

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PRECEDENTIAL VALUE	nonprecedential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)