

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

Devon Frye v. Jason Wilson, et al.

Civil Action No. 3:24cv641 (E.D. Va. June 3, 2026) · No. Civil Action No. 3:24cv641 · Decided June 3, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia denied a nonparty's motion to reopen judgment and request permission to file an amicus curiae brief. The court held that the motion was untimely and that the proposed amicus participation would not provide useful assistance in the already-dismissed civil rights action.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
WRITING FOR THE COURT	M. Hannah Lauck
JURISDICTION	United States District Court for the Eastern District of Virginia, Richmond Division
DECIDED	June 3, 2026
DOCKET	Civil Action No. 3:24cv641
DISPOSITION	denied
PROCEDURAL POSTURE	The court considered a nonparty's motion to reopen the judgment and obtain permission to file an amicus curiae brief after the action had already been dismissed with prejudice.
STANDARD OF REVIEW	Abuse of discretion; the district court has broad discretion in deciding whether to permit a nonparty to participate as amicus curiae.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; precedential status is unknown.

TOPICS

- civil procedure
- motion for reconsideration
- section 1983
- appellate procedure

PRACTICE AREAS

- Civil procedure
- Civil rights

QUESTIONS PRESENTED

1. Whether a nonparty should be permitted to file an amicus curiae brief after the underlying action had been dismissed with prejudice.
2. Whether Richardson's motion was timely and whether the proposed amicus submission would be useful to the court.

HOLDINGS

1. The motion was untimely because it was filed almost a year after the deadline identified by the court and several months after the action had been dismissed with prejudice.
2. Leave to file the amicus brief was properly denied because the proposed submission could not assist the court in resolving the already-adjudicated action or motion to dismiss and Richardson did not demonstrate that he would provide helpful legal analysis.

KEY QUOTATIONS

“A federal district court has “broad discretion in deciding whether to allow a non-party to participate as an amicus curiae.”” (Memorandum Opinion, amicus standard)

“A court should only grant leave to file an amicus curiae brief if the court “deems the proffered information timely and useful.”” (Memorandum Opinion, amicus standard)

“For the foregoing reasons, the Motion (ECF No. 18) will be DENIED.” (Memorandum Opinion, conclusion)

FACTUAL BACKGROUND

Frye, an individual civilly committed at the Virginia Center for Behavioral Rehabilitation, brought a § 1983 action against Jason Wilson, Nathan Moore, and Sanita Rhodes. The court dismissed the action with prejudice for failure to state a claim, and Frye did not appeal. More than a year after Frye's opposition to the motion to dismiss and several months after dismissal, VCBR resident Gregory Richardson sought to reopen the judgment and file an amicus brief, asserting that the case affected detainees and involved a public interest.

PROCEDURAL HISTORY

Devon Frye filed a pro se, in forma pauperis action under 42 U.S.C. § 1983. On February 3, 2026, the court granted Defendants' motion to dismiss and dismissed the action for failure to state a claim; Frye did not appeal. On May 11, 2026, VCBR resident Gregory Richardson moved to reopen the judgment and requested permission to file an amicus curiae brief. The court denied the motion.

DISPOSITION

denied

CASES CITED

- *Tafas v. Dudas*, 511 F. Supp. 2d 652, 659 (E.D. Va. 2007)

- Bryant v. Better Business Bureau, 923 F. Supp. 720, 727 (D. Md. 1996)
- Am. Humanist Ass'n v. Maryland-Nat'l Cap. Park & Plan. Comm'n, 303 F.R.D. 266, 269 (D. Md. 2014)
- Church of Celestial Heart v. Garland, No. 1:23-cv-00545-SAB, 2024 WL 3569219, at *2 (E.D. Cal. July 29, 2024)

OPINION

Frye

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

DEVON FRYE,

Plaintiff, v. Civil Action No. 3:24cv641 JASON WILSON, et al, Defendants.

MEMORANDUM OPINION

Devon Frye, an individual civilly committed in the Virginia Center for Behavioral Rehabilitation (“VCBR”) who is proceeding pro se and in forma pauperis, filed this civil action pursuant to 42 U.S.C. § 1983. The matter is now before the Court on a “Motion to Reopen Judgement Request to File Amicus Curiae Brief” filed by VCBR resident Gregory Richardson (“Richardson”). (“Motion,” ECF No. 18.) Defendants Jason Wilson, Nathan Moore, and Sanita Rhodes (“Defendants”) have filed an Opposition to the Motion. (ECF No. 19.) For the reasons’ - explained below, the Motion will be DENIED. On February 3, 2026, the Court granted Defendants’ Motion to Dismiss and dismissed this action, finding that the Complaint had failed to state a claim. (ECF Nos. 15, 16.) Frye did ! The statute provides, in pertinent part: Every person who, under color of any statute ... of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action atlaw.... 42 U.S.C. § 1983. not appeal. On May 11, 2026, the Court received the Motion (see ECF No. 18), in which Richardson requests permission to file an amicus curiae brief, asserting that “[t]his is a crucial case [a]ffecting all detainees and a public interest” and that provision of an amicus brief would “assist the Court as well as prevent manifest injustice.” (ECF No. 18, at 2-3.) On May 14, 2026, Defendants filed their Opposition, arguing that Richardson’s Motion is untimely and that Richardson, in any event, “has no standing.” (ECF No. 19, at 2.) A federal district court has “broad discretion in deciding whether to allow a non-party to participate as an amicus curiae.” *Tafas v. Dudas*, 511 F. Supp. 2d 652, 659 (E.D. Va. 2007). Courts have allowed briefs by amici curiae when: (1) the briefs “provide helpful analysis of the law”; (2) the amici “have a special interest in the subject matter of the suit”; or, (3) “existing counsel is in need of assistance.” *Jd.* (quoting *Bryant v. Better Business Bureau*, 923 F. Supp. 720, 727 (D. Md. 1996) (internal quotation marks omitted)). A court should only grant leave to file an amicus curiae brief

if the court “deems the proffered information timely and useful.” □□□ (internal citations and quotation marks omitted). Here, the Motion is untimely and does not convince the Court that an amicus curiae brief would be useful. As to timeliness, Federal Rule of Appellate Procedure 29 provides that an amicus brief, “accompanied by a motion for filing when necessary,” must be filed “no later than 7 days after the principal brief of the party being supported is filed.” Fed. R. App. Proc. 29(a)(6). Here, Richardson ostensibly supports Frye, and his Motion was therefore due by May 29, 2025, seven days after Frye opposed Defendants’ Motion to Dismiss. (See ECF No. 14.) But 2 “There is no Federal Rule of Civil Procedure that applies to motions for leave to appear as amicus curiae in a federal district court. District courts therefore have discretion whether to grant or deny such leave and often look for guidance to Rule 29 of the Federal Rules of Appellate Procedure, which applies to amicus briefs at the federal appeals level.” *Am. Humanist Ass’n v. Maryland-Nat’l Cap. Park & Plan. Comm’n*, 303 F.R.D. 266, 269 (D. Md. 2014). Richardson filed his Motion on May 11, 2026, almost a full year after that date and several months after this Court had already dismissed this action with prejudice. The Motion is therefore untimely. In part due to its untimeliness, the Motion is also not useful, as it cannot “assist the Court in resolving the underlying action or the already-adjudicated motion to dismiss.” *Church of Celestial Heart v. Garland*, No. 1:23-cv-00545-SAB, 2024 WL 3569219, at *2 (E.D. Cal. July 29, 2024). But even if the Motion had been timely, the legal issues identified and discussed in the Complaint, Motion to Dismiss, and this Court’s May 3 Memorandum Opinion and Order are not complex, and Richardson has not convinced the Court that he would have provided “helpful analysis of the law.” *Tafas*, 511 F. Supp. 2d at 659 (quoting *Bryant*, 923 F. Supp. at 727). For the foregoing reasons, the Motion (ECF No. 18) will be DENIED. An appropriate Order will accompany this Memorandum Opinion. Date: M. Hannah L Richmond, Virginia Chief United States District Judge