

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
NORTH CAROLINA, SOUTHERN DIVISION

Carlos A. Alford v. Department of Commerce et al.

Alford v. Department of Commerce, No. 7:25-CV-418-BO-BM (E.D.N.C. Mar. 10, 2026) · No. No. 7:25-CV-418-BO-BM · Decided March 10, 2026

SUMMARY

This Order and Memorandum and Recommendation addresses Carlos A. Alford’s motion to proceed in forma pauperis, motion for a pre-hearing conference, and frivolity review of claims arising from his employment with the U.S. Census Bureau. The magistrate judge recommends allowing the Rehabilitation Act hostile-work-environment and failure-to-accommodate claims, a Civil Service Reform Act claim, and a state-law defamation claim against specified defendants to proceed, while dismissing the Rehabilitation Act retaliatory-discharge claim and claims against other defendants. The recommendation also proposes substituting the Secretary of Commerce, Howard Lutnick, as the proper defendant for the federal employment claims.

CASE DETAILS

COURT	United States District Court for the Eastern District of North Carolina, Southern Division
WRITING FOR THE COURT	Brian S. Meyers
JURISDICTION	United States District Court for the Eastern District of North Carolina, Southern Division
DECIDED	March 10, 2026
DOCKET	No. 7:25-CV-418-BO-BM
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff moved to proceed in forma pauperis and requested a pre-hearing conference. The magistrate judge conducted the required frivolity review under 28 U.S.C. § 1915(e)(2)(B) and issued an order and memorandum and recommendation.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court reviews an in forma pauperis complaint to determine whether it is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. Pro se pleadings receive liberal construction, but the court may dismiss claims lacking an arguable basis in law or fact and may consider subject-matter jurisdiction. Objections to the memorandum

and recommendation are subject to de novo review by the district judge under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3).

PRECEDENTIAL VALUE

nonprecedential

PARTIES

Carlos A. Alford v. Department of Commerce et al.

TOPICS

civil procedure

federal employment law

disability discrimination

retaliation

defamation

PRACTICE AREAS

civil procedure

federal employment law

employment law

civil rights

administrative law

defamation

QUESTIONS PRESENTED

1. Whether plaintiff established eligibility to proceed in forma pauperis.
2. Whether plaintiff's motion for a pre-hearing conference was premature before service and completion of frivolity review.
3. Whether plaintiff's allegations stated potentially cognizable Rehabilitation Act claims for hostile work environment and failure to accommodate.
4. Whether plaintiff's Rehabilitation Act retaliatory-discharge claim failed because the alleged retaliatory motive was not the but-for cause of termination.
5. Whether plaintiff's allegation concerning suspension for refusing to violate law, rule, or regulation stated a potentially cognizable CSRA claim.
6. Whether the Secretary of Commerce was the proper defendant for the federal-sector Rehabilitation Act and CSRA claims.
7. Whether plaintiff's allegations stated a potentially cognizable North Carolina defamation claim against Holly Hillman.
8. Whether plaintiff could maintain a civil claim based on alleged perjury and whether statements made in EEOC proceedings were absolutely privileged.

HOLDINGS

1. Plaintiff adequately demonstrated inability to prepay court costs and was allowed to proceed in forma pauperis.
2. The request for a pre-hearing or discovery conference was premature and was denied without prejudice.
3. Disability-discrimination claims by a federal agency employee proceed under the Rehabilitation Act rather than the ADA.
4. The retaliatory-discharge claim should be dismissed because plaintiff alleged multiple reasons for termination, including non-discriminatory reasons, and therefore did not allege retaliation as the but-for

cause.

5. The hostile-work-environment and failure-to-accommodate claims should be allowed to proceed against the Secretary of Commerce at the pleading-screening stage.
6. Plaintiff's allegation that he was suspended for refusing to obtain information by allegedly illegal means stated a potentially cognizable CSRA claim that should proceed at this stage.
7. The Secretary of Commerce, Howard Lutnick, should be substituted as the defendant for plaintiff's Rehabilitation Act and CSRA claims, and the individual employees and other defendants should be dismissed from those claims.
8. Plaintiff's allegation that Holly Hillman falsely reported his work performance was sufficient at the frivolity-review stage to allow a defamation claim against Hillman to proceed, while claims against other defendants should be dismissed.
9. There is no private North Carolina cause of action for perjury, and statements made in the course of and relevant to EEOC proceedings are absolutely privileged; supplemental allegations did not add viable claims.

KEY QUOTATIONS

"A case is frivolous if "it lacks an arguable basis either in law or in fact."" (at 7)

"The undersigned RECOMMENDS that plaintiff's claims for hostile work environment and failure to accommodate under the Rehabilitation Act be ALLOWED TO PROCEED against the Secretary of Commerce at this time." (at 10)

"Plaintiff's claims be ALLOWED TO PROCEED IN PART and DENIED IN PART." (at 14-15)

FACTUAL BACKGROUND

Alford alleged that he was fired from his position as a Census Bureau field representative after workplace disputes involving supervision, alleged harassment, pay and work assignments, and his refusal to obtain information by allegedly illegal means. He claimed disability-related discrimination, failure to accommodate, hostile work environment, retaliation for filing an EEOC complaint, and a CSRA retaliation claim based on suspension. He also alleged that a supervisor falsely stated that he was visiting fewer houses than he actually visited and asserted claims for defamation and perjury.

PROCEDURAL HISTORY

The court allowed plaintiff to proceed in forma pauperis. It denied the request for a pre-hearing conference without prejudice as premature. After liberally construing the complaint and supplemental filings, the magistrate judge recommended partial dismissal and partial allowance of the claims, substitution of the Secretary of Commerce as the proper defendant for the Rehabilitation Act and CSRA claims, and service-related directives. The recommendation was subject to objections and de novo review by the presiding district judge.

DISPOSITION

CASES CITED

- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948)
- Denton v. Hernandez, 504 U.S. 25, 27, 32 (1992)
- Neitzke v. Williams, 490 U.S. 319, 325, 327-28 (1989)
- White v. White, 886 F.2d 721, 722-24 (4th Cir. 1989)
- Coleman v. Md. Ct. of Appeals, 626 F.3d 187, 190-91 (4th Cir. 2010), *aff'd sub nom. Coleman v. Ct. of Appeals of Maryland*, 566 U.S. 30 (2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-57 (2007)
- Lovern v. Edwards, 190 F.3d 648, 654 (4th Cir. 1999)
- Hill v. Se. Reg'l Med. Ctr., No. 7:19-CV-60-BO, 2019 WL 7041893, at *2 (E.D.N.C. Oct. 21, 2019)
- Bowman v. White, 388 F.2d 756, 760 (4th Cir. 1968)
- Lehigh Min. & Mfg. Co. v. Kelly, 160 U.S. 327, 337 (1895)
- Alford v. Nelson, No. 7:22-CV-173-FL, 2023 WL 5826902, at *2 (E.D.N.C. July 26, 2023)
- Green v. Garland, No. 4:21-CV-2514-SAL-KDW, 2022 WL 3211217, at *14 (D.S.C. May 3, 2022)
- Merrill v. McCarthy, 184 F. Supp. 3d 221, 236 (E.D.N.C. 2016)
- King v. Rumsfeld, 328 F.3d 145, 151 (4th Cir. 2003)
- Carter v. Ball, 33 F.3d 450, 460 (4th Cir. 1994)
- Gentry v. E. W. Partners Club Mgmt. Co., 816 F.3d 228, 235 (4th Cir. 2016)
- Davis v. W. Carolina Univ., 695 F. App'x 686, 688 (4th Cir. 2017)
- Sofer v. N.C. Hertford Police Dep't, No. 91-7024, 1991 U.S. App. LEXIS 12918, at *7 (4th Cir. June 21, 1991)
- Mikhaylov v. Dep't of Homeland Sec., 62 F.4th 862, 864 (4th Cir. 2023)
- Butler v. West, 164 F.3d 634, 638 (D.C. Cir. 1999)
- Alford v. Ballard, No. 1:18-cv-00917 (LMB/MSN), 2018 U.S. Dist. LEXIS 236536, at *6-7 (E.D. Va. Dec. 27, 2018)
- Desmond v. News & Observer Publ'g Co., 241 N.C. App. 10, 16, 772 S.E.2d 128, 135 (2015)
- Boyce & Isley, PLLC v. Cooper, 153 N.C. App. 25, 29-30, 568 S.E.2d 893, 898 (2002)
- Maron v. United States, 126 F.3d 317, 321 (4th Cir. 1997)
- Johnson v. Carter, 983 F.2d 1316, 1323 n.9 (4th Cir. 1993)
- Brissett v. Freemont Inv. & Loan Corp., No. 4:08-CV-77-F, 2010 WL 3003361, at *2 (E.D.N.C. July 29, 2010)
- Wright v. Collins, 766 F.2d 841, 846-47 (4th Cir. 1985)
- Brewer v. Carolina Coach Co., 253 N.C. 257, 260, 116 S.E.2d 725, 727 (1960)
- Gilmore v. Gilmore, 229 N.C. App. 347, 351, 748 S.E.2d 42, 45 (2013)

- Strickland v. Hedrick, 194 N.C. App. 1, 19, 669 S.E.2d 61, 74 (2008)
- Bouvier v. Porter, 386 N.C. 1, 10, 900 S.E.2d 838, 847 (2024)
- Swindell v. Charlotte-Mecklenburg Bd. of Educ., No. 3:21-CV-00676-FDW-DCS, 2024 U.S. Dist. LEXIS 100387, at *11 (W.D.N.C. June 5, 2024)
- Holder v. U.S. Marshals Office, No. 5:16-CV-00145-FL, 2016 WL 3919502, at *1 (E.D.N.C. May 17, 2016)
- Walker v. Prince George's County, 575 F.3d 426, 429 n.* (4th Cir. 2009)
- United States v. Dunkel, 927 F.2d 955, 956 (7th Cir. 1991)

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