

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
VIRGINIA, RICHMOND DIVISION

William Parke Custis v. Richard Salter Phillips

Custis · No. 3:25cv775 (DJN) · Decided January 29, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia dismissed a pro se Virginia inmate’s 42 U.S.C. § 1983 action against his former criminal defense attorney. The court held that private attorneys and public defenders do not act under color of state law when performing traditional defense-counsel functions, and dismissed the action as legally frivolous and for failure to state a claim.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Virginia, Richmond Division                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | David J. Novak                                                                                                                                                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Eastern District of Virginia, Richmond Division                                                                                                                                                                                                                                                                   |
| DECIDED               | January 29, 2026                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 3:25cv775 (DJN)                                                                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | A Virginia inmate proceeding pro se filed a 42 U.S.C. § 1983 complaint against the attorney who represented him in criminal proceedings. The district court screened the complaint under 28 U.S.C. §§ 1915(e)(2) and 1915A and dismissed it.                                                                                                           |
| STANDARD OF REVIEW    | The court applied the PLRA screening standards under 28 U.S.C. §§ 1915(e)(2) and 1915A, including the familiar Federal Rule of Civil Procedure 12(b)(6) standard. Well-pleaded factual allegations were taken as true and viewed in the light most favorable to the plaintiff, but conclusory allegations were not entitled to an assumption of truth. |
| PRECEDENTIAL VALUE    | unpublished district court memorandum opinion                                                                                                                                                                                                                                                                                                          |

TOPICS

- section 1983
- prisoners rights
- motions to dismiss
- civil procedure
- civil rights

## PRACTICE AREAS

prisoner civil rights

Section 1983 litigation

federal civil procedure

criminal defense counsel liability

## QUESTIONS PRESENTED

1. Whether a § 1983 claim may be maintained against a private attorney or public defender for conduct undertaken while representing a criminal defendant.
2. Whether the complaint stated a legally cognizable § 1983 claim under the PLRA screening standards.

## HOLDINGS

1. A private attorney or public defender does not act under color of state or federal law when performing traditional defense-counsel functions in criminal proceedings.
2. The complaint was subject to dismissal as legally frivolous and for failure to state a claim upon which relief may be granted.

## KEY QUOTATIONS

*“Private attorneys and public defenders do not act under color of state or federal authority when they represent defendants in criminal proceedings.”*

*“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”*

## FACTUAL BACKGROUND

William Parke Custis, a Virginia inmate proceeding pro se, sued Richard Salter Phillips under 42 U.S.C. § 1983. Phillips had served as Custis's attorney during criminal proceedings. Custis alleged only that Phillips had failed to zealously represent him.

## PROCEDURAL HISTORY

Plaintiff filed a prisoner civil-rights complaint alleging that defense attorney Richard Salter Phillips failed to zealously represent him during criminal proceedings. Before service or further proceedings, the district court conducted mandatory PLRA screening and dismissed the complaint as legally frivolous and for failure to state a claim.

## DISPOSITION

dismissed

## CASES CITED

- Clay v. Yates, 809 F. Supp. 417, 427 (E.D. Va. 1992)
- Neitzke v. Williams, 490 U.S. 319, 327 (1989)
- Republican Party of N.C. v. Martin, 980 F.2d 943, 952 (4th Cir. 1992)

- Mylan Labs., Inc. v. Matkari, 7 F.3d 1130, 1134 (4th Cir. 1993)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 556, 570 (2007)
- Bass v. E.I. DuPont de Nemours & Co., 324 F.3d 761, 765 (4th Cir. 2003)
- Dickson v. Microsoft Corp., 309 F.3d 193, 213 (4th Cir. 2002)
- Iodice v. United States, 289 F.3d 270, 281 (4th Cir. 2002)
- Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978)
- Brock v. Carroll, 107 F.3d 241, 243 (4th Cir. 1997) (Luttig, J., concurring)
- Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985)
- Dowe v. Total Action Against Poverty in Roanoke Valley, 145 F.3d 653, 658 (4th Cir. 1998)
- Polk Cty. v. Dodson, 454 U.S. 312, 325 (1981)
- Cox v. Hellerstein, 685 F.2d 1098, 1099 (9th Cir. 1982)