

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Joseph Mulla v. Kanawha County Commission, et al.

Mulla · No. 2:25-cv-00625 · Decided April 20, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s proposed findings and recommendation and dismissed Joseph Mulla’s action with prejudice. The court denied in forma pauperis status, concluding that the claims were barred by res judicata, judicial immunity, the Eleventh Amendment, pleading deficiencies, and the Rooker-Feldman doctrine. The court also warned that future substantially similar filings could result in sanctions under Federal Rule of Civil Procedure 11.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	April 20, 2026
DOCKET	2:25-cv-00625
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's proposed findings and recommendation recommending denial of the plaintiff's application to proceed without prepayment of fees or costs and dismissal of the action. After reviewing the plaintiff's objections de novo, the court adopted the PF&R, denied in forma pauperis status, and dismissed the action with prejudice.
STANDARD OF REVIEW	De novo review of portions of the magistrate judge's proposed findings and recommendation to which specific objections were made; no review was required for portions not specifically objected to.
PRECEDENTIAL VALUE	nonprecedential district court memorandum opinion and order
PARTIES	Joseph Mulla v. Kanawha County Commission, Judge Kenneth Ballard, Judge Tera Salango, Judge Stephanie Abraham, Judge Jennifer Bailey, State of West Virginia, by and through its Family Court Division, CPS, and Judiciary, West Virginia Department of

TOPICS

res judicata section 1983 eleventh amendment immunity pleadings subject matter jurisdiction

PRACTICE AREAS

civil rights federal civil procedure constitutional law state sovereign immunity

QUESTIONS PRESENTED

1. Whether the plaintiff's objections to the magistrate judge's proposed findings and recommendation warranted de novo review and rejection of the recommendation.
2. Whether the plaintiff's claims against defendants previously named in substantially similar actions were barred by res judicata.
3. Whether Judge Kenneth Ballard was entitled to absolute judicial immunity.
4. Whether claims against the West Virginia Department of Health and Human Resources or state-related defendants were barred by state immunity and the rule that a State is not a person under 42 U.S.C. § 1983.
5. Whether the complaint failed to satisfy Federal Rule of Civil Procedure 8 and the plausibility standard.
6. Whether the Rooker-Feldman doctrine deprived the federal court of jurisdiction over claims inextricably intertwined with state-court decisions.
7. Whether supplemental jurisdiction existed over any state-law claims.

HOLDINGS

1. A district court must review de novo those portions of a magistrate judge's report to which specific objections are made, but general or conclusory objections do not preserve an issue for de novo review and may constitute waiver.
2. Claims against defendants previously named in substantially similar actions were barred by res judicata.
3. Judge Kenneth Ballard was immune from suit because the challenged conduct occurred within his judicial capacity.
4. To the extent the West Virginia Department of Health and Human Resources was construed as a different party, the claims were barred by state immunity, and a State is not a person subject to suit under 42 U.S.C. § 1983.
5. The complaint failed to state a claim because it relied on generalized and conclusory allegations, including references to false statements and misconduct, without specific factual matter showing how any defendant plausibly violated the plaintiff's rights.
6. The plaintiff's claims were barred by the Rooker-Feldman doctrine because they were inextricably intertwined with state-court decisions, leaving the federal court without jurisdiction.

7. Because the court lacked federal jurisdiction over the federal claims, there was no basis for supplemental jurisdiction over the state-law claims.

KEY QUOTATIONS

“A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”” (at 1)

“Judicial immunity is strong medicine. When it applies it is absolute. It not only protects judges from ultimate liability in a case, but also serves as a complete bar to suit.” (at 2)

“A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.”” (at 3)

“A complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” (at 3)

“Plaintiff’s continuous and meritless filings in the district will not be tolerated, and the court will not continue to waste resources.” (at 4)

FACTUAL BACKGROUND

The plaintiff brought a civil-rights action against state judges, state agencies or officials, and the Kanawha County Commission, alleging generalized misconduct and false statements arising from state-court proceedings. He had previously filed two substantially similar actions in the Southern District of West Virginia, both of which were dismissed, with one court finding that amendment would be futile and another denying leave to amend. The present complaint repeated substantially identical allegations against substantially similar parties and did not provide specific facts explaining how the defendants violated the plaintiff’s rights.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Dwane L. Tinsley under 28 U.S.C. § 636. The magistrate judge issued a PF&R on November 5, 2025, recommending denial of the application to proceed without prepayment of fees or costs and dismissal. The plaintiff objected, but the district court found the objections insufficient and meritless, adopted and incorporated the PF&R, and dismissed the action with prejudice. The court also warned that another complaint alleging the same facts could result in a Rule 11 show-cause order.

DISPOSITION

dismissed

CASES CITED

- Thomas v. Arn, 474 U.S. 140, 150 (1985)
- Veney v. Astrue, 539 F. Supp. 2d 841, 845 (W.D. Va. 2008)
- United States v. Midgett, 478 F.3d 616, 622 (4th Cir. 2007)
- Howard’s Yellow Cabs, Inc. v. United States, 987 F. Supp. 469, 474 (W.D.N.C. 1997)

- Laurel Sand & Gravel, Inc. v. Wilson, 519 F.3d 156, 161-62 (4th Cir. 2008)
- Gibson v. Goldston, 85 F.4th 218, 223 (4th Cir. 2023)
- Mireles v. Waco, 502 U.S. 9, 11 (1991) (per curiam)
- Will v. Michigan Department of State Police, 491 U.S. 58, 65 (1989)
- Adams v. Ferguson, 884 F.3d 219, 224-25 (4th Cir. 2018)
- Kentucky v. Graham, 473 U.S. 159, 169 (1985)
- Brandon v. Holt, 469 U.S. 464, 471-72 (1985)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Plyler v. Moore, 129 F.3d 728, 731 (4th Cir. 1997)
- Charchenko v. City of Stillwater, 47 F.3d 981, 983 (8th Cir. 1995)
- Exxon Mobil Corp. v. Allapattah Services, Inc., 545 U.S. 546, 552 (2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON DIVISION JOSEPH MULLA, Plaintiff, v. CIVIL ACTION NO. 2:25-cv-00625 KANAWHA COUNTY COMMISSION, et al., Defendants. MEMORANDUM OPINION AND ORDER This action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings of fact and recommendation for disposition pursuant to 28 U.S.C. § 636.

On November 5, 2025, Magistrate Judge Tinsley submitted his Proposed Findings & Recommendation (“PF&R”), [ECF No. 5], and recommended that the court DENY the Plaintiff’s Application to Proceed Without Prepayment of Fees or Costs, [ECF No. 1], and DISMISS this action. Thereafter, Plaintiff filed objections to the PF&R. [ECF No. 6]. A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C).

This court is not, however, required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

The court has reviewed de novo those portions of the PF&R to which Plaintiff has filed specific 1 objections. For the reasons set forth below, I find that Plaintiff’s objections lack merit¹ and adopt and incorporate herein the Magistrate Judge’s PF&R. This is not Plaintiff’s first time bringing this lawsuit in the Southern District.

On May 12, 2025, Plaintiff first sued in a case before Judge Irene Berger. [2:25-cv-00310, ECF No. 2]. Liberally construing Plaintiff’s complaint, Judge Berger dismissed Plaintiff’s complaint for

jurisdictional defects and failure to state a claim upon which relief could be granted and found that amendment would be futile. [Id., ECF No. 9, at 3, 6].

On the same day that Plaintiff objected to the Magistrate's PF&R in Judge Berger's case and before Judge Berger issued her opinion, [Id., ECF No. 8], Plaintiff filed a nearly identical lawsuit before Judge Johnston. [2:25-cv-00360, ECF No. 1]. Judge Johnston also dismissed the case and denied Plaintiff's Motion to Amend. [Id., ECF No. 12]. Plaintiff has again brought a lawsuit that is substantially similar to his previous ones.

In his past cases, Plaintiff named Judge Tera Salango, Judge Stephanie Abraham, Judge Jennifer Bailey, and the "State of West Virginia, by and through its Family Court Division, CPS, and Judiciary." [2:25-cv-00360, ECF No. 1, at 6; 2:25-cv-00310, ECF No. 2-3].

In the present matter, Plaintiff has sued Judge Kenneth Ballard in addition to the previously named judges. Plaintiff has also named the West Virginia Department of Health and Human Resources ("DHHR"),² Mary Schrader ¹ In addition to the numerous issues with Plaintiff's Complaint, Plaintiff's objections to the PF&R suffer from fatal deficiencies. "Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C)... may be construed by any reviewing court as a waiver of such objection." *Veney v. Astrue*, 539 F. Supp. 2d 841, 845 (W.D.

Va. 2008); see *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007) ("[T]o preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection."). General objections do not meet the requirements set forth in 28 U.S.C. § 636(b)(1)(C) or Rule 72(b), and, therefore, constitute a waiver of de novo review.

See *Howard's Yellow Cabs, Inc. v. United States*, 987 F. Supp. 469, 474 (W.D. N.C. 1997). In his objections, Plaintiff made general statements and essentially restated his Complaint. This is insufficient. ² Notably, DHHR ceased to go by the name "DHHR" as of January 1, 2024. DHHR was reorganized into three separate departments—none of which are named in this suit.

See W. Va. Dep't of Health & Human Res., Homepage, ² ("CPS"), Nathan Phillips ("CPS"), Alex Mayer ("DHHR"), and Kanawha County Commission. [ECF No. 2]. I find that Plaintiff's claims against the same defendants are barred based on res judicata. See *Laurel Sand & Gravel, Inc. v. Wilson*, 519 F.3d 156, 161–62 (4th Cir. 2008). I find that Judge Ballard is immune from suit as he acted within his judicial capacity.

Gibson v. Goldston, 85 F.4th 218, 223 (4th Cir. 2023) ("Judicial immunity is strong medicine. When it applies it is absolute. It not only protects judges from ultimate liability in a case, but also serves as a complete bar to suit." (citing *Mireles v. Waco*, 502 U.S. 9, 11 (1991) (per curiam))).

To the extent that the DHHR could be construed as a different party, suit is nonetheless barred by the Eleventh Amendment. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 65 (1989) (explaining that “a State is not a ‘person’ within the meaning of § 1983”); *Adams v. Ferguson*, 884 F.3d 219, 224 (4th Cir. 2018) (citing *Kentucky v. Graham*, 473 U.S. 159, 169 (1985)). “This immunity also applies to ‘judgment[s] against a public servant in his official capacity.’” *Adams*, 884 F.3d at 224–25 (quoting *Brandon v. Holt*, 469 U.S. 464, 471–72 (1985)).

But the court need not get to the analysis of whether Defendants Schrader, Phillips, and Mayer were sued in their personal or official capacities because Plaintiff has not sufficiently pled his claims in accordance with Rule 8 of the Federal Rules of Civil Procedure. A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed.

R. Civ. P. 8(a)(2). This standard “‘demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “A complaint must contain <https://dhhr.wv.gov/Pages/default.aspx>. 3 sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Twombly*, 550 U.S. at 570).

To achieve facial plausibility, the plaintiff must plead facts allowing the court to draw the reasonable inference that the defendant is liable, moving the claim beyond the realm of mere possibility. *Iqbal*, 556 U.S. at 570. Mere “labels and conclusions” or “formulaic recitation[s] of the elements of a cause of action” are insufficient. *Twombly*, 550 U.S. at 555.

Plaintiff has repeatedly submitted complaints with conclusory allegations without pleading specific facts. Plaintiff has alleged that Defendants harmed him, but he uses generalized terminology like “false statements” and “misconduct” without elaborating on the substance of those allegations or how they plausibly constitute specific violations. [ECF No. 2].

For these reasons, Plaintiff also has not sufficiently pled a claim against Kanawha County Commission. In addition to the aforementioned defects, federal law cautions against the exercise of jurisdiction in this case. While Plaintiff is not explicitly asking this court to review or modify a state court decision, he is asking the court to review the procedures and personnel relied upon or used in the state court’s decision. “The Rooker-Feldman doctrine bars consideration not only of issues actually presented to and decided by a state court, but also of constitutional claims that are ‘inextricably intertwined with’ questions ruled upon by a state court, as when success on the federal claim depends upon a determination ‘that the state court wrongly decided the issues before it.’” *Plyler v. Moore*, 129 F.3d 728, 731 (4th Cir.

1997) (quoting *Charchenko v. City of Stillwater*, 47 F.3d 981, 983 (8th Cir. 1995)). Here, Plaintiff’s claims are “‘inextricably intertwined with’ question ruled upon by the state court,” and thus there is no federal jurisdiction.³ 3 Without federal jurisdiction, there is also no basis for

supplemental jurisdiction over the state law claims. *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005); 28 U.S.C. § 1367(a).

4 Accordingly, the court adopts and incorporates herein the PF&R and supplements with this Memorandum Opinion and Order. The court OVERRULES Plaintiffs objections to the PF&R, DENIES the Plaintiff's Application to Proceed Without Prepayment of Fees or Costs, [ECF No. 1], and DISMISSES with prejudice this action from the court's docket.

The court notes that this is Plaintiffs third complaint now dismissed by a judge in this district. Each complaint has contained nearly identical allegations against substantially similar parties, and no complaint has remedied the issues identified in the other cases.

Accordingly, Plaintiff's continuous and meritless filings in the district will not be tolerated, and the court will not continue to waste resources. Plaintiff is hereby on notice that if he files another complaint alleging the same facts, the court will issue a show cause order, requiring Plaintiff to state why his actions should not be sanctioned pursuant to Federal Rule of Civil Procedure 11.

The court DIRECTS the Clerk to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party. ENTER: April 20, 2026 Me G ow STATES DISTRICT JUDGE