

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION**

Keon S. Hamlett v. Frank Wright

Hamlett v. Wright, No. 7:25-cv-00901 (W.D. Va. Dec. 18, 2025) · No. 7:25-cv-00901 · Decided December 18,
2025

SUMMARY

The United States District Court for the Western District of Virginia dismissed Keon S. Hamlett’s pro se § 1983 action against his privately retained criminal defense attorney. The court held that the attorney did not act under color of state law while representing Hamlett in criminal proceedings, and therefore the complaint failed to state a viable § 1983 claim. The dismissal was without prejudice under 28 U.S.C. § 1915(e)(2)(B).

OPINION

CLERK'S OFFICE IN THE UNITED STATES DISTRICT COURT U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION December 18, 2025
LAURA A. AUSTIN, CLERK BY: s/ M.Poff, Deputy Clerk KEON S. HAMLETT,) Plaintiff,)
Case No. 7:25-cv-00901)) By: Michael F. Urbanski FRANK WRIGHT,) Senior United States
District Judge Defendant.) MEMORANDUM OPINION Keon S. Hamlett, an inmate proceeding
pro se, filed this civil action under 42 U.S.C. § 1983, along with a partial application to proceed in
forma pauperis under 28 U.S.C. § 1915.

Having reviewed the complaint, the court concludes that it must be dismissed under § 1915(e)(2)(B) for failure to state a claim upon which relief may be granted. I. Background According to the complaint, defendant Frank Wright is a private attorney in Rustburg, Virginia, who represented Hamlett on criminal charges in Appomattox County Circuit Court and Campbell County Circuit Court.

Compl., ECF No. 1, at 3-5. Hamlett claims that Wright provided ineffective assistance during the criminal proceedings. Id. at 5. He seeks to recover monetary damages from Wright. Id. at 8. II. Standard of Review Under 28 U.S.C. § 1915(e), which governs in forma pauperis proceedings, the court has a mandatory duty to screen initial filings. *Eriline Co. \$A. v. Johnson*, 440 F.3d 648, 656 (4th Cir.

2006). The court must dismiss a case “at any time” if the court determines that the complaint “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B) □□□□ The standards for determining whether a complaint is subject to dismissal under § 1915(e)(2)(B)(ii)

are the same as those which apply when a defendant moves for dismissal under Federal Rule of Civil Procedure 12(b)(6).

De'Lonta v. Angelone, 330 F.3d 630, 633 (4th Cir. 2003). Thus, when reviewing a complaint under this provision, the court must accept the plaintiff's allegations as true and draw all reasonable factual inferences in his favor. *Id.* To survive dismissal, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl.*

Corp. v. Twombly, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* III. Discussion Hamlett filed suit against Wright under 42 U.S.C. § 1983. Section 1983 imposes liability on any person who, under color of state law, deprives another person "of any rights, privileges, or immunities secured by the Constitution and laws." of the United States.

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." *West v. Atkins*, 487 U.S. 42, 48, (1988). Hamlett's complaint does not plausibly suggest that Wright acted under color of state law.

All of the alleged actions or omissions for which Hamlett seeks to hold Wright liable occurred during the course of representing Hamlett on criminal charges. It is well settled that an attorney, even when appointed by the court, does not act under color of state law when representing a defendant in a criminal case. See *Polk Cnty. v. Dodson*, 454 U.S. 312, 325 (1981); *Hall v. Quillen*, 631 F.2d 1154, 1155-56 (4th Cir.

1980). Accordingly, Hamlett's claims against Wright are not viable under § 1983. IV. Conclusion For the reasons stated, Hamlett's complaint is DISMISSED without prejudice for failure to state a claim upon which relief can be granted. An appropriate order will be entered. Entered: December 18, 2025 Michael F. Urbanski U.S. District Judge 2025.12.18 17:28:17 -05'00' Michael F. Urbanski Senior United States District Judge