

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TEXAS, EL PASO DIVISION

Mark Hilal v. Enrique D. Mendoza, R. Michael Martinez, City of El Paso, Phoenix Security LLC, Redcap Staffing Agency, and Franklin Construction Limited

Hilal · No. EP-25-cv-00444-KC-RFC · Decided December 16, 2025

SUMMARY

The court grants Mark Hilal’s motion to proceed in forma pauperis and recommends dismissal of his 42 U.S.C. § 1983 claims with prejudice as frivolous. The recommendation rests on the conclusion that crime victims have no constitutionally protected right to a criminal investigation or prosecution. The court also recommends dismissal without prejudice of the remaining state-law claims for lack of subject-matter jurisdiction because the federal claims do not provide a jurisdictional anchor.

CASE DETAILS

COURT	United States District Court for the Western District of Texas, El Paso Division
WRITING FOR THE COURT	Robert F. Castaneda
JURISDICTION	United States District Court for the Western District of Texas, El Paso Division
DECIDED	December 16, 2025
DOCKET	EP-25-cv-00444-KC-RFC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to proceed in forma pauperis and submitted a complaint asserting 42 U.S.C. § 1983 claims and state-law claims. The magistrate judge granted in forma pauperis status and issued a report and recommendation that the § 1983 claims be dismissed with prejudice as frivolous and the remaining state-law claims be dismissed without prejudice for lack of subject-matter jurisdiction.
STANDARD OF REVIEW	For purposes of screening an in forma pauperis complaint, the court assumed the truth of the factual allegations and considered whether the claims were frivolous, failed to state a claim, or sought relief from an immune defendant. Subject-matter jurisdiction was considered under

	Federal Rule of Civil Procedure 12(h)(3), which requires dismissal whenever the court determines that jurisdiction is lacking.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Mark Hilal v. Enrique D. Mendoza, R. Michael Martinez, City of El Paso, Phoenix Security LLC, Redcap Staffing Agency, Franklin Construction Limited

TOPICS

[section 1983](#)
[subject matter jurisdiction](#)
[civil rights](#)
[due process](#)
[equal protection](#)

PRACTICE AREAS

[civil rights](#)
[civil procedure](#)
[federal jurisdiction](#)

QUESTIONS PRESENTED

1. Whether Hilal qualified to proceed in forma pauperis based on his financial circumstances.
2. Whether the § 1983 claims were frivolous because the Constitution does not confer a private citizen with a right to have an alleged crime investigated or prosecuted.
3. Whether the court had supplemental jurisdiction over the state-law claims after the federal § 1983 claims were subject to dismissal.

HOLDINGS

1. The court granted Hilal's motion to proceed in forma pauperis because his income, assets, and financial circumstances showed that he lacked sufficient resources to pay the filing costs.
2. The court concluded that the § 1983 claims were frivolous because a private citizen has no constitutionally protected right to have an alleged wrongdoer criminally investigated or prosecuted.
3. The court concluded that it lacked subject-matter jurisdiction over Hilal's remaining state-law claims because dismissal of the § 1983 claims left no federal jurisdictional anchor and no alternative basis for federal jurisdiction was alleged.

KEY QUOTATIONS

“The Supreme Court has long held that there is no “judicially cognizable interest in the prosecution or nonprosecution of another.”” (Discussion § B)

“Thus, Plaintiff claims a constitutional violation that does not exist as a matter of law.” (Discussion § B)

FACTUAL BACKGROUND

Hilal alleged that on October 4, 2023, someone stole his replacement U.S. Naturalization Certificate and other identification documents. He claimed that Officer Enrique Mendoza misclassified the theft, Detective R. Michael Martinez failed to reclassify it or conduct a good-faith investigation, and the City of El Paso maintained

policies or customs that caused the alleged constitutional violations. He also asserted negligence, retaliation and interference-with-justice, and intentional-infliction-of-emotional-distress claims against private and governmental defendants.

PROCEDURAL HISTORY

Hilal filed the action and an application to proceed in forma pauperis on October 3, 2025. The case was assigned to District Judge Kathleen Cardone, who referred the motion to Magistrate Judge Robert F. Castaneda. The magistrate judge granted the motion, ordered the complaint and civil cover sheet docketed, declined to order service, and recommended dismissal of the federal and state claims.

DISPOSITION

other

CASES CITED

- Neitzke v. Williams, 490 U.S. 319, 324-25 (1989)
- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 342-43 (1948)
- Berry v. Brady, 192 F.3d 504, 507 (5th Cir. 1999)
- Harper v. Showers, 174 F.3d 716, 718 (5th Cir. 1999)
- Bradley v. Puckett, 157 F.3d 1022, 1025 (5th Cir. 1998)
- Ashe v. Corley, 992 F.2d 540, 544 (5th Cir. 1993)
- Ramirez v. Escajeda, 298 F. Supp. 3d 933, 941 (W.D. Tex. 2018)
- Albright v. Oliver, 510 U.S. 266, 271 (1994)
- Baker v. McCollan, 443 U.S. 137, 144 n.3 (1979)
- Whitley v. Hanna, 726 F.3d 631, 638 (5th Cir. 2013)
- James v. Tex. Collin Cnty., 535 F.3d 365, 373 (5th Cir. 2008)
- Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973)
- Rivens-Baker v. Riley, No. SA-22-CV-01167-OLG, 2024 WL 1173045, at *7 (W.D. Tex. Feb. 15, 2024)
- Merritt v. City of Ennis, No. Civ.A.3:04CV2606-G, 2005 WL 440408, at *3 (N.D. Tex. Feb. 24, 2005)
- Home Builders Ass’n of Miss., Inc. v. City of Madison, Miss., 143 F.3d 1006, 1010 (5th Cir. 1998)
- Nowak v. Ironworkers Loc. 6 Pension Fund, 81 F.3d 1182, 1187 (2d Cir. 1996)
- Harrison v. Reid, No. 1:23-CV-01316-RP-SH, 2023 WL 8792169, at *1 (W.D. Tex. Dec. 19, 2023)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION MARK HILAL, § § Plaintiff, § § v. § § EP- 25-cv-00444 -KC-RFC
ENRIQUE D. MENDOZA, R. § MICHAEL MARTINEZ, CITY OF EL § PASO, PHOENIX
SECURITY LLC, § REDCAP STAFFING AGENCY, and § FRANKLIN CONSTRUCTION §
LIMITED § § Defendants. § ORDER AND REPORT AND RECOMMENDATION On this day,

the Court considered Plaintiff Mark Hilal's Motion to Proceed in Forma Pauperis [hereinafter "Mot.,"], ECF No. 1, and attached Complaint, ECF No. 1-1.

The case was assigned to United States District Judge Kathleen Cardone, who referred the Motion to the undersigned magistrate. After due consideration, the Court GRANTS Plaintiff's Motion to Proceed in Forma Pauperis.

However, the Court RECOMMENDS that the claims brought under 42 U.S.C. § 1983 be DISMISSED WITH PREJUDICE as frivolous, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). The Court further RECOMMENDS the remaining state-law claims be DISMISSED WITHOUT PREJUDICE, in accordance with Fed. R. Civ. P. 12(h)(3).

I. DISCUSSION Plaintiff filed a motion to proceed in forma pauperis on October 3, 2025. See Mot. In his attached Complaint, Plaintiff brought the following claims: (1) Section 1983 claims against Defendants Mendoza, Martinez, and City of El Paso; (2) negligence claims against Defendants Redcap Staffing Agency and Franklin Construction Limited; (3) claims for "Unlawful Retaliation and Interference with Justice" against Defendants Phoenix Security LLC and Redcap Staffing Agency; and (4) claims of intentional infliction of emotional distress against all Defendants.

Compl. 3–4. Plaintiff asserts that the Court possesses original jurisdiction over his Section 1983 claims under 28 U.S.C. § 1331 and supplemental jurisdiction over the remaining state-law claims pursuant to 28 U.S.C. § 1367. *Id.* at 2. A. Plaintiff's motion to proceed in forma pauperis is granted. "The federal in forma pauperis statute... is designed to ensure that indigent litigants have meaningful access to the federal courts" by allowing them to commence legal actions in federal court even if they are unable to pay the costs associated with filing.

Neitzke v. Williams, 490 U.S. 319, 324 (1989) (citing *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 342–343 (1948)). To be granted in forma pauperis status, applicants must show that they are "unable to pay such fees or give security therefor." § 1915(a)(1).

After considering Plaintiff's income, assets, and financial circumstances, see Mot., the Court finds that Plaintiff lacks sufficient resources to cover the costs of filing. Accordingly, Plaintiff's Motion to Proceed in Forma Pauperis is GRANTED. B. The Court recommends Plaintiff's Section 1983 claims be dismissed as frivolous. Recognizing that litigants proceeding in forma pauperis "lack[] economic incentive to refrain from filing frivolous, malicious, or repetitive lawsuits," *Neitzke*, 490 U.S. at 324, Congress requires district courts to dismiss a claim brought in forma pauperis at any time if the court determines the claim is "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief," § 1915(e)(2)(B).

A frivolous claim is one which “lacks an arguable basis either in law or in fact.” *Neitzke*, 490 U.S. at 325. A claim lacks an arguable basis in law if “it is based on an indisputably meritless legal theory, such as if the complaint alleges the violation of a legal interest which clearly does not exist.” *Berry v. Brady*, 192 F.3d 504, 507 (5th Cir. 1999) (quoting *Harper v. Showers*, 174 F.3d 716, 718 (5th Cir.

1999)). In determining whether dismissal is proper, the court must assume each of the plaintiff’s factual allegations are true. *Bradley v. Puckett*, 157 F.3d 1022, 1025 (5th Cir. 1998) (citing *Ashe v. Corley*, 992 F.2d 540, 544 (5th Cir.1993)). “By its text, [Section] 1983 provides redress to persons who have suffered a deprivation of their constitutional rights at the hands of a government official.” *Ramirez v. Escajeda*, 298 F. Supp. 3d 933, 941 (W.D.

Tex. 2018). The statute “‘is not itself a source of substantive rights,’ but merely provides ‘a method for vindicating federal rights elsewhere conferred.’” *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*, 443 U.S. 137, 144, n.3 (1979)). “To state a [S]ection 1983 claim, ‘a plaintiff must (1) allege a violation of a right secured by the Constitution or laws of the United States and (2) demonstrate that the alleged deprivation was committed by a person acting under color of state law.’” *Whitley v. Hanna*, 726 F.3d 631, 638 (5th Cir.

2013) (quoting *James v. Tex. Collin Cnty.*, 535 F.3d 365, 373 (5th Cir.2008)). In support of his Section 1983 claims, Plaintiff alleges that on October 4, 2023, he was the victim of a “felony theft of his replacement U.S. Naturalization Certificate and other critical identification documents.” Compl. 2. Plaintiff contends the investigation of the theft was constitutionally deficient, specifically claiming (1) Defendant Mendoza, the responding officer, violated both the Due Process and Equal Protection Clause by deliberately misclassifying the offense; (2) Defendant Martinez, the detective assigned to the case, violated the same clauses by intentionally failing to reclassify the theft or “conduct a good-faith investigation”; and (3) Defendant City of El Paso promulgated “policies, practices, and customs” which resulted in or exacerbated the purported violations.

Compl. 2–4. Even assuming the truth of all factual allegations, Plaintiff’s Section 1983 claims are not legally viable because they rest on the false premise that the Constitution confers crime victims with a right to an investigation.

The Supreme Court has long held that there is no “judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973). By extension, private citizens “do not enjoy a constitutionally protected right to have wrongdoers criminally investigated..., even if [they are] the victim[s] of an alleged wrongdoer’s criminal acts.” *Rivens-Baker v. Riley*, No. SA-22-CV-01167-OLG, 2024 WL 1173045, at *7 (W.D.

Tex. Feb. 15, 2024), appeal dismissed, No. 24-50181, 2024 WL 4185992 (5th Cir. May 9, 2024) (citing *Merritt v. City of Ennis*, No. Civ.A.3:04CV2606-G, 2005 WL 440408, at *3 (N.D. Tex. Feb. 24, 2005)) (citation modified).

Thus, Plaintiff claims a constitutional violation that does not exist as a matter of law. Because Plaintiff alleges a violation of a legal interest that does not exist, the Court RECOMMENDS Plaintiff's Section 1983 claims be DISMISSED WITH PREJUDICE as frivolous. C. The Court recommends Plaintiff's remaining claims be dismissed because the Court lacks subject-matter jurisdiction.

A court must dismiss an action if it "determines at any time that it lacks subject-matter jurisdiction." Fed. R. Civ. P. 12(h)(3). A case falls outside the jurisdiction of the court where the federal judiciary "lacks the statutory or constitutional power to adjudicate the case." *Home Builders Ass'n of Miss., Inc. v. City of Madison, Miss.*, 143 F.3d 1006, 1010 (5th Cir.

1998) (quoting *Nowak v. Ironworkers Loc. 6 Pension Fund*, 81 F.3d 1182, 1187 (2d Cir. 1996)). Plaintiff contends that Section 1367 supplies a basis for the Court's exercise of supplemental jurisdiction over the remaining state-law claims. Compl. 1.

However, "[a] federal court may exercise supplemental jurisdiction over a claim based on state law only if it has original jurisdiction over a related claim." *Harrison v. Reid*, No. 1:23-CV-01316-RP-SH, 2023 WL 8792169, at *1 (W.D. Tex. Dec. 19, 2023), report and recommendation adopted, No. 1:23-CV- 1316-RP, 2024 WL 201366 (W.D. Tex. Jan. 18, 2024) (citing § 1367(a)).

Because Plaintiff's Section 1983 claims should be dismissed as frivolous, there is no jurisdictional anchor to support supplemental jurisdiction. In the absence of an alternative grant of jurisdiction, the Court lacks statutory authority to consider the state-law claims.

Thus, the Court RECOMMENDS Plaintiff's remaining claims be DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction. II. CONCLUSION As to Plaintiff's Motion to Proceed in Forma Pauperis, ECF No. 1, the Court enters the following ORDERS: 1.

The Court GRANTS Plaintiff's Motion to Proceed in Forma Pauperis, ECF No. 1; and 2. The Court ORDERS the Clerk of the Court to docket the Complaint, ECF No. 1-1, and Civil Cover Sheet, ECF No. 1-2.1 The Court further RECOMMENDS: 1. Plaintiff's Section 1983 claims be DISMISSED WITH PREJUDICE as frivolous, pursuant to § 1915(e)(2)(B)(ii); 1 Given that the Court finds dismissal is warranted, the Court declines to order service of process on Defendants at this time.

2. Plaintiff's remaining claims be DISMISSED WITHOUT PREJUDICE, in accordance with Fed. R. Civ. P. 12(h)(3). SIGNED and ENTERED this 16th day of December, 2025. Mip-Mee ROBERT F. CASTANEDA UNITED STATES MAGISTRATE JUDGE NOTICE FAILURE TO

FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THE FOREGOING REPORT, WITHIN FOURTEEN DAYS OF SERVICE OF SAME, MAY BAR DE NOVO DETERMINATION BY THE DISTRICT JUDGE OF AN ISSUE COVERED HEREIN AND SHALL BAR APPELLATE REVIEW, EXCEPT UPON GROUNDS OF PLAIN ERROR, OF ANY UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS AS MAY BE ACCEPTED OR ADOPTED BY THE DISTRICT COURT.