

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
NORTH CAROLINA, ASHEVILLE DIVISION

James Alexander Ray v. Brevard Police Department, et al.

No. 1:26-cv-00078-MR (W.D.N.C. Mar. 18, 2026) · No. 1:26-cv-00078-MR · Decided March 19, 2026

SUMMARY

The United States District Court for the Western District of North Carolina conducts an initial review of James Alexander Ray’s pro se 42 U.S.C. § 1983 complaint against the Brevard Police Department, Transylvania County Jail, a district attorney, and the People of North Carolina. The court concludes that the complaint fails to state a claim for several reasons, including the non-suable status of the police department and jail, prosecutorial immunity, the Heck bar, and possible statute-of-limitations issues. The court dismisses the complaint and defendants without prejudice, denies appointment of counsel, and allows Ray 30 days to amend.

CASE DETAILS

COURT	United States District Court for the Western District of North Carolina, Asheville Division
WRITING FOR THE COURT	Martin Reidinger
JURISDICTION	United States District Court for the Western District of North Carolina, Asheville Division
DECIDED	March 19, 2026
DOCKET	1:26-cv-00078-MR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983 reviewed sua sponte at the initial-review stage while plaintiff proceeded in forma pauperis.
STANDARD OF REVIEW	Under 28 U.S.C. §§ 1915(e)(2) and 1915A, the court must dismiss an in forma pauperis or prisoner complaint that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. Pro se pleadings are liberally construed, but liberal construction does not permit the court to disregard a clear failure to allege a cognizable federal claim.
PRECEDENTIAL VALUE	unpublished district court memorandum; nonprecedential

TOPICS

section 1983 prisoners rights civil procedure statute of limitations post-conviction relief

PRACTICE AREAS

civil rights constitutional law civil procedure criminal procedure prisoner litigation

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable claim under 42 U.S.C. § 1983 against a county jail and police department.
2. Whether the claims against the prosecutor and the People of North Carolina were barred by immunity or failure to identify a suable person.
3. Whether *Heck v. Humphrey* barred claims whose success would necessarily imply the invalidity of an outstanding conviction or sentence.
4. Whether the claims appeared barred by the applicable statute of limitations.
5. Whether allegations concerning individuals omitted from the caption could proceed.
6. Whether plaintiff demonstrated exceptional circumstances warranting appointment of counsel.

HOLDINGS

1. A jail and a police department are not persons subject to suit under § 1983; therefore, the complaint failed to state a claim against those entities.
2. The claims against the prosecutor were barred by prosecutorial immunity, and the People of North Carolina, particularly as members of a grand jury, were not subject to suit under § 1983.
3. A criminal defendant has no constitutional or other identified right to testify or confront witnesses before a grand jury.
4. The complaint appeared barred by *Heck* because success on the claims would necessarily imply the invalidity of an outstanding conviction or sentence, and plaintiff did not allege that the conviction or sentence had been invalidated.
5. Even if *Heck* did not bar the claims, they appeared potentially barred by the applicable statute of limitations.
6. Claims against individuals not named in the complaint's caption were dismissed without prejudice because Rule 10(a) requires the title of the complaint to name all parties.
7. The court declined to exercise supplemental jurisdiction over the state-law claims because no federal claim passed initial review.
8. Appointment of counsel was denied because plaintiff had not shown exceptional circumstances, particularly where he had not demonstrated that a viable claim would pass initial review.

KEY QUOTATIONS

“Thus, when a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.” (at 4-5)

“There is no absolute right to the appointment of counsel in civil actions such as this one.” (at 7)

FACTUAL BACKGROUND

Ray, a North Carolina prisoner, alleged that the Brevard Police Department arrested him without probable cause in July 2017, that he was indicted in August 2017, and that he was denied a probable-cause hearing and unlawfully detained at the Transylvania County Jail for two years. He also alleged prosecutorial misconduct relating to his inability to testify before the grand jury and sought, among other relief, vacatur of his conviction, release from custody, and monetary damages. The complaint did not allege that any conviction or sentence had been reversed, expunged, declared invalid, or called into question by habeas relief.

PROCEDURAL HISTORY

James Alexander Ray filed a pro se § 1983 complaint against the Brevard Police Department, Transylvania County Jail, District Attorney Elizabeth Dierauf, and the People of North Carolina. The court conducted mandatory screening under 28 U.S.C. §§ 1915(e)(2) and 1915A, determined that the complaint failed to state a claim and was subject to multiple apparent bars, denied appointment of counsel, dismissed all defendants, and granted plaintiff thirty days to amend. The dismissal was without prejudice if plaintiff failed to amend in accordance with the order.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

Plaintiff was given thirty days to file an amended complaint addressing whether Heck applies, whether the claims are barred by applicable limitations periods, and whether he can otherwise state a claim for relief. Failure to timely amend would result in dismissal without prejudice and without further notice.

CASES CITED

- *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989)
- *Haines v. Kerner*, 404 U.S. 519, 520 (1972)
- *Weller v. Dep’t of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990)
- *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49-50 (1999)
- *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 143 S. Ct. 1444 (2023)
- *Brooks v. Pembroke Jail*, 722 F. Supp. 1294, 1301 (E.D.N.C. 1989)
- *Wilkerson v. Chapel Hill Police Dept.*, No. 1:09CV60, 2009 WL 1505614, at *1 (M.D.N.C. May 27, 2009)
- *Imbler v. Pachtman*, 424 U.S. 409, 419, 423 n.20 (1976)

- State v. Jones, 354 S.E.2d 251, 258 (N.C. Ct. App. 1987)
- Heck v. Humphrey, 512 U.S. 477, 486-87 (1994)
- Nat’l Adv. Co. v. City of Raleigh, 947 F.2d 1158, 1162 n.2 (4th Cir. 1991)
- Myles v. United States, 416 F.3d 551 (7th Cir. 2005)
- Perez v. Humphries, No. 3:18-cv-107-GCM, 2018 WL 4705560, at *1 (W.D.N.C. Oct. 1, 2018)
- Artis v. District of Columbia, 583 U.S. 71, 74 (2018)
- Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987)
- Whisenant v. Yuam, 739 F.2d 160, 162-63 (4th Cir. 1984)
- Jenkins v. Woodard, 109 F.4th 242, 247-48 (4th Cir. 2024)
- Brock v. City of Richmond, 983 F.2d 1055, 1055 (4th Cir. 1993) (per curiam)

OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA
 ASHEVILLE DIVISION 1:26-cv-00078-MR JAMES ALEXANDER RAY,)) Plaintiff,))
 MEMORANDUM OF vs.) DECISION AND ORDER) ON INITIAL REVIEW) BREVARD
 POLICE DEPARTMENT,) et al.,)) Defendants.) _____) THIS
 MATTER is before the Court on initial review of Plaintiff’s Complaint, [Doc.

1], filed under 42 U.S.C. § 1983. See 28 U.S.C. §§ 1915(e) and 1915A. Plaintiff is proceeding in forma pauperis. [Docs. 2, 5]. I. BACKGROUND Pro se Plaintiff James Alexander Ray, (“Plaintiff”) is a prisoner of the State of North Carolina currently incarcerated at Alexander Correctional Institution in Taylorsville, North Carolina.

On March 13, 2026, he filed this action pursuant to 42 U.S.C. § 1983 against Defendants Brevard Police Department, Transylvania County Jail, District Attorney Elizabeth Dierauf, and the “People of North Carolina.” [Doc. 1]. Plaintiff purports to sue Defendants Dierauf and the People of North Carolina in their individual and official capacities. [Id. at 3]. Plaintiff alleges, in pertinent part, as follows.

Plaintiff was arrested by the Brevard Police Department on July 20, 2017, without probable cause. [Id. at 12]. On August 14, 2017, “the people of North Carolina grand jury” indicted the Plaintiff on charges of robbery with a dangerous weapon and conspiracy to commit robbery with a dangerous weapon without allowing Plaintiff to testify against witnesses Detective Godman and Aaron Thompson of the Brevard Police Department.

[Id. at 12, 15]. Thereafter, “they” denied him a probable cause hearing on a first-degree murder charge and the robbery charges. [Id.]. The Transylvania County Jail unlawfully detained the Plaintiff for two years. [Id.]. Defendant Bierauf committed prosecutorial misconduct by allowing the denial of Plaintiff’s right to testify at the grand jury proceeding. [Id. at 13].

Plaintiff claims the violation of numerous rights under the U.S. Constitution, the “North Carolina Constitution penal codes,” and various other provisions. [Id. at 3]. Plaintiff alleges numerous injuries related to his alleged unlawful arrest and false imprisonment, as well as “[d]efamation of character, threat, coercion, harassment, [and] emotional mental distress.” [Id. at 5].

Among other things, Plaintiff wants his conviction vacated, to be released from custody, and monetary relief. [Id.]. Plaintiff also asks for appointment of counsel. [Id.]. II. STANDARD OF REVIEW Because Plaintiff is proceeding in forma pauperis, the Court must review the Complaint to determine whether it is subject to dismissal on the grounds that it is “frivolous or malicious [or] fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2).

Furthermore, under § 1915A the Court must conduct an initial review and identify and dismiss the complaint, or any portion of the complaint, if it is frivolous, malicious, or fails to state a claim upon which relief may be granted; or seeks monetary relief from a defendant who is immune to such relief.

In its frivolity review, this Court must determine whether the Complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Furthermore, a pro se complaint must be construed liberally. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

However, the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in his Complaint which set forth a claim that is cognizable under federal law. *Weller v. Dep’t of Soc. Servs.*, 901 F.2d 387 (4th Cir. 1990). III. DISCUSSION To state a claim under § 1983, a plaintiff must allege that he was deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed by a “person” acting under color of state law.

See 42 U.S.C. § 1983; *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49-50 (1999); *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 143 S.Ct. 1444 (2023). Plaintiff’s Complaint fails initial review for several reasons. Neither a jail nor a police department is a “person” subject to suit under § 1983. See *Brooks v. Pembroke Jail*, 722 F.Supp. 1294, 1301 (E.D.N.C.

1989); *Wilkerson v. Chapel Hill Police Dept.*, No. 1:09CV60, 2009 WL 1505614, at *1 (M.D.N.C. May 27, 2009). Plaintiff, therefore, has failed to state a claim against these Defendants and the Court will dismiss them.

Moreover, prosecutors are immune from suit under the doctrine of prosecutorial immunity, and “the People of North Carolina,” especially as members of a grand jury, are not subject to suit under § 1983. *Imbler v. Pachtman*, 424 U.S. 409, 419, 423, n.20 (1976). Furthermore, there is no right,

constitutional or otherwise, for the subject of a grand jury proceeding to testify or confront witnesses.

See *State v. Jones*, 354 S.E.2d 251, 258 (N.C. Ct. App. 1987) (“[A] defendant is not allowed to cross-examine witnesses before a grand jury.”). As such, Plaintiff has failed to state a claim against Defendant Dierauf or the People of North Carolina.

The Court will dismiss these Defendants. Next, it appears here that Plaintiff’s claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). In *Heck*, the United States Supreme Court held as follows: [I]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus, 28 U.S.C. § 2254.

A claim for damages bearing that relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983. Thus, when a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.

But if the district court determines that the plaintiff’s action, even if successful, will not demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed, in the absence of some other bar to the suit. *Id.* at 486-87 (footnotes omitted; emphasis added).

Here, given the nature of the allegations in the Complaint, a judgment in Plaintiff’s favor would necessarily imply the invalidity of any conviction or sentence in the underlying criminal matter. Plaintiff, however, has not alleged that a conviction has been reversed or otherwise invalidated.

Therefore, his Complaint appears to be barred by *Heck*. Even if Plaintiff’s claims are not barred by *Heck*, it appears that they may be barred by the applicable statute of limitations in any event. See N.C. Gen. Stat. § 1-52(16); *Nat’l Adv. Co. v. City of Raleigh*, 947 F.2d 1158, 1162 n.2 (4th Cir. 1991).

The body of the Complaint contains allegations against individuals who are not named as defendants in the caption as required by Rule 10(a) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties[.]”); *Myles v. United States*, 416 F.3d 551 (7th Cir. 2005) (“[T]o make someone a party the plaintiff must specify him in the caption and arrange for service of process.”); *Perez v. Humphries*, No. 3:18-cv-107-GCM, 2018 WL 4705560, at *1 (W.D.N.C.

Oct. 1, 2018) (“A plaintiff’s failure to name a defendant in the caption of a Complaint renders any action against the purported defendant a legal nullity.”). The allegations directed at individuals not named as Defendants are therefore dismissed without prejudice.

Finally, to the extent that the Plaintiff seeks relief under North Carolina law, the Court declines to exercise supplemental jurisdiction, as no federal claim has passed initial review. See *Artis v. Dist. Of Columbia*, 583 U.S. 71, 74 (2018) (when a district court dismisses all claims independently qualifying for the exercise of federal jurisdiction, it “ordinarily dismiss[es] as well all related state claims.”); 28 U.S.C. § 1367(c)(3).

Accordingly, those claims are dismissed without prejudice. IV. APPOINTMENT OF COUNSEL There is no absolute right to the appointment of counsel in civil actions such as this one. Therefore, a plaintiff must present “exceptional circumstances” in order to require the Court to seek the assistance of a private attorney for a plaintiff who is unable to afford counsel.

Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987). The existence of exceptional circumstances in each case “hinges on characteristics of the claim and the litigant.” *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir. 1984).

To make this determination, a court must collectively assess “(1) whether the plaintiff asserts a claim that is not frivolous, (2) the difficulty of the claim, and (3) whether the plaintiff can present the claim considering the skill required to do so and the plaintiff’s individual abilities.” *Jenkins v. Woodard*, 109 F.4th 242, 248 (4th Cir. 2024) (citing *Brock v. City of Richmond*, 983 F.2d 1055, 1055 (4th Cir.

1993) (per curiam)). “The district court’s failure to make these assessments is legal error.” *Id.* Where a pro se plaintiff presents a colorable claim but “lacks the capacity to present it” in light of the objective complexity of the claim and the plaintiff’s subjective abilities, the case presents “exceptional circumstances.” *Id.* at 247 (quoting *Whisenant*, 739 F.2d at 162).

In this case, however, the Plaintiff has not yet even demonstrated that this claim will pass initial review, much less that it has potential merit. Until that has been shown, the Court cannot assess the complexity of the claim or what skill may be required to prosecute the same.

Therefore, at this stage, the Plaintiff has failed to meet any of the requirements for establishing exceptional circumstances necessitating the appointment of counsel. V. CONCLUSION In sum, Plaintiff’s claims will be dismissed on initial review for Plaintiff’s failure to state a claim for relief.

The Court will allow Plaintiff thirty (30) days to amend his Complaint, if he so chooses, to show that Heck does not apply, that his Complaint is not barred by the applicable limitations period(s), and to otherwise properly state a claim for relief. Should Plaintiff fail to timely amend his

Complaint in accordance with the terms of this Order, this action will be dismissed without prejudice and without further notice to Plaintiff.

ORDER IT IS, THEREFORE, ORDERED that Plaintiff shall have thirty (30) days in which to amend the Complaint in accordance with the terms of this Order. If Plaintiff fails to amend the Complaint in accordance with this Order and within the time limit set by the Court, this action will be dismissed without prejudice and without further notice to Plaintiff. IT IS FURTHER ORDERED that Plaintiff's Complaint will be DISMISSED on initial review for Plaintiffs failure to state a claim for relief and that Plaintiffs request for counsel therein is DENIED.

IT IS FURTHER ORDERED that all Defendants are hereby DISMISSED as Defendants in this matter. The Clerk is respectfully instructed to mail Plaintiff a blank Section 1983 form. IT IS SO ORDERED. Signed: March 18, 2026 Martifi Reidinger ee Chief United States District Judge AS