to reconsider its dismissal of the claims against the Judges. Reid timely appealed.

We have jurisdiction under 28 U.S.C. § 1291. We exercise plenary review over the District Court's sua sponte dismissal, *see Allah v. Sieverling*, 229 F.3d 220, 223 (3d Cir. 2000), and its grant of judicial immunity. *See Gallas v. Sup. Ct. of Pa.*, 211 F.3d 760, 768

(3d Cir. 2000). We review an order denying a recusal motion for abuse of discretion. *See Jones v. Pittsburgh Nat'l Corp.*, 899 F.2d 1350, 1356 (3d Cir. 1990).

We agree with the District Court that the Judges are entitled to judicial immunity.¹ A judge is immune from all liability for actions taken in his or her judicial capacity, even those alleged to have been done maliciously or corruptly, unless such action is taken in the absence of all jurisdiction. *See Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978). Reid's claims against the Judges arise solely from actions taken in their judicial capacities, as he alleges that they violated his civil rights through decisions made in *Reid v. Portfolio Recovery*. Moreover, as the District Court observed, Reid fails to plausibly allege that the Judges took any action "in the complete absence of all jurisdiction." *See* ECF 29 at 2 (quoting *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991)).

Reid contends that the District Court erred in determining that the Judges were entitled to judicial immunity because they were acting in a "commercial" capacity, rather than a judicial capacity, and because the court collected a filing fee. He is mistaken. Nothing in *Clearfield Trust Co. v. United States*, 318 U.S. 363 (1943)—the case Reid cites in support of his argument—suggests that judicial immunity is lost simply because accepting a filing fee is purportedly some manner of commercial activity, as he alleges.

Next, Reid argues that the District Court sua sponte dismissed his claims against the Judges in retaliation for his filings in *Reid v. Portfolio Recovery*, which "detailed

¹ Reid raises numerous arguments on appeal, some of which challenge judicial decisions made in *Reid v. Portfolio Recovery*, a wholly separate action that is not before this Court on appeal. Those arguments are properly litigated on appeal from the decisions in that case and this Court will not address them here.

allegations of felony misconduct (concealment, perjury, misprision of a felony, and treason) against judicial officers and opposing counsel.” C.A. Doc. 9 at 18. This assertion is meritless. Reid’s claims were properly dismissed for the aforementioned reasons.

Reid also contends that the District Court’s sua sponte dismissal of the claims violated his due process rights. Though generally disfavored, “a sua sponte dismissal will not be set aside where the aggrieved party cannot show any prejudice.” *Watchtower Bible and Tract Soc’y of N.Y., Inc. v. Mun. of San Juan*, 773 F.3d 1, 13 (1st Cir. 2014). Here, Reid cannot establish any prejudice. After the District Court dismissed the claims against the Judges and ordered Reid to show cause as to why the claims against the attorneys should not be dismissed, Reid filed a response presenting “arguments and facts . . . [to] provide the necessary justification for th[e] [District] Court to vacate its prior dismissal orders[.]” ECF 31 at 1. Recognizing that Reid functionally presented a motion for reconsideration, the District Court considered his arguments regarding judicial immunity before determining that they were frivolous and dismissing the entire case. Because Reid had an opportunity to seek reconsideration with the District Court, any error in initially ruling without providing him with an opportunity to respond was harmless. *See Curley v. Perry*, 246 F.3d 1278, 1284 (10th Cir. 2001) (explaining that “lack of prior notice of a sua sponte dismissal with prejudice for failure to state a claim is harmless when . . . the plaintiff has a reasonable post-judgment opportunity to present his arguments to the district court”); *Deutsche Bank Nat’l Tr. Co. v. Pike*, 916 F.3d 60, 67 (1st Cir. 2019) (same). Thus, “[t]he entry of a new order of dismissal after reconsideration effectively

cured any prejudice.” *Watchtower Bible and Tract Soc’y of N.Y.*, 773 F.3d at 13. And we agree that the claims were properly dismissed.

Similarly, we find no error in the District Court’s dismissal of the claims against attorneys Littman and Kivisto because they were not state actors. *See Kach v. Hose*, 589 F.3d 626, 646 (3d Cir. 2009). Reid’s claims against the attorneys arise solely out of their representation of adverse parties in *Reid v. Portfolio Recovery*. However, neither Littman nor Kivisto, by virtue of their roles in the other action, were acting under color of state law for purposes of § 1983. *See Polk Cnty. v. Dodson*, 454 U.S. 312, 318 (1981) (stating that “a lawyer representing a client is not, by virtue of being an officer of the court, a state actor ‘under color of state law’ within the meaning of § 1983”).

Finally, to the extent that Reid contends that the District Court’s dismissal of his claims amounted to judicial misconduct warranting recusal under 28 U.S.C. § 455, recusal is only warranted when a judge’s impartiality might be questioned; “a party’s displeasure with legal rulings” is not a basis for recusal. *See Securacomm Consulting, Inc. v. Securacomm Inc.*, 224 F.3d 273, 278 (3d Cir. 2000). We discern no abuse of discretion in the District Court’s refusal to recuse.²

² We also discern no abuse of discretion in the District Court’s decision to dismiss Reid’s claims with prejudice. While a District Court should usually give leave to amend, it need not when amendment would be futile. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108 (3d Cir. 2002). Such is the case here, where Reid’s claims are based *entirely* on adverse decisions made in another civil action pending in the Middle District. *See generally*, ECF 1.

Accordingly, we will affirm the District Court's judgment. We also deny Reid's pending motions. To the extent Reid requests any additional relief, it is denied.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-3028

DWAYNE A. REID, JR.,
Appellant

v.

JULIA K. MUNLEY, in her individual capacity; PHILLIP J. CARABALLO, in his individual; WILLIAM I. ARBUCKLE, in his individual capacity; MONICA M. LITTMAN in her individual capacity; SONYA KIVISTO, in her individual capacity

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1:25-cv-00844)
District Judge: Honorable Keli M. Neary

Submitted Pursuant to Third Circuit LAR 34.1(a)
July 8, 2026

Before: BIBAS, CHUNG, and BOVE, *Circuit Judges*

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on July 8, 2026. On consideration whereof, it is now hereby ORDERED and ADJUDGED by this Court that the judgment of the District Court entered October 6, 2025, be and the same is hereby affirmed. Costs taxed against the Appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

s/Patricia S. Dodszuweit
Clerk

Dated: July 8, 2026



Teste: *Patricia A. Dodszuweit*
Clerk, U.S. Court of Appeals for the Third Circuit

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ATTEST:

s/Patricia S. Dodszuweit
Clerk

Dated: July 8, 2026

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

DWAYNE A. REID, JR.,	:	CIVIL ACTION NO. 1:25-CV-844
	:	
Plaintiff	:	(Judge Neary)
	:	
v.	:	
	:	
MONICA M. LITTMAN, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

This is a civil rights case in which plaintiff alleges that three judges in this district and two lawyers violated his civil rights during the litigation of another civil case in this district. On July 18, 2025, the court dismissed the claims against the judges with prejudice on the basis of judicial immunity. (Doc. 30). The court then dismissed the claims against the lawyers with prejudice for plaintiff's failure to allege action under color of state law on October 6, 2025, and closed the case. (Docs. 33-34). Plaintiff has since filed four motions: a motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60, a motion for the undersigned to recuse herself from this case, a motion to compel the court to refer this case to the United States Department of Justice and the Office of the Circuit Executive for possible disciplinary action against the undersigned and the judge defendants, and a motion to expedite ruling on the motion for relief from judgment. (Docs. 35, 36, 37, 39). Plaintiff filed an appeal to the United States Court of Appeals for the Third Circuit contemporaneously with the four motions. (Doc. 34).

All four motions will be denied.¹ To begin, motions for relief from judgment pursuant to Rule 60 must be based on one of six grounds:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b).

To support his Rule 60(b) motion, Reid argues: (1) that the judgment is void because an attorney in his previous case was practicing law unlawfully; (2) the judgment is void because the court never established personal jurisdiction over the defendants; (3) the judgment is void because “institutional defense structure creates an unwaivable conflict”; (4) the judgment is void because the court “performed a non-judicial act of favoring a party in the underlying case”; and (5) “institutional concealment constitutes extrinsic fraud.” (Doc. 35).

¹ The court retains jurisdiction to deny the motions during the pendency of the appeal. Fed. R. Civ. P. 62.1(a)(2).

These arguments are frivolous. Reid's first argument is that an attorney in his earlier case was practicing law improperly because she is an employee of the Administrative Office of the Pennsylvania Courts ("AOPC") and is therefore barred from practicing law pursuant to 210 Pa. Code Rule 3121. (Doc. 35 at 2). Whether this is true, however, is a question for the AOPC to determine and is not something that can be enforced through a private cause of action by the plaintiff because there is no indication that the Pennsylvania legislature intended to create a private cause of action to enforce Rule 3121 or that the statute was designed to protect a class of individuals to which Reid belongs. See Estate of Witthoeft v. Kiskaddon, 733 A.2d 623, 346 (Pa. 1999) (noting that a court considering whether a Pennsylvania statute creates an implied cause of action must consider three factors: "first, is the plaintiff 'one of the class for whose especial benefit the statute was enacted,—that is, does the statute create a right in favor of the plaintiff? Second, is there any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one? Third, is it consistent with the underlying purposes of the legislative scheme to imply such a remedy for the plaintiff?'" (cleaned up) (quoting Cort v. Ash, 422 U.S. 66, 78 (1975))).

Moreover, even if the attorney in the earlier case were practicing law improperly, this is completely immaterial to the instant case because plaintiff is not suing that attorney in this case, nor is she representing any of the defendants in this case. At bottom, Reid's first argument is essentially a variation on the argument he has repeatedly raised that attorneys somehow violate his rights by

representing people he has sued. The court has repeatedly rejected this argument and rejects it again now.

Reid's second argument—that the court erred by dismissing the case before it established that it had personal jurisdiction over the defendants—fails because the court has the discretion “to choose among threshold grounds for denying audience to a case on the merits.” Sinochem Int’l v. Co. Ltd. v. Malaysia Int’l Shipping Corp., 549 U.S. 422, 431 (2007). Thus, the court could dismiss the case on the basis of judicial immunity and lack of state action without determining whether personal jurisdiction was present.²

Reid's remaining arguments, as well as the arguments made in his motion for the undersigned to recuse from the case, are nothing more than repetitions of his argument that this court is somehow biased against him because it ruled against him.³ As this court previously noted, “a party's displeasure with legal rulings does not form an adequate basis for recusal.” Securacomm Consulting Inc. v. Securacom Inc., 224 F.3d 273, 278 (3d Cir. 2000).

Reid's motion to compel referral of the case for possible disciplinary action and his motion to rule on his motion for relief from judgment will be denied as moot.

² The court also notes that a lack of personal jurisdiction over the defendants would be a basis to dismiss plaintiff's case and would not help plaintiff in any manner.

³ Reid argues in his motion for recusal that I showed bias through “orchestrated silence and disregard for legally-grounded filings,” “deliberate mischaracterization of filings and sua sponte filings,” a “sustained pattern of hostility,” an “institutional conflict of interest,” “judicial protection” of “alleged unauthorized practice of law,” and “misaddressed correspondence and systemic irregularity.” He is certainly free to press these arguments in his currently pending appeal. (Doc. 36).

The court has now ruled on the motion for relief from judgment, and the record of this case does not show any wrongdoing by attorneys or judges that would support his motion for referral; it simply shows plaintiff's displeasure that attorneys represented people he sued and judges ruled against him in those cases.

AND SO, on this 31st day of March, 2026, it is hereby ORDERED that plaintiff's motion for relief from judgment, motion for recusal, motion for referral for possible disciplinary action, and motion to decide the motion for relief from judgment (Docs. 35-37, 39) are DENIED.

/S/ KELI M. NEARY

Keli M. Neary
United States District Judge
Middle District of Pennsylvania

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3028

DWAYNE REID, JR.,
Appellant

v.

JULIA MUNLEY, *et al.*

(M.D. Pa. No. 1:25-cv-00844)

Present: BIBAS, CHUNG, and BOVE, *Circuit Judges*.

1. Motion by Appellant to Stay Mandate Pursuant to Fed. R. App. P. 41(D)(1)
Pending Petition for Writ of Certiorari to the U.S. Supreme Court.

Respectfully,
Clerk/clw

ORDER

The foregoing motion is denied.

By the Court,

s/ Emil Bove
Circuit Judge

Dated: August 11, 2026

CLW/cc: Mr. Dwayne A. Reid, Jr.
Nicole A. Feigenbaum, Esq.
Graceme E. Hogan, Esq.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3028

DWAYNE A. REID,
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JULIA K. MUNLEY, in her individual capacity; PHILLIP J. CARABALLO, in his individual capacity; WILLIAM I. ARBUCKLE, in his individual capacity; MONICA M. LITTMAN, in her individual capacity; SONYA KIVISTO, in her individual capacity

(M.D. Pa. No. 1:25-cv-00844)

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, BOVE and MASCOTT, *Circuit Judges*.

The petition for panel rehearing and rehearing en banc in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

By the Court,

s/ Emil Bove
Circuit Judge

Dated: July 28, 2026

CLW/cc: Mr. Dwayne A. Reid, Jr.
Nicole A. Feigenbaum, Esq.
Graeme E. Hogan, Esq.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DWAYNE REID,	:	Civ. No. 1:24-CV-2101
	:	
Plaintiff,	:	(Judge Munley)
	:	
v.	:	
	:	(Magistrate Judge Carlson)
	:	
PORTFOLIO RECOVERY	:	
ASSOOCAITES, LLC, et al.,	:	
	:	
Defendants.	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This case was referred to the undersigned on July 29, 2026. As required by Rule 15 we have granted the plaintiff leave to file a proposed amended complaint, (Doc. 21), but note that the claims lodged against three persons named in the caption of that amended complaint, Monica Littman, Richard Perr, and Sonya Kivisto, appear on the face of the pleading to be meritless. Accordingly, IT IS ORDERED that Reid show cause why these newly named parties should not be stricken from the complaint on or before **August 24, 2026**.

SO ORDERED, this 10th day of August 2026.

/s/ Martin C. Carlson

Martin C. Carlson

United States Magistrate Judge

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DWAYNE REID,	:	Civ. No. 1:24-CV-2101
	:	
Plaintiff,	:	(Judge Munley)
	:	
v.	:	
	:	(Magistrate Judge Carlson)
	:	
PORTFOLIO RECOVERY	:	
ASSOOCAITES, LLC, et al.,	:	
	:	
Defendants.	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This case was referred to the undersigned on July 29, 2026. Upon review, we noted the following: Reid’s original complaint was filed on December 5, 2024. (Doc. 1). There are three defense motions to dismiss this original complaint which are pending before the Court. (Docs. 11, 12, 24). Two of these motions were filed on February 3 and 4, 2025. (Docs. 10, 11). Fifteen days after the first of these motions was filed, on February 18, 2025, the plaintiff filed a proposed amended complaint. (Doc. 21). Defendant Weltman Weiberg & Reis Co., have filed a motion to strike this proposed amended complaint. (Doc. 29).

Our consideration of these filings begins with the plain language of Rule 15 of the Federal Rules of Civil Procedure. This rule governs amendment of pleadings and provides in part that:

(a) Amendments Before Trial.

(1) *Amending as a Matter of Course.* A party may amend its pleading once *as a matter of course* no later than:

(A) 21 days after serving it, or

(B) *if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.*

Fed. R. Civ. P. 15(a) (emphasis added).

Thus, by its terms Rule 15 permitted Reid to amend his complaint once, as a matter of course, provided he filed the proposed amended complaint within 21 days of the filing of a motion to dismiss. That is precisely what took place here. Within 21 days of the filing of the motions to dismiss his original complaint Reid filed an amended complaint. (Doc. 21). Under the rules Reid is entitled to take this action as a matter of course. Accordingly, the plain text of Rule 15 dictates the path we should follow.

Therefore, IT IS ORDERED as follows:

1. The plaintiff's proposed amended complaint, (Doc. 21), will be LODGED by the clerk as the amended complaint in this matter.

2. We believe that this development has substantive significance for the parties with respect to the pending motions to dismiss the complaint filed by the defendants since, as a matter of law, an amended complaint takes the place of any prior complaint, effectively invalidating the prior complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) (“[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect”); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure 1476 (2d ed. 1990) (“A pleading that has been amended ‘supersedes the pleading it modifies’. Once an amended pleading is interposed, the original pleading no longer performs any function in the case.”). Therefore, since the original complaint is now a legal nullity the defendants’ motions to dismiss the original complaint, (Docs. 11, 12, 24) are DISMISSED as MOOT, and the motion to strike this proposed amended complaint, (Doc, 29), is DENIED.

3. However, this leave to file an amended complaint is granted without prejudice to the assertion of any defenses or dispositive motions that the defendants may believe are appropriate with respect to the amended complaint. In this regard, IT IS FURTHER ORDERED that any motions to dismiss the plaintiff’s amended complaint should be filed along with briefs in support of the motions on or before September 1, 2026. Any responses to opposition to motions to dismiss shall be filed

within fourteen of the filing of the defense motions and shall be filed no later than September 15, 2026. Reply briefs, if any, shall be filed on or before September 29, 2026.

SO ORDERED, this 10th day of August 2026.

/s/ Martin C. Carlson

Martin C. Carlson

United States Magistrate Judge