

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, NORTHERN DIVISION

Clifton Dixon, Jr. v. Keondria Cummings

Civil Action No. 3:26-cv-65-HTW-LGI (S.D. Miss. May 27, 2026) (Report and Recommendation) · No. 3:26-cv-65-HTW-LGI · Decided May 27, 2026

SUMMARY

This Report and Recommendation addresses screening of Clifton Dixon, Jr.’s amended 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915(e)(2)(B). The magistrate judge recommends summary dismissal for lack of federal jurisdiction and failure to state a cognizable § 1983 claim, and recommends denying the motion to proceed in forma pauperis as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Northern Division
WRITING FOR THE COURT	LaKeysha Greer Isaac
JURISDICTION	United States District Court for the Southern District of Mississippi, Northern Division
DECIDED	May 27, 2026
DOCKET	3:26-cv-65-HTW-LGI
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on screening of an amended pro se 42 U.S.C. § 1983 complaint filed by a plaintiff seeking leave to proceed in forma pauperis.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must dismiss an in forma pauperis action if it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from an immune defendant. A complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Clifton Dixon, Jr. v. Keondria Cummings

TOPICS

section 1983

subject matter jurisdiction

civil procedure

pleadings

PRACTICE AREAS

civil rights

federal civil procedure

federal courts

QUESTIONS PRESENTED

1. Whether the amended complaint established federal subject matter jurisdiction.
2. Whether the amended complaint stated a cognizable claim under 42 U.S.C. § 1983.
3. Whether the amended allegations stated any other plausible basis for federal relief.
4. Whether Plaintiff's motion to proceed in forma pauperis should be denied as moot after recommended dismissal.

HOLDINGS

1. The amended complaint did not establish federal subject matter jurisdiction because the parties did not appear to be completely diverse and Plaintiff did not allege a violation of the Constitution, federal law, or a treaty.
2. The amended complaint failed to state a cognizable claim under 42 U.S.C. § 1983 because it did not allege that Defendant acted under color of state law or deprived Plaintiff of a constitutional or federal statutory right.
3. The amended allegations failed to state a plausible claim for relief because they were vague and conclusory and provided little factual context.
4. To the extent Plaintiff sought to impose criminal liability on Defendant, he could not do so because a private party lacks authority to initiate or enforce a federal criminal prosecution.

KEY QUOTATIONS

“Private individuals generally are not considered to act under color of law, i.e., are not considered state actors. . . .” (at 2)

“A private party has no right to enforce federal criminal statutes” (at 3)

“more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” (at 3)

FACTUAL BACKGROUND

Plaintiff alleged that Defendant created fraudulent accounts in his name, hacked his phone, and stole his money. Plaintiff and Defendant appeared to be Mississippi residents, defeating complete diversity as alleged. The allegations did not identify a constitutional or statutory violation, state action, or sufficient factual context supporting a plausible federal claim.

PROCEDURAL HISTORY

Plaintiff moved to proceed in forma pauperis and filed a § 1983 civil-rights complaint. After finding the initial complaint deficient, the magistrate judge ordered Plaintiff to file an amended complaint. Following screening of the amended allegations under 28 U.S.C. § 1915(e)(2)(B), the magistrate judge recommended summary dismissal for lack of jurisdiction and failure to state a claim, and recommended denying the in forma pauperis request as moot. The parties were advised of their right to object under Federal Rule of Civil Procedure 72(b) and Local Rule 72(a)(3).

DISPOSITION

other

CASES CITED

- Reeves v. Collins, 27 F.3d 174, 176 (5th Cir. 1994)
- Jackson v. Vannoy, 49 F.3d 175, 176-77 (5th Cir. 1995)
- Moore v. Mabus, 976 F.2d 268, 269 (5th Cir. 1992)
- Neitzke v. Williams, 490 U.S. 319, 329, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989)
- Richardson v. United States, 943 F.2d 1107, 1112-12 (9th Cir. 1991)
- Pullman Co. v. Jenkins, 305 U.S. 534, 541, 59 S. Ct. 347, 83 L. Ed. 334 (1939)
- Krim v. pcOrder.com, Inc., 402 F.3d 489, 494 (5th Cir. 2005)
- Rehberg v. Paulk, 566 U.S. 356, 361, 132 S. Ct. 1497, 182 L. Ed. 2d 593 (2012)
- Ballard v. Wall, 413 F.3d 510, 518 (5th Cir. 2005)
- Bui Phu Xuan v. Fort Worth Star Telegram, 277 F. App'x 452, 454 (5th Cir. 2008)
- Johnson v. Atkins, 999 F.2d 99, 100 (5th Cir. 1993)
- Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009)
- Balawajder v. Jacobs, 220 F.3d 586 (5th Cir. 2000)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996)

OPINION

Dixon

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION
CLIFTON DIXON, Jr. PLAINTIFF
V. CIVIL ACTION NO. 3:26-cv-65-HTW-LGI
KEONDRIA CUMMINGS DEFENDANT
REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

This case is before the Court for a screening of Plaintiff's 42 U.S.C. § 1983 Civil Rights

Complaint under 28 U.S.C. § 1915(e)(2)(B). Plaintiff has filed a Motion for Leave to Proceed in forma pauperis under 28 U.S.C. § 1915(a)(1). The Court is required under §1915(e), however, to dismiss a case filed by a plaintiff seeking to proceed in forma pauperis if it determines that the Complaint is frivolous or malicious; fails to state a claim for which relief can be granted; or, seeks monetary relief against an immune defendant. *Reeves v. Collins*, 27 F.3d 174, 176 (5th Cir. 1994); see *Jackson v. Vannoy*, 49 F.3d 175, 176–77 (5th Cir. 1995); *Moore v. Mabus*, 976 F.2d 268, 269 (5th Cir. 1992). Upon finding Plaintiff’s initial complaint deficient, the undersigned issued an order directing Plaintiff to file an amended complaint. *Neitzke v. Williams*, 490 U.S. 319, 329, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989). Having now screened his amended allegations, the undersigned recommends that this case be summarily dismissed, and his request to proceed in forma pauperis be denied as moot. Plaintiff alleges that Defendant committed wrongful acts against him, which include, among other things, creating fraudulent accounts in his name, hacking his phone, and stealing his money. Federal courts are courts of limited jurisdiction, however, empowered to hear only those cases which are within the judicial power conferred by the United States Constitution and those which fall within the jurisdiction granted by Congress. *Richardson v. United States*, 943 F.2d 1107, 1112–12 (9th Cir. 1991). Jurisdiction must be based either on diversity of citizenship, in suits involving more than \$75,000 between citizens of different states, or on a claim involving the Constitution, laws, or treaties of the United States, 28 U.S.C. § 1331, 28 U.S.C. § 1332. To establish diversity jurisdiction, a plaintiff must allege that they are citizens of one state, that all defendants are citizens of other states, and that the damages are more than \$75,000. *Pullman Co. v. Jenkins*, 305 U.S. 534, 541, 59 S. Ct. 347, 83 L. Ed. 334 (1939). To invoke federal-question jurisdiction, a plaintiff must allege that the defendants have violated some constitutional or statutory provision. No basis for federal jurisdiction is present here. The named parties do not appear to be completely diverse; per Plaintiff, both are Mississippi residents. Moreover, Plaintiff does not allege that Defendant violated any statutory or constitutional provision. Though he has filed suit using the Court’s §1983 Civil Rights Complaint form, he fails to state a cognizable claim under this statute or any other statutory provision. *Krim v. pcOrder.com, Inc.*, 402 F.3d 489, 494 (5th Cir. 2005). Section 1983 imposes civil liability upon any person who, acting under the color of state law, deprives another individual of any rights, privileges, or immunities secured by the Constitution or laws of the United States. *Rehberg v. Paulk*, 566 U.S. 356, 361, 132 S. Ct. 1497, 182 L. Ed. 2d 593 (2012). Neither a private company nor a private individual are generally considered state actors subject to liability under §1983. *Ballard v. Wall*, 413 F.3d 510, 518 (5th Cir. 2005) (“Private individuals generally are not considered to act under color of law, i.e., are not considered state actors. . . .”). A purely private actor, that is, may be liable for misconduct in state court, but his conduct is not actionable under Section 1983, no matter how egregious. *Bui Phu Xuan v. Fort Worth Star Telegram*, 277 F. App’x 452, 454 (5th Cir. 2008). Accordingly, Plaintiff fails to state a cognizable §1983 claim. Liberally construed, Plaintiff’s amended allegations do not otherwise state a plausible basis for relief. Even

a liberally construed complaint must set forth facts giving rise to a claim on which relief may be granted. *Johnson v. Atkins*, 999 F.2d 99, 100 (5th Cir. 1993) (citations omitted). Plaintiff's amended allegations, however, remain vague and conclusory, with little to no context for the statements and allegations made therein. Though "detailed factual allegations," are not required, a complaint must provide "more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009). (quotation and citation omitted). To the extent that Plaintiff seeks to impose criminal liability upon Defendant, a private citizen lacks the authority to initiate a criminal prosecution against anyone. *Balawajder v. Jacobs*, 220 F.3d 586 (5th Cir. 2000) (citations omitted) ("A private party has no right to enforce federal criminal statutes"). For the reasons explained, the undersigned recommends that Plaintiff's Complaint be summarily dismissed for lack of jurisdiction and for failure to state a claim under §1915(e)(2)(B). Is it further recommended that Plaintiff's request to proceed in forma pauperis be denied as moot.

NOTICE OF RIGHT TO APPEAL/OBJECT

Under Rule 72(a)(3) of the Local Uniform Civil Rules of the United States District Courts for the Northern District of Mississippi and the Southern District of Mississippi, any party within 14 days after being served with a copy of this Report and Recommendation, may serve and file written objections. Within 7 days of the service of the objection, the opposing party must either serve and file a response or notify the District Judge that he or she does not intend to respond to the objection. The parties are notified that failure to file timely written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation, will bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. § 636, Fed. R. Civ. P. 72(b) (as amended, effective December 1, 2009); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996). Respectfully submitted on May 27, 2026.
s/LaKeysha Greer Isaac

UNITED STATES MAGISTRATE JUDGE