

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Mohamed S. Yasin v. Sajeda Jamhour, et al.

Yasin · No. Civil Action No. 25-02389 (SDW) (JRA) · Decided March 6, 2026

SUMMARY

The United States District Court for the District of New Jersey grants without prejudice three motions to dismiss Mohamed S. Yasin’s amended complaint arising from the death of his brother. The court dismisses claims under 42 U.S.C. § 1983, the New Jersey Civil Rights Act, the New Jersey Wrongful Death Act, and the New Jersey Survivor’s Act based on pleading deficiencies, failure to allege a constitutional right to a criminal investigation, inadequate Monell allegations, and failure to plead a wrongful act causing death. The court also holds that the Passaic County Prosecutor’s Office is entitled to Eleventh Amendment sovereign immunity and allows thirty days to amend.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Susan D. Wigenton
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	March 6, 2026
DOCKET	Civil Action No. 25-02389 (SDW) (JRA)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's amended complaint asserting claims under 42 U.S.C. § 1983, the New Jersey Civil Rights Act, the New Jersey Wrongful Death Act, and the New Jersey Survivor's Act.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, construes the complaint favorably to the plaintiff, and determines whether the complaint states a facially plausible claim for relief. Labels, conclusions, and formulaic recitations of the elements are insufficient.
PRECEDENTIAL VALUE	Unpublished and not for publication; district court opinion.

PARTIES

Mohamed S. Yasin v. Sajeda Jamhour, et al., Passaic County Sheriff's Office, Passaic County Prosecutor's Office, City of Paterson, City of Paterson Police Department, Abdalaziz Yousef, Sharom Mallqui, Jason English, Michael McDonald, Abdelmonim Hamdeh

TOPICS

motions to dismiss

pleadings

section 1983

municipal liability

eleventh amendment immunity

PRACTICE AREAS

civil procedure

civil rights

constitutional law

municipal liability

torts

QUESTIONS PRESENTED

1. Whether the claims against the Passaic County Sheriff's Office satisfied Federal Rule of Civil Procedure 8 and Rule 12(b)(6) despite relying on group pleading and lacking factual allegations connecting that office to the alleged wrongdoing.
2. Whether Plaintiff adequately pleaded § 1983 and New Jersey Civil Rights Act claims against individual officers based on an allegedly inadequate investigation.
3. Whether Plaintiff adequately pleaded municipal liability against the City of Paterson under Monell.
4. Whether Plaintiff adequately pleaded claims under the New Jersey Wrongful Death Act and Survivor's Act.
5. Whether the Passaic County Prosecutor's Office was entitled to Eleventh Amendment sovereign immunity under the Fitchik factors.

HOLDINGS

1. Claims against the Passaic County Sheriff's Office must be dismissed where the complaint contains no specific factual allegations concerning that office's involvement and instead relies on impermissible group pleading.
2. Plaintiff failed to state § 1983 or NJCRA claims against the individual defendants because he did not identify each defendant's conduct and failed to plead a constitutional violation based on the alleged failure to conduct an adequate criminal investigation.
3. The New Jersey Civil Rights Act claims fail for the same reasons as the parallel § 1983 claims because NJCRA claims are interpreted analogously and rise or fall with § 1983 claims.
4. Plaintiff failed to state a Monell claim against the City of Paterson because he did not adequately plead a constitutional violation, identify a relevant municipal policy or custom, identify a final policymaker, or allege a pattern of similar incidents.
5. Plaintiff failed to state claims under the New Jersey Wrongful Death Act and Survivor's Act because he did not allege that any Paterson Defendant committed a wrongful act that caused the decedent's death.

6. The Passaic County Prosecutor's Office is entitled to Eleventh Amendment sovereign immunity for claims arising from its law-enforcement and investigative functions.

KEY QUOTATIONS

“To withstand a motion to dismiss under Rule 12(b)(6), “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”” (Section II)

“Plaintiff cannot cure deficiencies in his Amended Complaint in this manner. “[I]t is axiomatic that the complaint may not be amended by the briefs in opposition to a motion to dismiss.”” (Section III.A)

“Plaintiff also does not adequately plead a cause of action against the Individual Defendants because Plaintiff fails to demonstrate a constitutional violation as there is no recognized constitutional right to a criminal investigation.” (Section III.B.i.a)

FACTUAL BACKGROUND

Plaintiff's brother, Nadil Yasin, died at his home on April 9, 2023, after allegedly contentious marital disputes and threats from his then-wife, Sajeda Jamhour. Plaintiff alleged that Paterson police officers failed to treat Jamhour as a suspect and inadequately secured and investigated the crime scene, allegedly because Officer Abdalaziz Yousef had an extramarital affair with Jamhour. The complaint did not identify specific conduct by the Passaic County Sheriff's Office, did not adequately identify the conduct of most individual defendants, and did not plead a policy or custom supporting municipal liability.

PROCEDURAL HISTORY

Plaintiff initially filed suit on April 7, 2025, and filed an amended complaint on August 18, 2025. The Passaic County Sheriff's Office, Passaic County Prosecutor's Office, and Paterson Defendants moved to dismiss. The court granted all motions without prejudice and allowed Plaintiff thirty days to file another amended complaint.

DISPOSITION

other

REMAND INSTRUCTIONS

Plaintiff may file an amended complaint within thirty days.

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Mayer v. Spanel International Ltd., 605 F.3d 223, 229 (3d Cir. 2010)
- Roman v. County of Hudson, No. 23-2811, 2024 WL 1757150, at *7 (D.N.J. Apr. 23, 2024)
- In re Ojo, No. 21-11357, 2021 WL 3732904, at *2 (D.N.J. Aug. 23, 2021)
- Falat v. County of Hunterdon, No. 12-6804, 2013 WL 1163751, at *3 (D.N.J. Mar. 19, 2013)

- Janowski v. City of North Wildwood, 259 F. Supp. 3d 113, 120-21 (D.N.J. 2017)
- Commonwealth of Pennsylvania ex rel. Zimmerman v. PepsiCo, Inc., 836 F.2d 173, 181 (3d Cir. 1988)
- Coles v. Carlini, 162 F. Supp. 3d 380, 405 (D.N.J. 2015)
- Trafton v. City of Woodbury, 799 F. Supp. 2d 417, 430, 443 (D.N.J. 2011)
- Kneipp v. Tedder, 95 F.3d 1199, 1204 (3d Cir. 1996)
- Southey v. Township of Vernon, No. 21-11844, 2025 WL 1341742, at *10 (D.N.J. May 7, 2025)
- Mervilus v. Union County, 73 F.4th 185, 193 n.4 (3d Cir. 2023)
- Estate of Smith v. Marasco, 430 F.3d 140, 151 (3d Cir. 2005)
- Murphy v. Middlesex County, 361 F. Supp. 3d 376, 391 (D.N.J. 2019)
- Fuchs v. Mercer County, 260 F. App'x 472, 475 (3d Cir. 2008)
- Ogrod v. City of Philadelphia, 598 F. Supp. 3d 253, 268 (E.D. Pa. 2022)
- Beck v. City of Pittsburgh, 89 F.3d 966, 971 (3d Cir. 1996)
- Monell v. Department of Social Services, 436 U.S. 658, 690 (1978)
- McTernan v. City of York, PA, 564 F.3d 636, 658 (3d Cir. 2009)
- Watson v. Abington Township, 478 F.3d 144, 154 (3d Cir. 2007)
- Aronberg v. Tolbert, 25 A.3d 1121, 1128, 1130 (N.J. 2011)
- Fitchik v. New Jersey Transit Rail Operations, Inc., 873 F.2d 655, 659 (3d Cir. 1989)
- Estate of Lagano v. Bergen County Prosecutor's Office, 769 F.3d 850, 857-58 (3d Cir. 2014)
- Wright v. State, 778 A.2d 443, 452, 462, 464 (N.J. 2001)
- Estate of Bardzell v. Gomperts, 515 F. Supp. 3d 256, 269 (D.N.J. 2021), aff'd, No. 21-1906, 2022 WL 843483 (3d Cir. Mar. 22, 2022)
- Allen v. New Jersey State Police, 974 F.3d 497, 505 (3d Cir. 2020)
- Pennhurst State School & Hospital v. Halderman, 465 U.S. 89, 106 (1984)

OPINION

YASIN

PER CURIAM.

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

MOHAMED S. YASIN

Civil Action No. 25-02389 (SDW) (JRA) Plaintiff,

OPINION

v. March 6, 2026 SAJEDA JAMHOUR, et al, Defendants. WIGENTON, District Judge. Before this Court are three motions to dismiss Plaintiff Mohamed S. Yasin's Amended Complaint (D.E. 16 ("Am. Compl.") for failure to state a claim pursuant to Federal Rule of Civil Procedure ("Rule") 12(b)(6) by Defendants: the Passaic County Sheriff's Office (the "PCSO"); the Passaic County Prosecutor's Office (the "PCPO"); and Defendants the City of Paterson, the City of

Paterson Police Department, Officer Abdalaziz Yousef, Detective Sharom Mallqui, Sergeant Jason English, Detective Sergeant Michael McDonald and Lieutenant Abdelmonim Hamdeh (collectively, the “Paterson Defendants”). Jurisdiction is proper pursuant to 28 U.S.C. § 1331. This opinion is issued without oral argument pursuant to Rule 78. For the reasons stated herein, the Motions to Dismiss are GRANTED.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The instant matter arises from the death of Plaintiff’s brother, Nadil Yasin (“Mr. Yasin”), and the subsequent police investigation of Mr. Yasin’s death. According to Plaintiff, in the month preceding his death, Mr. Yasin and his then-wife, Sajeda Jamhour (“Jamhour”) were involved in intense marital disputes. (Am. Compl. ¶ 15.) After Mr. Yasin initiated divorce proceedings against Jamhour, Jamhour allegedly threatened to kill him, which left Mr. Yasin with a “genuine fear for his life.” (Id. ¶¶ 16–18.) Subsequently, on April 9, 2023, Plaintiff alleges that Mr. Yasin was found deceased in his home “under highly suspicious circumstances.” (Id. ¶ 12.) When Paterson Police Department officers arrived at the scene, the investigating officers did not treat Jamhour as a suspect and allegedly failed to secure the crime scene properly. (Id. ¶¶ 26–32.) Defendant Officer Abdalaziz Yousef was the first to arrive at the scene. (Id.) Plaintiff alleges that the inadequate investigation was due to Officer Abdalaziz Yousef having engaged in an extramarital affair with Jamhour. (Id. ¶¶ 43–44.) Several days after Mr. Yasin’s death, Jamhour fled to the State of Palestine. (Id. ¶ 37.) Based on the foregoing, Plaintiff initially filed a complaint in this Court on April 7, 2025. (D.E. 1.) Plaintiff then filed an Amended Complaint on August 18, 2025. (D.E. 16.) The Amended Complaint asserts claims for: (1) 42 U.S.C. § 1983 deprivation of constitutional rights;

(2) violations of the New Jersey Civil Rights Act (the “NJCRRA”); (3) wrongful death pursuant to the New Jersey Wrongful Death Act, N.J. Stat. Ann. §§ 2A:31-1 to -6; and (4) the New Jersey Survivor’s Act, N.J. Stat. Ann. § 2A:15-3. Defendants subsequently moved to dismiss the Amended Complaint. (D.E. 22, 26, 28.) All briefing was timely completed.

II. LEGAL STANDARD

To withstand a motion to dismiss under Rule 12(b)(6), “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “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.” *Id.* When deciding a motion to dismiss under Rule 12(b)(6) for failure to state a claim upon which relief may be granted, federal courts “must accept all factual allegations in the complaint as true, construe the complaint in the light favorable to the plaintiff,” and determine “whether [the] plaintiff may be entitled to relief under any reasonable reading of the complaint.” *Mayer*, 605 F.3d at 229. Determining whether a complaint’s allegations are “plausible” is “a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Iqbal*, 556

U.S. at 679. If the “well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct,” the complaint should be dismissed for failing to show “that the pleader is entitled to relief.” *Id.* (quoting Fed. R. Civ. P. 8(a)(2)). “[L]abels and conclusions” or a “formulaic recitation of the elements of a cause of action” are insufficient to withstand a motion to dismiss. *Twombly*, 550 U.S. at 555.

III. DISCUSSION

A. The PCSO’s Motion to Dismiss The PCSO moves to dismiss Plaintiff’s Amended Complaint asserting that the Amended Complaint fails to set forth any factual allegations suggesting that the PCSO was involved in the death of Mr. Yasin or the investigation of the same. This Court agrees with the PCSO. Plaintiff’s claims against the PCSO fail to comply with Rule 8. Rule 8 requires a complaint to be simple, concise, direct, and set forth “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). With regard to Rule 8, it appears that Plaintiff alleges that the Defendants acted in unison, without delineating the actions of each Defendant or explaining under what circumstances they acted or failed to act. On the other hand, it also appears that Plaintiff is alleging that the Paterson Defendants committed a wrong but somehow all of the Defendants are responsible. (See e.g., Am. Compl. ¶¶ 55, 62.) There are no specific factual allegations as to the PCSO’s involvement in the death of Mr. Yasin or the investigation of the same. Rather, Plaintiff relies on nothing more than improper group pleading, stating that “all captioned Defendant law enforcement agencies” are liable without specifying which Defendants engaged in what wrongful conduct. See *Roman v. Cnty. of Hudson*, No. 23-2811, 2024 WL 1757150, at *7 (D.N.J. Apr. 23, 2024); see also *In re Ojo*, No. 21-11357, 2021 WL 3732904, at *2 (D.N.J. Aug. 23, 2021) (“When a number of defendants are named in a complaint, plaintiff cannot refer to all defendants ‘who occupied different positions and presumably had distinct roles in the alleged misconduct’ without specifying ‘which defendants engaged in what wrongful conduct.’”) (citing *Falat v. County of Hunterdon*, No. 12-6804, 2013 WL 1163751, at *3 (D.N.J. Mar. 19, 2013)). Next, it is well established that “threadbare recitals of a cause of action’s elements, supported by mere conclusory statements” are insufficient to survive a motion to dismiss under Rule 12(b)(6). *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff’s Amended Complaint is ripe with conclusory allegations that fail to connect the PCSO to the alleged wrongdoing in a manner sufficient to put them on notice of what the PCSO is alleged to have done. Although the PCSO is a named Defendant, Plaintiff fails to mention the PCSO throughout any of the Amended Complaint’s factual allegations. Notwithstanding, Plaintiff inappropriately attempts to assert additional facts regarding the PCSO’s involvement in his opposition. Plaintiff cannot cure deficiencies in his Amended Complaint in this manner. “[I]t is axiomatic that the complaint may not be amended by the briefs in opposition to a motion to dismiss.” *Janowski v. City of N. Wildwood*, 259 F. Supp. 3d 113, 120 (D.N.J. 2017) (citing *Com. of Pa. ex rel. Zimmerman v. PepsiCo, Inc.*, 836 F.2d 173, 181 (3d Cir. 1988)). Accordingly, Plaintiff’s claims against the PCSO are dismissed. B. The Paterson Defendant’s Motion to Dismiss i. Deprivation of Constitutional

Rights (Counts I and II) a) Individual Defendants Counts I and II of the Amended Complaint assert claims under 42 U.S.C. § 1983 and the NJCRA, alleging that the Paterson Defendants violated Plaintiff's constitutional rights. To state a § 1983 claim, a plaintiff must plead deprivation of a constitutional right and that the constitutional deprivation was caused by a person acting under the color of state law. *Kneipp v. Tedder*, 95 F.3d 1199, 1204 (3d Cir. 1996). The NJCRA was modeled after 42 U.S.C. § 1983 and courts in this district have interpreted the NJCRA analogously to § 1983. See e.g. *Janowski v. City of N. Wildwood*, 259 F. Supp. 3d 113, 121 (D.N.J. 2017); *Coles v. Carlini*, 162 F. Supp. 3d 380, 405 (D.N.J. 2015); see also *Trafton v. City of Woodbury*, 799 F. Supp. 2d 417, 443 (D.N.J. 2011) (collecting cases). Since the NJCRA is interpreted analogously to § 1983, NJCRA claims "rise and fall with the parallel § 1983 claims." See *Southey v. Twp. of Vernon*, No. 21-11844, 2025 WL 1341742, at *10 (D.N.J. May 7, 2025) (citing *Mervilus v. Union Cnty.*, 73 F.4th 185, 193 n.4 (3d Cir. 2023)). Here, Plaintiff contends that Officer Abdalaziz Yousef, Detective Sharom Mallqui, Sergeant Jason English, Detective Sergeant Michael McDonald and Lieutenant Abdelmonim Hamdeh (the "Individual Defendants") violated his constitutional rights by failing to conduct an adequate investigation into the death of Mr. Yasin. However, at the outset, this Court notes that Plaintiff's claims against the Individual Defendants suffer the same pleading defects as his claims against the PCSO. With the exception of Officer Abdalaziz Yousef, the Individual Defendants are named as defendants, but Plaintiff fails to state how each Defendant violated his constitutional rights. Plaintiff merely states that the Individual Defendants are liable without identifying the conduct of each individual officer. See *Est. of Smith v. Marasco*, 430 F.3d 140, 151 (3d Cir. 2005) ("To prevail on a § 1983 claim against multiple defendants, a plaintiff must show that each individual defendant violated his constitutional rights.") Again, Plaintiff relies on impermissible group pleading, which fails to satisfy the pleading standards articulated in *Iqbal/Twombly*. Plaintiff also does not adequately plead a cause of action against the Individual Defendants because Plaintiff fails to demonstrate a constitutional violation as there is no recognized constitutional right to a criminal investigation. See *Murphy v. Middlesex Cnty.*, 361 F. Supp. 3d 376, 391 (D.N.J. 2019) (citing *Fuchs v. Mercer Cnty.*, 260 Fed. App'x. 472, 475 (3d Cir. 2008)); see also *Ogrod v. City of Philadelphia*, 598 F. Supp. 3d 253, 268 (E.D. Pa. 2022) ("[C]ourts in [the Third] Circuit have stated without qualification that 'there is 'no constitutional right to a police investigation.' ") (collecting cases). Accordingly, Plaintiff's constitutional claims against the Individual Defendants are dismissed. b) Monell Liability When a suit against a municipality is based on § 1983, the municipality can only be liable when "the alleged constitutional transgression implements or executes a policy, regulation or decision officially adopted by the governing body or informally adopted by custom." *Beck v. City of Pittsburgh*, 89 F.3d 966, 971 (3d Cir. 1996) (citing *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 690 (1978)). A government policy or custom can be established in two ways: Policy is made when a 'decisionmaker possessing final authority to establish a municipal policy with respect to the action' issues an official proclamation, policy, or edict. A course of

conduct is considered to be a ‘custom’ when, though not authorized by law, ‘such practices of state officials are so permanently and well-settled’ as to virtually constitute law. *McTernan v. City of York, PA*, 564 F.3d 636, 658 (3d Cir. 2009) (internal citation omitted). A custom requires proof of knowledge and acquiescence by the decisionmaker. *Id.* (citing *Watson v. Abington Twp.*, 478 F.3d 144, 154 (3d Cir.2007)). This Court finds that Plaintiff has not adequately pleaded facts sufficient to impose liability on the City of Paterson.¹ Here, dismissal of Plaintiff’s Monell claim is warranted because Plaintiff has not set forth facts demonstrating a constitutional violation. Next, Plaintiff fails to specify the relevant “custom” or “policy.” See *McTernan*, 564 F.3d at 658 (“To satisfy the pleading standard, [Plaintiff] must identify a custom or policy, and specify what exactly that custom or policy was.”). Moreover, even if Plaintiff had done so, Plaintiff does not identify a single decisionmaker with final authority or alleges any pattern of similar incidents as a result of the purported policy or custom. Plaintiff’s allegations are entirely conclusory and lack any factual support. Therefore, Plaintiff’s Monell claim is dismissed. ii. New Jersey’s Wrongful Death Act and Survivor Act (Counts III and IV) Plaintiff’s Amended Complaint asserts claims for relief under both the New Jersey Wrongful Death Act (“WDA”), N.J. Stat. Ann. §§ 2A:31-1 to -6, and the New Jersey Survivor’s Act, N.J. Stat. Ann. § 2A:15-3. To support a wrongful death action, there must be a “death ... caused by a wrongful act ... such as would, if death had not ensued, have entitled the person injured to maintain an action for damages resulting from the injury.” N.J. Stat. Ann. § 2A:31-1; *Aronberg v. Tolbert*, 25 A.3d 1121, 1128 (N.J. 2011). Likewise, under the Survivor’s Act, a claim may be pursued by the decedent’s estate if there was a “wrongful act ... where death resulted from injuries 1 The Amended Complaint names both the City of Paterson and the City of Paterson Police Department as Defendants. However, for purposes of § 1983 liability, municipalities and their police departments are treated as a single entity. See *Trafton v. City of Woodbury*, 799 F. Supp. 2d 417, 430 (D.N.J. 2011) for which the deceased would have had a cause of action if he had lived.” N.J. Stat. Ann. § 2A:15- 3; *Tolbert*, 25 A.3d at 1130. Here, Plaintiff has failed to sufficiently plead a cause of action under New Jersey’s Wrongful Death Act and Survivor’s Act. Critically, Plaintiff does not allege that any of the Paterson Defendants committed a “wrongful act” that caused Mr. Yasin’s death. Accordingly, Counts III and IV are dismissed. C. The PCPO’s Motion to Dismiss The PCPO contends that Eleventh Amendment immunity bars all federal claims brought against them. (D.E. 28-1 at 14.) Plaintiff counters that Eleventh Amendment sovereign immunity does not apply because the PCPO fails to satisfy the Fitchik factors. The Eleventh Amendment may bar an action even where a state is not a named party; it extends to state agencies and state officers, “as long as the state is the real party in interest.” *Fitchik v. New Jersey Transit Rail Operations, Inc.*, 873 F.2d 655, 659 (3d Cir. 1989); *Estate of Lagano v. Bergen Cty. Prosecutor’s Office*, 769 F.3d 850, 857 (3d Cir. 2014). To determine whether a state-affiliated entity is entitled to Eleventh Amendment immunity, courts apply a three part test, also referred to as the “Fitchik factors”: “(1) whether the money that would pay any judgment would come from the state; (2) the status of the agency under state law; and (3) the

degree of autonomy possessed by the agency.” *Allen v. New Jersey State Police*, 974 F.3d 497, 505 (3d Cir. 2020); see also *Lagano*, 769 F.3d at 857-58 (“We therefore conclude that Fitchik provides the proper framework for analyzing Eleventh Amendment sovereign immunity as it applies to county prosecutors....”). First, Fitchik factor one asks whether the State of New Jersey would find itself responsible for damages if Plaintiff prevailed in this case. The New Jersey Supreme Court has ruled definitively that when county prosecutors act in their law enforcement or investigatory capacity, “they act as ‘agents’ and ‘officers’ of the State, qualifying as State employees for the purpose of determining vicarious liability. See *Wright v. State*, 778 A.2d 443, 462 (N.J. 2001). Here, Plaintiff contends that the PCPO performed administrative tasks, which would mean the PCPO acted as county officials rather than agents of the State. (D.E. 36 at 12.) However, Plaintiff’s allegations are premised on the PCPO’s alleged inactions that clearly relate to the PCPO’s authority to investigate and enforce the criminal laws of the State of New Jersey as delegated by the State Legislature, thereby making the PCPO an “agent” or “officer” of the State. Therefore, the first Fitchik factor is satisfied. Next, the second factor concerns the status of the PCPO under state law. See *Fitchik*, 873 F.2d at 659. “The office of county prosecutor in the State of New Jersey is a constitutionally established office.” *Wright*, 778 A.2d at 452 (internal quotation marks omitted); N.J. Const. art. VII, § 2, ¶ 1 (“County prosecutors shall be nominated and appointed by the Governor with the advice and consent of the Senate. Their term of office shall be five years, and they shall serve until the appointment and qualification of their respective successors.”). Accordingly, the PCPO’s status as a “constitutionally established office” satisfies the second Fitchik factor. Lastly, the third Fitchik factor considers the degree of the PCPO’s autonomy from the State. See *Fitchik*, 873 F.2d at 659. That factor is satisfied where, as here, “a county prosecutor acting with prosecutorial authority is not an autonomous entity separate from the State.” *Est. of Bardzell v. Gomperts*, 515 F. Supp. 3d 256, 269 (D.N.J. 2021), *aff’d*, No. 21-1906, 2022 WL 843483 (3d Cir. Mar. 22, 2022), and *aff’d*, No. 21-1906, 2022 WL 843483 (3d Cir. Mar. 22, 2022). In *Wright*, the New Jersey Supreme Court explained that a prosecutor whose actions involve enforcing criminal laws is not autonomous from the State as “the [State] Attorney General has the ultimate responsibility in matters related to the enforcement of the State’s criminal laws that have been legislatively delegated to county prosecutors.” 778 A.2d at 464 (citing N.J. Stat. Ann. 52:17B– 98; N.J. Stat. Ann. 52:17B–103). Here, the third factor is satisfied as the PCPO lacks autonomy when enforcing criminal laws. Based on the Fitchik factors, this Court finds that the PCPO is entitled to sovereign immunity under the Eleventh Amendment. As such, as to the PCPO, Plaintiff’s federal and state claims are dismissed. See *Allen v. New Jersey State Police*, 974 F.3d 497, 505 (3d Cir. 2020) (stating that there is no exception to Eleventh Amendment immunity for plaintiffs who bring state law claims against a state entity) (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984) (recognizing that Eleventh Amendment immunity applies to state law claims in addition to federal claims)).

IV. CONCLUSION

For the reasons set forth above, the Motions to Dismiss are GRANTED WITHOUT PREJUDICE. Plaintiff shall have thirty (30) days to file an amended complaint. An appropriate order follows. /s/ Susan D. Wigenton x SUSAN D. WIGENTON, U.S.D.J. Orig: Clerk cc: José R. Almonte, U.S.M.J. Parties

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