

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
ALABAMA, NORTHEASTERN DIVISION

Trenece L. Harbour v. John Cryer, et al.

Harbour · No. 5:24-cv-124-ACA-JHE · Decided March 19, 2026

SUMMARY

The United States District Court for the Northern District of Alabama considers Trenece L. Harbour’s objections to a magistrate judge’s report and a motion to amend a pro se 42 U.S.C. § 1983 complaint. The court vacates its prior partial dismissal order, adopts the recommendation, dismisses the official-capacity claims with prejudice and the remaining claims without prejudice, and permits the malicious prosecution claims against Detectives John Cryer and Jimmy Woodard to proceed. The court denies leave to amend as futile.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of Alabama, Northeastern Division                                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Annemarie Carney Axon                                                                                                                                                                                                                                                                                                                                                       |
| JURISDICTION          | United States District Court for the Northern District of Alabama, Northeastern Division                                                                                                                                                                                                                                                                                    |
| DECIDED               | March 19, 2026                                                                                                                                                                                                                                                                                                                                                              |
| DOCKET                | 5:24-cv-124-ACA-JHE                                                                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | A pro se prisoner brought a civil-rights action under 42 U.S.C. § 1983. After initially adopting a magistrate judge's recommendation and partially dismissing the complaint, the district court vacated that dismissal because the plaintiff's objections were deemed timely under the prison-mailbox rule, considered the objections, and denied leave to amend as futile. |
| STANDARD OF REVIEW    | The court reviewed the magistrate judge's report and recommendation after determining that the prisoner's objections were timely under the prison-mailbox rule. It applied the futility standard to the motion for leave to amend and reviewed the proposed claims for whether they would still be subject to dismissal.                                                    |
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| <b>PRECEDENTIAL VALUE</b> | unpublished district court memorandum opinion; limited persuasive value                  |
| <b>PARTIES</b>            | Trenece L. Harbour v. John Cryer, Jimmy Woodard, Bud Turner, Jana Roberts, Byron McVeigh |

## TOPICS

section 1983 civil rights due process civil procedure

## PRACTICE AREAS

civil rights constitutional law civil procedure federal courts

## QUESTIONS PRESENTED

1. Whether Harbour's objections to the magistrate judge's report were timely under the prisoner-mailbox rule.
2. Whether the claims against defendants in their official capacities for monetary relief were barred by the Eleventh Amendment.
3. Whether Harbour should receive leave to amend claims against Judge Turner and prosecutors Roberts and McVeigh when the proposed claims were futile because of lack of supporting facts or prosecutorial immunity.
4. Whether the conspiracy claim against Detectives Cryer and Woodard was barred by the intracorporate conspiracy doctrine.
5. Whether the false-arrest, malicious-prosecution, and other § 1983 claims should be dismissed or allowed to proceed under 28 U.S.C. § 1915A.

## HOLDINGS

1. A prisoner's objections are deemed filed when delivered to prison officials for mailing, and Harbour's objections were timely because they were dated before the deadline.
2. Although a pro se plaintiff generally must be given at least one opportunity to amend before dismissal with prejudice, leave may be denied when the proposed amendment would be futile because the amended complaint would still be subject to dismissal.
3. Prosecutors are absolutely immune from § 1983 claims based on conduct within their prosecutorial authority, including presenting evidence to a grand jury and appearing in court to support a warrant application.
4. The intracorporate conspiracy doctrine bars a civil-rights conspiracy claim when the alleged conspirators are employees of the same entity and act within the scope of their employment.

## KEY QUOTATIONS

*“Generally, a pro se plaintiff “must be given at least one chance to amend the complaint before the district court dismisses the action with prejudice—at least, that is, where a more carefully drafted complaint might state a claim.””* (Memorandum opinion at 2)

*“But that opportunity is not warranted if amendment would be futile—that is, “when the complaint as amended is still subject to dismissal.””* (Memorandum opinion at 2)

*“A plaintiff claiming a § 1983 conspiracy must prove the defendants reached an understanding to violate the plaintiff’s constitutional rights.”* (Memorandum opinion at 5)

## FACTUAL BACKGROUND

Harbour filed a pro se § 1983 complaint against a state-court judge, two prosecutors, and two detectives arising from his arrest and prosecution. He alleged false arrest, malicious prosecution, conspiracy, and due-process violations, and sought monetary, injunctive, and declaratory relief. The proposed amended complaint added or substituted prosecutor Byron McVeigh and alleged that the prosecutors failed to independently determine probable cause before presenting evidence to a grand jury and seeking an arrest warrant.

## PROCEDURAL HISTORY

The magistrate judge recommended dismissal with prejudice of all claims except malicious-prosecution claims against Detectives Cryer and Woodard. The district court initially adopted the recommendation in part after receiving no objections by the apparent deadline. Upon receiving objections dated before the deadline, the court vacated the partial dismissal order, overruled the objections, adopted the report and recommendation, dismissed the official-capacity claims for monetary relief with prejudice, dismissed the remaining claims without prejudice, allowed the malicious-prosecution claims against Cryer and Woodard to proceed, and denied the motion to amend.

## DISPOSITION

other

## REMAND INSTRUCTIONS

The Clerk of Court was ordered to refer Harbour's malicious-prosecution claims against Detectives Cryer and Woodard to the magistrate judge for further proceedings.

## CASES CITED

- *Houston v. Lack*, 487 U.S. 266, 270–72 (1988)
- *Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1132 (11th Cir. 2019)
- *Burger King Corp. v. Weaver*, 169 F.3d 1310, 1320 (11th Cir. 1999)
- *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993)
- *Rehberg v. Paulk*, 611 F.3d 828, 837–38 (11th Cir. 2010)
- *Shipner v. E. Air Lines, Inc.*, 868 F.2d 401, 406–07 (11th Cir. 1989)

- Hall v. United Ins. Co. of Am., 367 F.3d 1255, 1262–63 (11th Cir. 2004)
- Grider v. City of Auburn, 618 F.3d 1240, 1260 (11th Cir. 2010)
- Grider v. City of Auburn, 618 F.3d 1240, 1261 (11th Cir. 2010)
- Van de Kamp v. Goldstein, 555 U.S. 335, 343 (2009)

## OPINION

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION TRENECE L. HARBOUR, ) ) Plaintiff, ) ) v. ) Case No. 5:24-cv-  
124-ACA-JHE ) JOHN CRYER, et al., ) ) Defendants. ) MEMORANDUM OPINION Plaintiff  
Trenece L. Harbour filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983 against  
Calhoun County Circuit Court Judge Bud Turner, Calhoun County Assistant District Attorney Jana  
Roberts, Detective John Cryer, and Detective Jimmy Woodard.<sup>1</sup> (Doc.

1 at 1, 3). The magistrate judge entered a report recommending the court dismiss the complaint  
with prejudice, except the malicious prosecution claims against Messrs. Cryer and Woodard. (Doc.  
10). The magistrate judge advised Mr. Harbour of his right to file objections. (Id. at 14; doc. 11;  
doc. 12).

The deadline to object passed, and the court received no objections. The court then accepted the  
magistrate judge’s report and dismissed all claims except the malicious prosecution claims against  
Messrs. Cryer and Woodard. (Doc. 13). 1 Incorrectly identified as “Marshall Woodward” in the  
complaint. (Doc. 1 at 3; Doc. 17 at 1). Over a month after the deadline to object, the court received  
Mr. Harbour’s objections to the report and recommendation.

(Doc. 15). A prisoner proceeding pro se has virtually no control over the mailing of his pleadings,  
so his pleadings are deemed filed at the time the prisoner delivers them to prison officials to be  
mailed. See *Houston v. Lack*, 487 U.S. 266, 270–72 (1988).

Because Mr. Harbour’s objections were dated before the deadline (doc. 15 at 5), the court assumes  
they were timely filed. Accordingly, the court WILL VACATE the partial dismissal order entered  
August 25, 2025 (doc. 13), and address Mr. Harbour’s objections. Mr. Harbour also filed an  
amended complaint, which the court construes as a motion for leave to amend.

(Doc. 19); see Fed. R. Civ. P. 15(a)(1), (2) (prescribing that a party may amend its complaint only  
once as a matter of course within twenty- one days of filing but otherwise must seek the court’s  
leave for amendment).

The amended complaint names Messrs. Cryer and Woodard as defendants but replaces Judge  
Turner and Ms. Roberts with Calhoun County Assistant District Attorney Byron McVeigh. (Doc.  
19 at 2). Because the proposed amendment is futile, the court WILL DENY Mr. Harbour’s motion  
for leave to amend.

I. MR. HARBOUR'S OBJECTIONS Mr. Harbour does not contest that the Eleventh Amendment prohibits his claims against Defendants in their official capacities for monetary relief. (See generally doc. 15 at 2). Mr. Harbour also acknowledges that his complaint fails to state a claim for relief against Judge Turner and Ms. Roberts in their individual capacities and moves for leave to amend his complaint against these defendants.

(Id. at 2–4). As explained below, the court WILL OVERRULE Mr. Harbour's objections and WILL DENY his motion for leave to amend his complaint as futile. Generally, a pro se plaintiff "must be given at least one chance to amend the complaint before the district court dismisses the action with prejudice—at least, that is, where a more carefully drafted complaint might state a claim." *Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1132 (11th Cir.

2019) (internal quotation marks omitted). But that opportunity is not warranted if amendment would be futile—that is, "when the complaint as amended is still subject to dismissal." *Burger King Corp. v. Weaver*, 169 F.3d 1310, 1320 (11th Cir. 1999) (internal quotation marks omitted). Mr. Harbour relays that his amended complaint will bring claims against Judge Turner in his individual capacity for injunctive and declaratory relief.

(Doc. 15 at 2). But the magistrate judge already rejected the injunctive and declaratory relief claims against Judge Turner in his individual capacity. (Doc. 10 at 5–7). Mr. Harbour does not allege in his objections or complaint any new facts that would substantiate a claim for injunctive or declaratory relief. (Docs. 1, 15). Next, Mr. Harbour seeks leave to amend his complaint to allege that Ms. Roberts did not act in her capacity as a prosecutor when she presented his case to the grand jury.

(Doc. 15 at 2–4). He maintains Ms. Roberts is not entitled to prosecutorial immunity because she acted as an investigator. (Id. at 3). But prosecutors act within their prosecutorial authority when presenting evidence to a grand jury. See *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993) (noting that absolute immunity protects a prosecutor in preparing for the initiation of judicial proceedings including presentation of evidence before a grand jury); *Rehberg v. Paulk*, 611 F.3d 828, 837–38 (11th Cir.

2010) (stating that prosecutors are immune for appearances in judicial proceedings, "including prosecutorial conduct before grand juries"). Therefore Ms. Roberts is entitled to immunity. Finally, Mr. Harbour does not object to the magistrate judge's recommendation with regard to his claims against Messrs. Cryer and Woodard. (See generally doc. 15).

Accordingly, the court WILL ADOPT the magistrate judge's report and WILL ACCEPT the recommendation. The court WILL DISMISS all claims against Ms. Roberts and Judge Turner and the false arrest claim against Messrs. Cryer and Woodard WITHOUT PREJUDICE.

The malicious prosecution claim against Messrs. Cryer and Woodard may proceed. II. MR. HARBOUR'S AMENDED COMPLAINT A trial court has discretion to grant or deny a motion to amend. See *Shipner v. E. Air Lines, Inc.*, 868 F.2d 401, 406–07 (11th Cir. 1989).

Although Federal Rule of Civil Procedure 15(a) provides that “[t]he court should freely give leave when justice so requires,” the court may deny a motion to amend if amendment would be futile. *Hall v. United Ins. Co. of Am.*, 367 F.3d 1255, 1262–63 (11th Cir. 2004).

Because Mr. Harbour’s proposed amendment would be futile, the court WILL DENY the motion for leave to amend the complaint. (Doc. 19). Mr. Harbour’s amended complaint reasserts his claims for false arrest and malicious prosecution against Messrs. Cryer and Woodard. (Doc. 19 at 3–13).

The court has already discussed these claims above. But Mr. Harbour also asserts a claim for conspiracy against Messrs. Cryer and Woodard. (*Id.* at 13–16). “A plaintiff claiming a § 1983 conspiracy must prove the defendants reached an understanding to violate the plaintiff’s constitutional rights.” *Grider v. City of Auburn*, 618 F.3d 1240, 1260 (11th Cir. 2010) (quotation marks omitted).

But the intracorporate conspiracy doctrine bars civil rights conspiracy suits when the allegedly conspiring parties are employees of the same corporation and act within the scope of their duties. *Grider v. City of Auburn*, 618 F.3d 1240, 1261 (11th Cir. 2010). Messrs. Cryer and Woodard are both alleged to be detectives with the Calhoun County Sheriff’s Department.

(Doc. 19 at 2). And sheriff’s deputies act within the scope of their employment when investigating and arresting suspects. See *id.* So the conspiracy claim would fail. Mr. Harbour abandons his claims against Judge Turner and Ms. Roberts by failing to allege any facts against these defendants. (See generally doc. 19). But he now asserts a claim for violations of his Fifth and Fourteenth Amendment due process rights against Mr. McVeigh.

(Doc. 19 at 17). Mr. Harbour alleges that Mr. McVeigh “failed to perform his duty of making an independent determination of probable cause” before presenting evidence to a grand jury and before seeking a warrant for Mr. Harbour’s arrest. (*Id.* at 10, 14, 17). But as explained above, prosecutors are immune from conduct concerning the initiation of judicial proceedings, including presentation of evidence before a grand jury.

See *Buckley*, 509 U.S. at 273. And prosecutors are immune when they appear in court and present evidence in support of a warrant application. *Van de Kamp v. Goldstein*, 555 U.S. 335, 343 (2009). Because the claims against Mr. McVeigh suffer from the same flaws as the claims against Ms. Roberts, amendment is futile. III. CONCLUSION After careful consideration of the entire record, the magistrate judge’s report, and Mr. Harbour’s objections, the court WILL ADOPT the report and WILL ACCEPT the recommendation.

Consistent with that recommendation, the court WILL DISMISS Mr. Harbour's claims against Defendants in their official capacities for monetary relief under 28 U.S.C. § 1915A(b)(2) WITH PREJUDICE. The court WILL ORDER the Clerk of Court to refer Mr. Harbour's malicious prosecution claims against Messrs. Cryer and Woodard to the magistrate judge for further proceedings.

The court WILL DISMISS Mr. Harbour's remaining claims WITHOUT PREJUDICE under 28 U.S.C. § 1915A(b)(1). The court WILL DENY Mr. Harbour's motion to amend. (Doc. 19). The court will enter an order consistent with this memorandum opinion. DONE and ORDERED this March 19, 2026. ANNEMARIE CARNEY AXON UNITED STATES DISTRICT JUDGE