

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

David Keon Ross v. Capital Defenders Office et al.

Civil Action No. 7:26-cv-00211 (W.D. Va. Apr. 23, 2026) · No. 7:26-cv-00211 · Decided April 23, 2026

SUMMARY

The United States District Court for the Western District of Virginia grants David Keon Ross's application to proceed in forma pauperis but dismisses his 42 U.S.C. § 1983 complaint without prejudice under 28 U.S.C. § 1915(e)(2)(B). The court concludes that the claims against the judge are barred by judicial immunity or lack of a justiciable controversy, the claims against the detectives are time-barred, the Capital Defenders Office is not a suable person under § 1983, and the claims are also barred by Heck v. Humphrey.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	April 23, 2026
DOCKET	7:26-cv-00211
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se prisoner civil-rights action under 42 U.S.C. § 1983; the court granted leave to proceed in forma pauperis and sua sponte dismissed the complaint without prejudice under 28 U.S.C. § 1915(e)(2)(B).
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B)(ii), the court applies the same standard used for a Rule 12(b)(6) motion: it accepts well-pleaded factual allegations as true, views the complaint in the light most favorable to the plaintiff, and requires sufficient factual matter to state a facially plausible claim. Pro se pleadings are construed liberally, but must still state a cognizable and plausible right to relief.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; nonprecedential
PARTIES	David Keon Ross v. Capital Defenders Office, W. Ensor, J.W. Bartol, Richard S. Wallerstein

TOPICS

section 1983 prisoners rights statute of limitations post-conviction relief civil procedure

PRACTICE AREAS

civil rights prisoner litigation federal civil procedure post-conviction litigation

QUESTIONS PRESENTED

1. Whether the complaint stated a viable § 1983 claim against the judicial defendant for denying Ross's request for immediate release.
2. Whether Ross's § 1983 claims against the detectives were barred by Virginia's two-year statute of limitations.
3. Whether the Capital Defenders Office was a suable person under 42 U.S.C. § 1983.
4. Whether Ross's damages claims challenging the basis for his ongoing detention were cognizable under § 1983 despite the absence of an allegation that his conviction or sentence had been invalidated.
5. Whether the complaint was subject to sua sponte dismissal under 28 U.S.C. § 1915(e)(2)(B).

HOLDINGS

1. The complaint failed to state a viable claim against Judge Wallerstein because the challenged denial of immediate release was an act performed in the judge's adjudicatory capacity, and there was no justiciable controversy supporting the claim.
2. Ross's claims against Detectives Ensor and Bartol were time-barred because § 1983 claims borrow the state limitations period for personal-injury actions, which is two years in Virginia, and the claims arose from conduct connected to his 2017 conviction.
3. The Capital Defenders Office was not a person with capacity to be sued under 42 U.S.C. § 1983.
4. Ross's damages claims were not cognizable under § 1983 because success on the claims would necessarily implicate the validity of his conviction or sentence, and he did not allege that the conviction or sentence had been invalidated.
5. A complaint filed in forma pauperis must be dismissed at any time if it fails to state a claim upon which relief may be granted, applying the Rule 12(b)(6) plausibility standard.

KEY QUOTATIONS

“To survive a motion to dismiss for failure to state a claim, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’””

“We hold that, in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, . . . a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus, 28 U.S.C. § 2254.”

“A claim for damages bearing that relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983.”

FACTUAL BACKGROUND

Ross, a Virginia inmate, alleged that Detectives W. Ensor and J.W. Bartol falsified evidence and committed perjury in connection with his 2017 conviction. He also alleged that Judge Richard S. Wallerstein recently denied his motion for immediate release. Ross sought monetary damages under § 1983, and the opinion states that he had been incarcerated since 2019.

PROCEDURAL HISTORY

Ross filed a complaint alleging that detectives falsified evidence and committed perjury leading to his 2017 conviction and that a judge improperly denied his request for immediate release. He sought monetary damages and submitted documentation supporting an application to proceed in forma pauperis. The district court granted in forma pauperis status but dismissed the action without prejudice because the claims failed to state a viable claim, were time-barred in part, were asserted against a non-suable entity, and were barred by Heck v. Humphrey.

DISPOSITION

dismissed

CASES CITED

- Eriline Co. S.A. v. Johnson, 440 F.3d 648, 656–57 (4th Cir. 2006)
- Neitzke v. Williams, 490 U.S. 319, 327 (1989)
- De’Lonta v. Angelone, 330 F.3d 630, 633 (4th Cir. 2003)
- Philips v. Pitt Cnty. Mem’l Hosp., 572 F.3d 176, 180 (4th Cir. 2009)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)
- Frazier v. Prince George’s Cnty., 140 F.4th 556, 562–63 (4th Cir. 2025)
- Lewis v. Richmond City Police Dept., 947 F.2d 733, 735 (4th Cir. 1991)
- Nasim v. Warden, Md. House of Corr., 64 F.3d 951, 956 (4th Cir. 1995)
- Dowe v. Total Action Against Poverty in Roanoke Valley, 145 F.3d 653, 658 (4th Cir. 1998)
- Heck v. Humphrey, 512 U.S. 477, 486–87 (1994)
- Brunson v. Stein, 116 F.4th 301, 306 (4th Cir. 2024), cert. denied, 145 S. Ct. 1169 (2025)

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