

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA, CHARLESTON DIVISION

**Tomongo James William McCord v. Detective Kelly Freshman, Chief
of Police Gregory G. Mullen, City of Charleston, Assistant Solicitor
Debbie Herring-Lash, Assistant Solicitor Lauren Frierson, Solicitor
Scarlett A. Wilson, Supervisory Officer John Doe/Jane Roe**

McCord · No. 2:25-cv-11345-RMG · Decided March 6, 2026

SUMMARY

The court adopts the Magistrate Judge’s Report and Recommendation recommending partial summary dismissal of Plaintiff Tomongo James William McCord’s § 1983 action. The court dismisses claims against several defendants, including municipal and prosecutorial defendants, and dismisses claims relating to McCord’s 1999 convictions under Heck v. Humphrey. The remaining malicious prosecution claim concerning a 2018 charge is ordered served on Detective Kelly Freshman.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Charleston Division
WRITING FOR THE COURT	Richard Mark Gergel
JURISDICTION	United States District Court for the District of South Carolina, Charleston Division
DECIDED	March 6, 2026
DOCKET	2:25-cv-11345-RMG
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending partial summary dismissal of a pro se § 1983 complaint and service of the remaining malicious-prosecution claim on Detective Freshman.
STANDARD OF REVIEW	In the absence of timely objections to a magistrate judge's recommendation, the court reviews the record for clear error rather than conducting de novo review.
PRECEDENTIAL VALUE	Unknown; unpublished district court order and opinion

PARTIES

Tomongo James William McCord v. Detective Kelly Freshman, Chief of Police Gregory G. Mullen, City of Charleston, Assistant Solicitor Debbie Herring-Lash, Assistant Solicitor Lauren Frierson, Solicitor Scarlett A. Wilson, Supervisory Officer John Doe/Jane Roe

TOPICS

section 1983

civil rights

government liability

prisoners rights

civil procedure

PRACTICE AREAS

civil rights

constitutional law

civil procedure

prisoner litigation

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Report and Recommendation in the absence of objections after clear-error review.
2. Whether the complaint adequately alleged constitutional violations or supervisory liability against Mullen, Wilson, and Doe/Roe.
3. Whether Herring-Lash, Frierson, and Wilson were entitled to prosecutorial immunity.
4. Whether the complaint adequately pleaded municipal liability against the City of Charleston.
5. Whether claims relating to Plaintiff's 1999 convictions were barred by Heck v. Humphrey.
6. Whether the remaining malicious-prosecution claim against Detective Freshman should proceed to service.

HOLDINGS

1. When no timely objections are filed, the district court need not conduct de novo review and may accept the recommendation after satisfying itself that there is no clear error on the face of the record.
2. The complaint failed to allege specific facts showing that Mullen, Wilson, or Doe/Roe violated Plaintiff's constitutional rights, and those defendants were properly dismissed.
3. The supervisory-liability claims against the identified defendants failed because Plaintiff did not allege facts satisfying the elements required for supervisory liability under Fourth Circuit law.
4. Herring-Lash, Frierson, and Wilson were entitled to prosecutorial immunity because the claims against them were based on their participation in Plaintiff's criminal proceedings.
5. The municipal-liability claim against the City of Charleston failed because the complaint did not identify an official policy, custom, or practice that caused a constitutional violation.
6. Claims relating to Plaintiff's 1999 convictions were barred by Heck v. Humphrey because Plaintiff did not allege that the convictions had been invalidated and a favorable § 1983 determination would call their validity and sentences into question.

KEY QUOTATIONS

“In the absence of timely filed objections, the Court need not conduct a de novo review but must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”” (at 1)

FACTUAL BACKGROUND

Plaintiff brought constitutional claims under 42 U.S.C. § 1983 against a detective, police officials, the City of Charleston, prosecutors, and supervisory officers. The claims included allegations concerning Plaintiff's 1999 convictions and a malicious-prosecution claim arising from a 2018 first-degree criminal sexual conduct with a minor charge. The complaint did not identify specific facts supporting constitutional violations by several defendants, an official municipal policy or custom, or invalidation of the 1999 convictions.

PROCEDURAL HISTORY

The Magistrate Judge recommended dismissing several defendants and all claims relating to Plaintiff's 1999 convictions, while recommending service on Defendant Freshman concerning a malicious-prosecution claim arising from a 2018 charge. No objections were filed. The district court reviewed the record for clear error, adopted the Report and Recommendation, dismissed the specified defendants and claims, and ordered service on Freshman.

DISPOSITION

other

CASES CITED

- Mathews v. Weber, 423 U.S. 261 (1976)
- Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005)
- Wilkins v. Montgomery, 751 F.3d 214, 226 (4th Cir. 2014)
- Van de Kamp v. Goldstein, 555 U.S. 335, 341-43 (2009)
- Monell v. Dep't of Soc. Servs., 436 U.S. 658, 690 (1978)
- Heck v. Humphrey, 512 U.S. 477 (1994)

OPINION

IN THE UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION Tomongo James William McCord, Case No. 2:25-cv-11345-RMG-
Plaintiff, v. ORDER & OPINION Detective Kelly Freshman, Chief of Police Gregory G. Mullen,
City of Charleston, Assistant Solicitor Debbie Herring-Lash, Assistant Solicitor Lauren Frierson,
Solicitor Scarlett A. Wilson, Supervisory Officer John Doe/Jane Roe, Defendants.

The Magistrate Judge made a Report and Recommendation in this case recommending partial summary dismissal. (Dkt. No. 14). Specifically, the Magistrate Judge recommended that Defendants Mullen, the City of Charleston, Herring-Lash, Frierson, Wilson, and Doe/Roe be

summarily dismissed as parties to this action, and that any claims relating to Plaintiff's 1999 convictions be dismissed.

The Magistrate Judge further recommended that the Complaint be served on Defendant Freshman as to the malicious prosecution claim concerning the 2018 first- degree criminal sexual conduct with a minor charge. No objections have been filed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

In the absence of timely filed objections, the Court need not conduct a de novo review but must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). 1 The Court has reviewed the Report and Recommendation and the record in this case.

As the Magistrate Judge correctly determined, the Complaint fails to allege any specific facts to support a claim that Defendants Mullen, Wilson, or Doe/Roe violated Plaintiff's constitutional rights. (Dkt. No. 14 at 5–6).

The Magistrate Judge also properly found that any supervisory liability claims against these Defendants fail because Plaintiff has not alleged facts satisfying the elements set forth in *Wilkins v. Montgomery*, 751 F.3d 214, 226 (4th Cir. 2014). (Dkt. No. 14 at 6).

The Magistrate Judge correctly concluded that Defendants Herring-Lash, Frierson, and Wilson are entitled to prosecutorial immunity because Plaintiff's claims against them are based on their participation in his criminal proceedings. (Dkt. No. 14 at 7–8); see *Van de Kamp v. Goldstein*, 555 U.S. 335, 341–43 (2009).

The Magistrate Judge also properly determined that Plaintiff's municipal liability claim against the City of Charleston fails because the Complaint does not identify any official policy, custom, or practice that caused a constitutional violation. (Dkt. No. 14 at 8–10); see *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978).

Finally, the Magistrate Judge correctly found that any claims relating to Plaintiff's 1999 convictions are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), because Plaintiff has not alleged that those convictions have been invalidated, and a favorable determination on Plaintiff's § 1983 claims would question the validity of his convictions and sentences. (Dkt.

No. 14 at 6–7). The Court finds no clear error on the face of the record. Accordingly, the Court ADOPTS the Report and Recommendation as the Order of the Court. (Dkt. No. 14). Defendants

Mullen, the City of Charleston, Herring-Lash, Frierson, Wilson, and Doe/Roe are DISMISSED as parties to this action. Any claims relating to Plaintiff's 1999 convictions are DISMISSED.

The Complaint shall be served on Defendant Freshman as to the remaining malicious prosecution claim. 2 AND IT IS SO ORDERED. s/ Richard Mark Gergel Richard Mark Gergel United States District Judge March 6, 2026 Charleston, South Carolina 3