

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

Shepherd v. Armitage, et al.

Shepherd v. Armitage, No. 25-6328-KSM (E.D. Pa. Feb. 17, 2026) · No. No. 25-6328-KSM · Decided February 17, 2026

SUMMARY

The United States District Court for the Eastern District of Pennsylvania dismissed with prejudice Dwayne Leon Shepherd, Jr.'s civil rights action challenging his state criminal prosecution. The court held that the claims against a Pennsylvania magisterial district judge and a county clerk were barred by Eleventh Amendment immunity, dismissed the claims against the nonmoving clerk sua sponte as moot, and denied leave to amend as futile.

CASE DETAILS

COURT	United States District Court for the Eastern District of Pennsylvania
WRITING FOR THE COURT	Karen S. Marston
JURISDICTION	United States District Court for the Eastern District of Pennsylvania
DECIDED	February 17, 2026
DOCKET	No. 25-6328-KSM
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a civil rights action under 42 U.S.C. § 1983 and related theories challenging his state criminal prosecution. Judge Armitage and Clerk Albillar moved to dismiss. The court granted Judge Armitage's motion, dismissed the claims against both moving defendants with prejudice, and denied Clerk Albillar's motion as moot.
STANDARD OF REVIEW	On a Rule 12(b)(1) facial jurisdictional challenge, the court considers the complaint, documents referenced in it, and public records in the light most favorable to the nonmoving party. The court independently examined subject matter jurisdiction and considered Eleventh Amendment immunity sua sponte as to Clerk Albillar.
PRECEDENTIAL VALUE	Unknown
PARTIES	Dwayne Leon Shepherd, Jr. v. Judge Regina Armitage, Eileen Harnett Albillar, Jennifer Schorn

TOPICS

eleventh amendment immunity

subject matter jurisdiction

motions to dismiss

section 1983

injunctions

PRACTICE AREAS

civil rights

constitutional law

federal jurisdiction

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the Eleventh Amendment deprived the federal court of jurisdiction over Shepherd's claims against a Pennsylvania magisterial district judge and county court clerk sued for conduct undertaken in their official capacities.
2. Whether the court could raise Eleventh Amendment immunity sua sponte as to a nonmoving defendant.
3. Whether Shepherd's request for an injunction voiding the magisterial district court prosecution was moot after that proceeding had closed.
4. Whether leave to amend should be denied as futile.

HOLDINGS

1. Claims against Judge Armitage and Clerk Albillar based on acts undertaken in their official capacities as officers of Pennsylvania's unified judicial system are barred by the Eleventh Amendment.
2. The court may consider Eleventh Amendment immunity sua sponte at the motion-to-dismiss stage as to a defendant who did not raise the defense.
3. Shepherd's request for an injunction voiding the magisterial district court prosecution was moot because that prosecution had closed and been transferred.
4. Leave to amend was properly denied because amendment would be futile in light of the immunity bar.

KEY QUOTATIONS

“But, as the Court finds that Judge Armitage and Clerk Albillar are immune from suit under the Eleventh Amendment, the Court will instead dismiss Shepherd’s suit with prejudice.”

“Thus, Shepherd’s claims are barred by the Eleventh Amendment and will be dismissed with prejudice as to Judge Armitage and Clerk Albillar.”

FACTUAL BACKGROUND

Shepherd was charged in Bucks County with simple assault, aggravated assault, abuse of care of a dependent person, endangering the welfare of children, and harassment. The prosecution was assigned to Judge Regina Armitage, and Shepherd alleged that Clerk Eileen Harnett Albillar acted as clerk in the criminal matter and misused his Social Security number and securities. Shepherd claimed that the prosecution was unlawful because no indictment had been filed and sought to void the charges and enjoin the state prosecution. The magisterial district court proceedings were completed and transferred to the Bucks County Court of Common Pleas before the federal court ruled.

PROCEDURAL HISTORY

Shepherd filed a pro se federal complaint based on his arrest and pending criminal prosecution in Bucks County, Pennsylvania. His state criminal case was initially before the Bucks County Magisterial District Court and was later transferred to the Bucks County Court of Common Pleas. Judge Armitage and Clerk Albillar moved to dismiss, while DA Schorn had not yet been properly served. The federal court dismissed the claims against Judge Armitage and Clerk Albillar with prejudice and denied Albillar's motion as moot.

DISPOSITION

dismissed

CASES CITED

- Schmidt v. Skolas, 770 F.3d 241, 249 (3d Cir. 2014)
- M & M Stone Co. v. Commonwealth, 388 F. App'x 156, 162 (3d Cir. 2010)
- Stump v. Sparkman, 435 U.S. 349, 355-56 (1978)
- Azubuko v. Royal, 443 F.3d 302, 303-04 (3d Cir. 2006)
- Waris v. Frick, No. 06cv5189, 2007 WL 954108, at *9 (E.D. Pa. Mar. 28, 2007)
- Blanciak v. Allegheny Ludlum Corp., 77 F.3d 690, 693 n.2 (3d Cir. 1996)
- Nesbit v. Gears Unlimited, Inc., 347 F.3d 72, 76-77 (3d Cir. 2003)
- Anderson v. Local 435 Union, 791 F. App'x 328, 332
- In re Kish, 212 B.R. 808, 814-15 (D.N.J. 1997)
- Williams v. Litton Loan Servicing, No. 16cv5301, 2018 WL 6600097, at *5 (D.N.J. Dec. 17, 2018)
- Orden v. Borough of Woodstown, 181 F. Supp. 3d 237, 243 (D.N.J. Dec. 11, 2015)
- Gould Elecs. Inc. v. United States, 220 F.3d 169, 176 (3d Cir. 2000)
- Myers v. Caliber Home Loans, Seterus, Inc., No. 19cv596, 2019 WL 4393377, at *3 (M.D. Pa. Sept. 13, 2019)
- Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 99-100 (1984)
- A.W. v. Jersey City Pub. Sch., 341 F.3d 234, 238 (3d Cir. 2003)
- Banks v. Court of Common Pleas FJD, 342 F. App'x 818, 820 (3d Cir. 2009)
- Arndt v. Bortner, No. 14cv1993, 2014 WL 5425423, at *2 (M.D. Pa. Oct. 22, 2014)
- Miller v. Little, No. 21cv01941, 2022 WL 2070282, at *2 (M.D. Pa. June 8, 2022)
- Peeples v. Citta, 501 F. App'x 109, 111 (3d Cir. 2012)
- Grayson v. Mayview State Hosp., 293 F.3d 103, 108, 110 (3d Cir. 2002)
- Coulter v. Unknown Probation Officer, 562 F. App'x 87, 89 n.2
- Shepherd v. Ferman, No. 25cv6105, 2025 WL 3706608, at *6 n.8 (E.D. Pa. Dec. 22, 2025)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA DWAYNE LEON SHEPHERD, JR., CIVIL ACTION Plaintiff, NO. 25-6328-KSM v. JUDGE REGINA ARMITAGE, et al., Defendants. MEMORANDUM Marston, J. February 17, 2026 Pro se Plaintiff Dwayne Leon Shepherd, Jr. filed this civil rights action based on his arrest and pending criminal prosecution in state court.

(Doc. No. 1.) Shepherd sues three officers of the state court: the Honorable Regina Armitage of the Bucks County Magisterial District (“Judge Armitage”), Clerk of Courts Eileen Harnett Albillar (“Clerk Albillar”), and former Bucks County District Attorney Jennifer Schorn (“DA Schorn”).^{1, 2} Currently before the Court are two motions to dismiss the Complaint filed by Judge Armitage and Clerk Albillar.

(Doc. Nos. 10, 11.) Shepherd has not filed an opposition. For the following reasons, the Court will grant Judge Armitage’s motion, deny Clerk Albillar’s motion as moot, and dismiss the Complaint as to both moving Defendants with prejudice. ¹ While Plaintiff spells DA Schorn’s name as “Schron,” public documents reflect the proper spelling is “Schorn.” See Kamryn Scrivens, Fox29 Philadelphia, Bucks County DA Jennifer Schorn ends 26 years, transitions to state cold case role (Jan.

2, 2026) (last accessed February 7, 2026), available at: <https://www.fox29.com/news/bucks-county-da-jennifer-schorn-ends-26-years-takes-state-cold-cases>. ² As discussed in a contemporaneously filed order, because DA Schorn has not yet been properly served, she has not appeared in this action. (See Doc. Nos. 7–8.)

I. BACKGROUND³ Public dockets reflect, and the Complaint alleges, that Shepherd was charged with simple assault, aggravated assault, abuse of care of a dependent person, endangering the welfare of children, and harassment in the Bucks County Magisterial District on October 10, 2025. Commonwealth v. Shepherd Jr., No. MJ-07208-CR-0000348-2025 (Bucks Cnty. Mag.

Ct.); (see also Doc. No. 1 ¶ 8). Shepherd’s criminal case was assigned to Judge Armitage. Commonwealth v. Shepherd Jr., No. MJ-07208-CR-0000348-2025 (Bucks Cnty. Mag. Ct.). And Shepherd alleges that Clerk Albillar was “acting as Clerk of Court[s]” in the same criminal action (Doc. No. 1 ¶ 7), though this is not reflected on the public docket, see Commonwealth v. Shepherd Jr., No. MJ-07208-CR-0000348-2025 (Bucks Cnty.

Mag. Ct.). On January 12, 2026, Plaintiff’s case in the Magisterial District was transferred to the Court of Common Pleas of Bucks County, and the Magisterial District case was closed.⁴ Id. In the instant civil action, Shepherd challenges the constitutionality and legality of this initial state prosecution in the Magisterial District. (Doc. No. 1 ¶¶ 1–2.)

In support, he alleges that “[t]here was never an indictment obtained or filed” in his case, which violates his “constitutionally protected due process rights.” (Id. ¶ 9.) He then details conclusory

and limited allegations against the two moving Defendants. Regarding Judge Armitage, Shepherd alleges that she is “getting rich by investing in the bonds being taken out in defendant[’s] name” and has 3 In determining whether the Complaint states a claim, the Court considers Shepherd’s allegations; exhibits attached to the Complaint; and matters of public record, including state court dockets.

See *Schmidt v. Skolas*, 770 F.3d 241, 249 (3d Cir. 2014); *M & M Stone Co. v. Commonwealth*, 388 Fed. App’x 156, 162 (3d Cir. 2010). 4 Magisterial Courts in the Commonwealth of Pennsylvania are courts of limited jurisdiction, and only handle arraignments and preliminary hearings for criminal actions. See 42 Pa. Cons. Stat. § 1515. Those two portions of Shepherd’s case were completed on January 5, 2026, and then the case was transferred to the Court of Common Pleas of Bucks County.

Commonwealth v. Shepherd Jr., No. MJ- 07208-CR-0000348-2025 (Bucks Cnty. Mag. Ct.). violated due process “by allowing a criminal action to commence against” him. (*Id.* at ¶¶ 10, 16.) Regarding Clerk Albillar, he alleges she “used [Shepherd’s] social security number without [his] consent... [which] is identity theft” and that she has “falsified, counterfeited, altered and or misrepresented securities to gain unjust enrichment.” (*Id.* at ¶¶ 18, 21.)

Based on these allegations, Shepherd has sued Judge Armitage and Clerk Albillar asserting: (1) his criminal prosecution was unlawful under federal and state law because there was no “indictment of record”; and (2) he is the victim of identity theft, making false statements, mail and wire fraud, securities fraud, securities manipulation, fraudulent interstate transactions, and conspiracy.

(Doc. No. 1 at ¶¶ 23–30.) Shepherd argues these actions by moving Defendants were made in furtherance of violations of Shepherd’s right to due process under the Fifth Amendment to the United States Constitution and 42 U.S.C. § 1983. (*Id.*)

On those bases, he asks the Court to void the criminal charges against him and to issue a temporary restraining order and preliminary injunction enjoining his state prosecution. (*Id.* at 25, 31–32.) Judge Armitage and Clerk Albillar have moved to dismiss all the claims against them. (See generally Doc. Nos. 10–11.) Judge Armitage argues that the Court lacks subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1) due to Eleventh Amendment immunity.⁵ Additionally, Clerk Albillar moves under Rule 12(b)(1), but also Federal Rule of 5 Judge Armitage has also moved to dismiss on other grounds, namely judicial immunity, Younger abstention, the Anti-Injunction Act, and failure to state a claim upon which relief can be granted.

(See generally Doc. No. 11.) Because the Court grants Judge Armitage’s motions on Eleventh Amendment grounds, we do not reach those additional arguments. Though, the Court notes that Judges are generally entitled to absolute immunity from claims that are based on acts or omissions

taken in their judicial capacity, so long as they do not act in the complete absence of all jurisdiction.

See *Stump v. Sparkman*, 435 U.S. 349, 355–56 (1978); *Azubuko v. Royal*, 443 F.3d 302, 303–04 (3d Cir. 2006). And public policy also favors dismissal of all claims against Judge Armitage. See *Waris v. Frick*, No. 06cv5189, 2007 WL 954108, *9 (E.D. Pa. Mar. 28, 2007) (“[T]he purposes of judicial immunity and the limitations of injunctive relief in 42 U.S.C. § 1983 would be ill-served if judges routinely were forced to defend against declaratory judgment actions like this one, where their immunity obviously shields them from liability for money damages.”).

Civil Procedure 12(b)(6), and argues Shepherd’s Complaint contains “allegations that are completely devoid of merit and wholly insubstantial and frivolous.” (Doc. No. 10 ¶ 19.) II. LEGAL STANDARDS Judge Armitage’s assertion of Eleventh Amendment immunity is properly considered “a motion to dismiss the complaint for lack of subject matter jurisdiction under [Federal Rule of Civil Procedure] 12(b)(1).” *Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690, 693 n.2 (3d Cir.

1996). And “because subject matter jurisdiction is non-waivable, courts have an independent obligation to satisfy themselves of jurisdiction [as to all defendants] if it is in doubt.” *Nesbit v. Gears Unlimited, Inc.*, 347 F.3d 72, 76–77 (3d Cir. 2003) (internal citations omitted). And, even though Clerk Albillar did not raise Eleventh Amendment immunity in her motion to dismiss, the Court can consider it sua sponte at the motion to dismiss stage.

See *Anderson v. Local 435 Union*, 791 F. App’x 328, 332; see also *In re Kish*, 212 B.R. 808, 814–15 (D.N.J. 1997) (“A state defendant does not waive its Eleventh Amendment immunity by filing a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), by failing to raise the Eleventh Amendment before the trial court, or by seeking judgment in its favor.”).

As the Court finds that it lacks jurisdiction under the Eleventh Amendment for the claims asserted against both Judge Armitage and Clerk Albillar, we need only discuss the Rule 12(b)(1) standard. “Rule 12(b)(1) governs jurisdictional challenges to a complaint.” *Williams v. Litton Loan Servicing*, No. 16cv5301, 2018 WL 6600097, at *5 (D.N.J. Dec. 17, 2018). “In deciding a motion under Rule 12(b)(1), a court must first determine whether the movant presents a facial or factual attack, because that distinction determines how the pleadings are reviewed.” *Orden v. Borough of Woodstown*, 181 F. Supp. 3d 237, 243 (D.N.J.

Dec. 11, 2015); see also *Gould Elecs. Inc. v. United States*, 220 F.3d 169, 176 (3d Cir. 2000) (“A Rule 12(b)(1) motion may be treated as either a facial or factual challenge to the court’s subject matter jurisdiction.”). A facial attack “contests the sufficiency of the complaint because of a defect on its face,” and the court considers only the “allegations in the complaint, along with documents referenced therein, in the light most favorable to the nonmoving party.” *Williams*, 2018 WL

6600097, at *5 (quotation marks omitted). “Thus, we consider whether Plaintiffs’ allegations, attached documents, and referenced proceedings establish the necessary jurisdiction....” *Myers v. Caliber Home Loans, Seterus, Inc.*, No. 19cv596, 2019 WL 4393377, at *3 (M.D.

Pa. Sept. 13, 2019). III. DISCUSSION As noted above, Shepherd brings claims against the moving Defendants for alleged constitutional due process violations under 42 U.S.C. § 1983 and for fraud and conspiracy in furtherance of such violations. (Doc. No. 1 at ¶¶ 23–32.) Shepherd further claims that because his state prosecution was allegedly unlawful from the start, he asks this Court to issue an injunction voiding the prosecution.⁶ (Id.)

But, as the Court finds that Judge Armitage and Clerk Albillar are immune from suit under the Eleventh Amendment, the Court will instead dismiss Shepherd’s suit with prejudice. Shepherd’s claims (Doc. No. 1, Counts I–IV) are, at their core, challenges to the state prosecution that was begun in Bucks County Magisterial Court. (See generally *id.*) Shepherd seeks this Court’s intervention because he alleges there was no indictment filed in Magisterial 6 As the Court discussed above, Shepherd’s case in Bucks County Magisterial Court is now closed.

(See *supra* at 4 & n.4.) As such, any request in the Complaint for an injunction voiding the prosecution in that court is moot. See *Miller v. Little*, No. 21cv01941, 2022 WL 2070282, at *2 (M.D. Pa. June 8, 2022) (“A preliminary injunction cannot be issued based on past harm.

The purpose of a preliminary injunction is to prevent future irreparable harm.” (quotation marks omitted).) Court and Judge Armitage “is unjustly getting rich by investing in the securities” that were created by Clerk Albillar “without [Plaintiff’s] consent” through initiating and conducting his criminal case. (Doc. No. 1 at ¶¶ 7, 10.) But even taking his allegations as true, Shepherd is merely alleging moving Defendants are acting in their official capacities as judge and clerk, respectively.

As such, each is entitled to Eleventh Amendment immunity. The Eleventh Amendment’s sovereign immunity clause bars suits seeking monetary damages against a state and its agencies in federal court, unless a state consents to the contrary. See *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. at 99–100; *A.W. v. Jersey City Pub. Sch.*, 341 F.3d 234, 238 (3d Cir.

2003). The Commonwealth of Pennsylvania has not waived its immunity. See 42 Pa. Cons. Stat. § 8521(b). Judge Armitage is a judicial officer of Magisterial District 07-2-08, which is an entity of the Unified Judicial System of Pennsylvania pursuant to 42 Pa. Cons. Stat. § 301(9).

The Third Circuit Court of Appeals has held that state courts, and their officers, as a part of the Commonwealth’s unified judicial system, are immune from suit in federal court pursuant to the Eleventh Amendment. See *Banks v. Court of Common Pleas FJD*, 342 F. App’x 818, 820 (3d Cir. 2009). And “[a]s the Clerk of Court[s], [Clerk Albillar] has the protection of Eleventh Amendment immunity and quasi-judicial immunity in h[er] official capacity.” *Arndt v. Bortner*, No. 14cv1993, 2014 WL 5425423, at *2 (M.D.

Pa. Oct. 22, 2014). Here, Shepherd's claims against Judge Armitage and Clerk Albillar are based on (1) the judicial decisions Judge Armitage has made and actions she took while presiding over Shepherd's criminal case and (2) Clerk Albillar's alleged actions related to her official capacity as Clerk of Courts of Bucks County.

Thus, Shepherd's claims are barred by the Eleventh Amendment and will be dismissed with prejudice as to Judge Armitage and Clerk Albillar. IV. CONCLUSION For the foregoing reasons, the Court will grant Judge Armitage's motion to dismiss, and because the Court finds that we must dismiss this action against Clerk Albillar for the same reasons we dismiss against Judge Armitage, we will deny Clerk Albillar's motion to dismiss as moot.

See, e.g., *Anderson*, 791 F. App'x at 332 (affirming district court's sua sponte dismissal of complaint against non-moving defendant based on the same grounds raised by moving defendant, where plaintiff "had the opportunity to defend the sufficiency of those identical claims in response to [moving defendant's] motion to dismiss"); *Coulter v. Unknown Probation Officer*, 562 F. App'x 87, 89 n.2 (3d Cir.

2014) (affirming district court's sua sponte dismissal of complaint for failure to state a claim against a non-moving defendant based on grounds raised by moving defendants but common to all defendants and where plaintiff had an opportunity to respond). Shepherd will not be given leave to amend these claims because amendment would be futile. See *Peeples v. Citta*, 501 F. App'x 109, 111 (3d Cir.

2012) (affirming District Court order declining leave to amend due to inability "to overcome judicial immunity"); *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108, 110 (3d Cir. 2002) (same).⁷ An appropriate Order follows. ⁷ To the extent Shepherd takes issue with the ongoing criminal prosecution of him by the Commonwealth of Pennsylvania, the Court again advises him that his state court criminal case is the proper forum to challenge the validity of the criminal charges asserted against him and it provides him an opportunity to present any defenses.

See *Shepherd v. Ferman*, No. 25cv6105, 2025 WL 3706608, at *6 n.8 (E.D. Pa. Dec. 22, 2025).