

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
NORTH CAROLINA

Timothy Omar Hankins v. Wells Fargo Bank, et al.

Case No. 7:24-CV-01112-M (E.D.N.C. Jan. 7, 2026) · No. 7:24-CV-01112-M · Decided January 7, 2026

SUMMARY

The United States District Court for the Eastern District of North Carolina adopts a magistrate judge's Memorandum and Recommendation and grants the defendants' motions to dismiss. Claims against North Carolina and state officials are dismissed on Eleventh Amendment and judicial-immunity grounds, while the remaining claims under 18 U.S.C. §§ 241, 242, 1589, and 1595 and 42 U.S.C. § 1983 are dismissed for lack of a private right of action, failure to state a claim, insufficient pleading, or untimeliness. The court overrules the plaintiff's objections and dismisses the claims against the moving defendants.

CASE DETAILS

COURT	United States District Court for the Eastern District of North Carolina
WRITING FOR THE COURT	Richard E. Myers II
JURISDICTION	United States District Court for the Eastern District of North Carolina
DECIDED	January 7, 2026
DOCKET	7:24-CV-01112-M
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Memorandum and Recommendation recommending dismissal of the plaintiff's claims and, out of caution despite the absence of specific objections, conducted de novo review before granting the defendants' motions to dismiss.
STANDARD OF REVIEW	De novo review of portions of the M&R to which specific objections were made; clear-error review in the absence of specific and timely objections. The court also applied Rule 12(b)(6) to determine whether the complaint stated a claim upon which relief could be granted.
PRECEDENTIAL VALUE	Nonprecedential district-court order

PARTIES

Timothy Omar Hankins v. Wells Fargo Bank, North Carolina, Josh Stein, Jeff Jackson, Leigh Stallings, Michael J. Denning, John Brian Ratledge, Pamela Reese, N. Lorin Freeman, and other defendants

TOPICS

motions to dismiss

eleventh amendment immunity

section 1983

subject matter jurisdiction

statute of limitations

PRACTICE AREAS

civil procedure

civil rights

constitutional law

federal jurisdiction

QUESTIONS PRESENTED

1. Whether claims against North Carolina and state officials in their official capacities were barred by Eleventh Amendment immunity.
2. Whether claims against state judges were barred by judicial immunity.
3. Whether 18 U.S.C. §§ 241 and 242 provide a private right of action.
4. Whether plaintiff stated a civil claim under 18 U.S.C. §§ 1589 and 1595 without alleging that he was a victim of trafficking, slavery, or involuntary servitude.
5. Whether plaintiff plausibly pleaded a conspiracy claim under 42 U.S.C. § 1983 and satisfied Rule 9's particularity requirement for fraud-related allegations.
6. Whether plaintiff's § 1983 conspiracy claims were barred by the applicable statutes of limitations.

HOLDINGS

1. Claims for monetary damages against North Carolina and its officials in their official capacities are barred by the Eleventh Amendment absent state consent or a valid statutory abrogation.
2. Plaintiff's claims against Judges Michael Denning and John Brian Ratledge were barred by judicial immunity.
3. Federal criminal statutes 18 U.S.C. §§ 241 and 242 do not create a private right of action.
4. Plaintiff failed to state a claim under 18 U.S.C. §§ 1589 and 1595 because he did not allege that he was a victim of trafficking, slavery, or involuntary servitude by any defendant.
5. Plaintiff failed to state a plausible § 1983 conspiracy claim because his complaint offered conclusory accusations, insufficient facts connecting the alleged conspirators, and no particularized facts concerning the alleged conspiracy or overt acts.
6. Plaintiff's § 1983 conspiracy claims were barred by the applicable statutes of limitations because the alleged real-estate and financial transactions occurred in or before December 2017.

KEY QUOTATIONS

“Under the Eleventh Amendment, . . . neither a State nor its officials in their official capacity may be sued for damages in federal court without their consent.” (DE 198 at 11-12)

“the claims are “not cognizable,” as federal criminal statutes “do not create a private right of action.”” (DE 198 at 13)

“Plaintiff’s complaint does not include facts sufficient to plausibly allege a § 1983 conspiracy claim against any Defendant” (DE 198 at 16-17)

“Plaintiff has not included facts to meet Rule 9’s heightened pleading standard for fraud claims” (DE 198 at 17)

FACTUAL BACKGROUND

Plaintiff’s claims arose from state domestic-relations proceedings involving his former wife, including an equitable-distribution award of \$681,970 that included proceeds from the sale of Raleigh real property held in escrow. Plaintiff alleged a longstanding conspiracy among state and private actors to deprive him of rights and property through those proceedings. His complaint asserted constitutional, civil-rights, criminal-statutory, and trafficking-related theories, but the court found the allegations vague, conclusory, and insufficiently connected to the defendants.

PROCEDURAL HISTORY

Plaintiff asserted claims arising from state domestic-relations and property proceedings, including claims under 18 U.S.C. §§ 241, 242, 1589, and 1595 and 42 U.S.C. § 1983. Magistrate Judge Kimberly A. Swank recommended dismissal of the claims against North Carolina and state officials as barred by Eleventh Amendment or other immunity and dismissal of the remaining claims under Rule 12(b)(6). The district court adopted the M&R in full, overruled plaintiff’s objections, granted the listed motions to dismiss, and dismissed the claims against the moving defendants.

DISPOSITION

dismissed

CASES CITED

- Gamache v. Cavanaugh, 82 F.3d 410, 1996 WL 174623, at *1 (4th Cir. 1996)
- El-Bey v. N.C. State Bar, No. 5:15-CV-44-H, 2015 WL 5703773, at *2 (E.D.N.C. 2015)
- Doe (L.M.) v. 42 Hotel Raleigh, LLC, 717 F. Supp. 3d 464, 468 (E.D.N.C. 2024)
- Mathews v. Weber, 423 U.S. 261, 271 (1976)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION Case No. 7:24-CV-01112-M TIMOTHY OMAR

HANKINS, Plaintiff, V. ORDER WELLS FARGO BANK, et al., Defendants. This matter comes before the court on a Memorandum and Recommendation (“M&R”) issued by United States Magistrate Judge Kimberly A. Swank recommending the dismissal of Plaintiff's claims against all moving defendants.!

DE 198. Judge Swank recommends dismissing Plaintiff's claims against North Carolina and its officials because those claims are barred by the Eleventh Amendment immunity, DE 198 at 10-12, and dismissing Plaintiff's remaining claims, which purportedly arise under Title 18 of the United States Code and 42 U.S.C. § 1983, because those claims fail to state claims upon which relief can be granted, DE 198 at 13-18.

For the reasons explained below, the court adopts in full the rationale and conclusion of the M&R. DE 198. The Defendants' individual Motions to Dismiss are GRANTED. DE 9, 46, 59, 85, 94, 96, 100, 102, 105, 107, 113, 117, 119, 126, 131, 135, 148, & 153.!

On January 5, 2026, this court adopted Judge Swank's M&Rs at DE 199, 190, and 191, thus dismissing Plaintiff's claims against the Town of Garner, Wake County, and the City of Raleigh. DE 228. As explained in that order, because Plaintiff did not properly serve those municipalities, the court lacked personal jurisdiction over them in this matter. DE 228. Background This is the most recent in Plaintiff's long line of complaints emanating from state domestic court proceedings between Plaintiff and his former wife, Sardis Marie Porter Hankins.

See *Hankins v. N.C. et al.*, no. 7:18-CV-37 (E.D.N.C. 2018); *Hankins v. N.C. et al.*, no. 7:18-CV-61 (E.D.N.C. 2018); *Hankins v. U.S.*, 7:20-CV-179 (E.D.N.C. 2020); and *Hankins v. Wake County*, 7:22-CV-152 (E.D.N.C. 2022). Plaintiff alleges the existence of a long standing and widespread conspiracy among various state and private actors which, through those state court proceedings, purportedly has deprived Plaintiff of rights and property.

DE 1. As Judge Swank explains in the M&R, Plaintiff's complaints seemingly originate from his separation proceedings. Plaintiff and Porter Hankins “separated in 2014,” and Porter Hankins sought equitable distribution in 2015. DE 198 at 4.

In 2018, following the separation, Defendant Judge Michael J. Denning ordered equitable distribution that awarded Porter Hankins “\$681,970.00, including proceeds from the sale of real property located at 610 E. Martin Street in Raleigh, which funds were being held in escrow by the closing attorney.” DE 198 at 5. Plaintiff, apparently, filed for bankruptcy following that award.

But, because Plaintiff “expressed in no uncertain terms that he [would] not voluntarily [work] so long as there is a risk that [Porter- Hankins] will receive any profits from his work,” Plaintiff's bankruptcy was dismissed for his refusal to be a “willing participant in efforts to satisfy his debts and gain a fresh start.” DE 198 at 5-6. Judge Swank's Recommendations Judge Swank divides

Plaintiffs remaining claims into two categories: those that are barred by the Eleventh Amendment or other immunity and those that are not.

As for the first category, Plaintiff brings claims against Leigh Stallings (former Family Court Administrator for Wake County), Judge Michael Denning (former District Court Judge for Wake County), Judge John Brian Ratledge (District Court Judge for Wake County), Pamela Reese (former Family Court Case Coordinator), N. Lorrin Freeman (District Attorney for North Carolina's 10th Prosecutorial District), State of North Carolina, Governor Josh Stein, and Attorney General Jeff Jackson.

DE 1. Those defendants (collectively, the "State Defendants"), moved to dismiss Plaintiff's claims on the grounds that Plaintiff's claims are barred by the Eleventh Amendment to the United States Constitution. DE 148.

The Eleventh Amendment provides that "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." US. Const. amend. XI.

Thus, "[u]nder the Eleventh Amendment,... neither a State nor its officials in their official capacity may be sued for damages in federal court without their consent." *Gamache v. Cavanaugh*, 82 F.3d 410, 1996 WL 174623, at *1 (4th Cir. 1996). Applying these standards, Judge Swank explains that Plaintiff neither "includes [] allegations from which it may be inferred that the State of North Carolina has waived its immunity with respect to Plaintiff's claims," nor "invoke[s] a federal statute that abrogates North Carolina's Eleventh Amendment immunity." DE 198 at 11-12.

Judge Swank further explains that Plaintiffs "claims against Judges Denning and Ratledge are [] barred by judicial immunity." DE 198 at 12. Thus, Judge Swank concludes that "Plaintiff has failed to meet his burden of demonstrating this court has subject-matter jurisdiction" and recommends that this court grant the State Defendants' motion on Eleventh Amendment grounds.

DE 198 at 12." As for Plaintiff's claims against the remaining Defendants, Judge Swank recommends dismissing those claims for failing to state claims on which relief can be granted, consistent with the Defendants' many motions under Rule 12(b)(6) of the Federal Rules of Civil Procedure. DE 198 at 13-18. Regarding Plaintiff's claims under 18 U.S.C. §§ 241 and 242, Judge Swank explains that the claims are "not cognizable," as federal criminal statutes "do not create a private right of action." DE 198 at 13 (citing *E/-Bey v. N.C.*

State Bar, No. 5:15-CV-44-H, 2015 WL 5703773, at *2 (E.D.N.C. 2015)). As for Plaintiffs claims under 18 U.S.C. §§ 1589 and 1595, which provide a private right of action, Judge Swank recommends dismissing Plaintiff's claims because "[a]t no point does Plaintiff allege he was the victim of trafficking, slavery, or involuntary servitude by any Defendant." DE 198 at 14; see 18

U.S.C. § 1595(a) (“An individual who is a victim of [trafficking or involuntary servitude] may bring a civil action against the perpetrator... and may recover damages and reasonable attorneys fees.”); see also *Doe (L.M.) v. 42 Hotel Raleigh, LLC*, 717 F. Supp. 3d 464, 468 (E.D.N.C.

2024) (recognizing “four elements for civil liability under § 1595”). Finally, Judge Swank recommends dismissing Plaintiffs § 1983 conspiracy claims on various grounds. First, “Plaintiff’s complaint does not include facts sufficient to plausibly allege a § 1983 conspiracy claim against any Defendant,” but instead “offers only baseless accusations that Defendants engaged in mortgage fraud, embezzlement, forgery, abuse of the law, and deprivation of Plaintiff’s civil rights.” DE 198 at 16.

Further, “there is no connection alleged * The Eleventh Amendment only bars claims against States and their officials, when those claims are for monetary damages and relate to officials acting in their official capacity. See U.S. Const. amend. XI.

To the extent Plaintiff may additionally intend to bring claims not subject to immunity, those claims would still fail to state claims upon which relief can be granted for the reasons explained in this order. between many of” the members of the allegedly widespread conspiracy. DE 198 at 17.

Moreover, Judge Swank explains, Plaintiff has not included facts to meet Rule 9’s heightened pleading standard for fraud claims,” but has instead “include[d] only conclusory assertions of fraud” without offering any “particularized facts as to the alleged conspiracy and any overt acts taken in furtherance of the conspiracy.” DE 198 at 17. And, because “Plaintiff’s § 1983 conspiracy claims all appear to involve real estate or financial transactions that occurred in or before December 2017,” they are barred by the applicable statutes of limitations.

DE 198 at 18. Discussion A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the... recommendation|]... receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); accord *Mathews v. Weber*, 423 U.S. 261, 271 (1976).

The court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Id. § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins.*

Co., 416 F.3d 310, 315 (4th Cir. 2005). Plaintiff filed two documents that seemingly contain his objections to the M&R. DE 226 & 227. In the first document, titled “RULE 59 RECONSIDERATION” and “FEDERAL QUESTION,” Plaintiff begins by describing his project: “If I [sic] was only allowed to ask a few questions they would be.” DE 226 at |. Plaintiff then poses those questions: 1. “When the law enforcement willingly with malice [sic] intent chooses not to properly investigate felonious activity for the purpose of perpetuating oppression, in furtherance of

promoting poverty which creates additional criminal activity, does [sic] these acts constitute a violation of rights protected by the 14th Amendment?” DE 226 at | (modifications in original); 2. “DOES THE LACK OF ACTION VIOLATE RIGHTS PROTECTED BY THE 14TH AMENDMENT?” DE 226 at 2 (modifications in original); 3. “DID THE BRUNSWICK COUNTY SHERIFF DEPARTMENT VIOLATE RIGHTS PROTECTED BY THE 14TH AMENDMENT & RIGHTS PROTECTED BY THE CIVIL RIGHTS ACT BY DENYING ME FULL AND EQUAL BENEFIT OF THE LAW?????2??” DE 226 at 2 (modifications in original); 4. “Are law enforcement constitutionally required by United States Law to protect the Citizens against felonious activity [?], DE 226 at 2 (modifications in original) 5. “Do black citizens have to know all the Federal Rules of Civil procedure to receive protection against felonious activity?” DE 226 at 2 (modifications in original) 6. when court officers and state officials mislead people into taking possession of property that they clearly know does not belong to another person, does that constitute a conspiracy against rights and a violation of rights protected by the United States Constitution, injuring the person who actually owns the property.” DE 226 at 2—3 (modifications in original).

Plaintiff then repeats his general allegations about a broad conspiracy between the various parties to deprive Plaintiff of his rights and property. DE 226 at 1-9. Plaintiff also filed another document, at DE 227, titled “AMENDMEND [SIC]... RULE 59 RECONSIDERATION... FEDERAL QUESTION... 42 USC § 1981 AND § 1983... SERVICE.” DE 227 at 1.

In that document, Plaintiff indicates various bodies of federal law and repeats his broad allegations about the conspiracy. DE 227. Plaintiff has not lodged specific objections. Indeed, based on Plaintiffs filings, he has merely disagreed with Judge Swank’s interpretation of the significance of his factual allegations and highlighted different parts of federal law that might support his claims.

DE 226, 227. However, out of an abundance of caution given Plaintiffs pro se status, the court has conducted a de novo review. As explained above, Plaintiff has attempted to sue North Carolina and several current and former state employees in their official capacities; the court lacks subject matter jurisdiction over those claims as they are barred by the Eleventh Amendment.

Plaintiffs remaining claims rely on insufficient and vague factual allegations that do not meet the requisite pleading requirements; Plaintiff has not stated a claim upon which relief can be granted. The court overrules Plaintiff’s objections and adopts in full the rationale and conclusions of the M&R. DE 198.

The Defendants’ remaining Motions to Dismiss, DE 9, 46, 59, 85, 94, 96, 100, 102, 105, 107, 113, 117, 119, 126, 131, 135, 148, & 153, are GRANTED. Plaintiffs claims against the moving Defendants are thus DISMISSED. SO ORDERED this oh. day of January, 2026. eh RICHARD E. MYERS II CHIEF UNITED STATES DISTRICT JUDGE

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