

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION AT DAYTON

Patrick Wilkerson, Sr. v. Melanie Phelps-Powers, et al.

Wilkerson · No. 3:24-cv-114 · Decided March 12, 2026

SUMMARY

The United States District Court for the Southern District of Ohio ruled on several motions in Patrick Wilkerson, Sr.’s 42 U.S.C. § 1983 action arising from his state criminal investigation and prosecution. The court granted leave to file a sur-reply, denied reconsideration, dismissed the stand-alone civil conspiracy claim, dismissed Defendant Wilder, and dismissed all claims against Defendant Bruder except the wrongful-investigation claim. Claims against Defendants Phelps-Powers and McGhee, and the remaining wrongful-investigation claim against Bruder, remain pending.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division at Dayton
WRITING FOR THE COURT	Michael J. Newman
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division at Dayton
DECIDED	March 12, 2026
DOCKET	3:24-cv-114
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a pro se action under 42 U.S.C. § 1983 arising from the investigation and prosecution of a state criminal case. The Court considered Plaintiff's motion for reconsideration, Plaintiff's motion for leave to file a sur-reply, Defendant Wilder's motion to dismiss, the County Defendants' motion to dismiss, and Wilder's motion to strike the unauthorized sur-reply.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, well-pleaded factual allegations are accepted as true, the complaint is construed in the plaintiff's favor, and dismissal is appropriate when the complaint does not state a plausible claim for relief. For reconsideration of a magistrate judge's nondispositive order under Rule 72(a), the order must be clearly erroneous or contrary to law. Qualified immunity at the pleading stage is assessed from the allegations, not from the summary-judgment

	requirement to produce evidence creating a genuine issue of material fact.
PRECEDENTIAL VALUE	unknown
PARTIES	Patrick Wilkerson, Sr. v. Melanie Phelps-Powers, Lisa Bruder, Lucas Wilder, Nakela McGhee

TOPICS

motions to dismiss

motion for reconsideration

section 1983

qualified immunity

civil procedure

PRACTICE AREAS

civil procedure

civil rights litigation

constitutional torts

immunity doctrines

pleading and motion practice

QUESTIONS PRESENTED

1. Whether Plaintiff established that the magistrate judge's order granting Wilder a 21-day extension was clearly erroneous or contrary to law.
2. Whether Plaintiff's stand-alone § 1983 civil conspiracy claim was pleaded with sufficient specificity.
3. Whether a court-appointed criminal defense attorney acting in the traditional role of defense counsel acts under color of state law for purposes of § 1983.
4. Whether Defendant Bruder was absolutely immune from Plaintiff's claims based on her alleged initiation and prosecution of the state criminal case.
5. Whether Bruder's alleged deletion or tampering with messages during an investigation was within the scope of prosecutorial functions for absolute-immunity purposes.
6. Whether Phelps-Powers was entitled to dismissal on qualified-immunity grounds based on the asserted absence of evidence before discovery.

HOLDINGS

1. Plaintiff was not entitled to reconsideration because he failed to show that the magistrate judge's order granting Wilder a 21-day extension was clearly erroneous or contrary to law, or that the extension prejudiced him.
2. A § 1983 civil conspiracy claim must be pleaded with some degree of specificity; a conclusory claim that merely incorporates allegations from other claims without identifying additional specific conspiratorial acts is insufficient.
3. A court-appointed attorney or public defender performing traditional defense-counsel functions does not act under color of state law and is not subject to liability under § 1983 absent plausible and specific facts showing joint action or conspiracy with state officials.
4. A prosecutor is absolutely immune from liability for functions involving initiation of a prosecution and presentation of the State's case, but the immunity inquiry is functional and does not automatically extend

to investigative conduct outside the prosecutorial role.

5. A defendant may not obtain dismissal on qualified-immunity grounds at the pleading stage merely by asserting that the plaintiff lacks evidence creating a genuine issue of material fact before discovery.

KEY QUOTATIONS

“Court-appointed attorneys or public defenders performing a lawyer’s traditional functions as counsel to a criminal defendant do not ‘act under color of state law’ and are therefore not subject to suit under 42 U.S.C. § 1983.” (PageID 150-151)

“This approach looks to the nature of the function performed, not the identity of the actor who performed it.” (PageID 172-173)

“Since discovery has not yet occurred in this case, it is procedurally premature for the County Defendants to argue that Defendant Phelps-Powers is entitled to qualified immunity based solely on the asserted absence of genuinely disputed material facts.” (PageID 173-174)

FACTUAL BACKGROUND

Wilkerson alleged that Defendants were involved in the investigation and prosecution of him in Montgomery County, Ohio, and that he was later acquitted by a jury. He asserted Fourth, Fifth, and Fourteenth Amendment claims under § 1983 against a sheriff's detective, an assistant prosecutor, his court-appointed defense attorney, and a complaining witness. His stand-alone civil conspiracy claim incorporated the allegations of his other claims without alleging additional specific acts.

PROCEDURAL HISTORY

The action was filed in the Southern District of Ohio. The Court had previously dismissed several claims and granted Magistrate Judge Silvain's order giving Wilder a 21-day extension to respond. Plaintiff moved for reconsideration, and the parties briefed two Rule 12(b)(6) motions. The Court granted leave to file the sur-reply, denied reconsideration, dismissed the stand-alone civil conspiracy claim and all claims against Wilder, dismissed all claims against Bruder except the Fourth Amendment wrongful investigation claim, denied dismissal of Phelps-Powers on qualified-immunity grounds as premature, terminated Wilder's motion to strike as moot, and confirmed that McGhee remained in the case.

DISPOSITION

other

CASES CITED

- State v. Wilkerson, No. 2021CR03390 (Montgomery Cnty. C.P.)
- State v. Wilkerson, No. 2021CR01728 (Montgomery Cnty. C.P.)
- Walker v. Schaeffer, 854 F.2d 138, 142 (6th Cir. 1988)
- Duncan v. U.S. Bank Nat'l Ass'n, No. 2:11-cv-913, 2013 WL 5408264, at *4 (S.D. Ohio Sept. 25, 2013)

- Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam)
- JPMorgan Chase Bank, N.A. v. Winget, 510 F.3d 577, 581-83 (6th Cir. 2007)
- Royal Truck & Trailer Sales & Serv., Inc. v. Kraft, 974 F.3d 756, 758 (6th Cir. 2020)
- Jones v. City of Cincinnati, 521 F.3d 555, 559 (6th Cir. 2008)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 557, 565, 570 (2007)
- Gutierrez v. Lynch, 826 F.2d 1534, 1538 (6th Cir. 1987)
- Fieger v. Cox, 524 F.3d 770, 776 (6th Cir. 2008)
- Hooks v. Hooks, 771 F.2d 935, 943-44 (6th Cir. 1985)
- Krajicek v. Justin, No. 98-1249, 1999 WL 195734, at *1 (6th Cir. Mar. 23, 1999)
- Mulligan v. Schlachter, 389 F.2d 231, 233 (6th Cir. 1968)
- Dunning v. Yuetter, 12 Fed. App'x 282, 284 (6th Cir. 2001)
- Lugar v. Edmondson Oil Co., 457 U.S. 922, 937 (1982)
- Ayers v. Gabis, No. 20-11735, 2021 WL 4316853, at *4-5 (E.D. Mich. Sept. 23, 2021)
- Elrod v. Mich. Sup. Ct., 104 Fed. App'x 506, 508 (6th Cir. 2004)
- Spencer v. Griffith, No. 2:25-cv-785, 2026 WL 323298, at *7 (S.D. Ohio Feb. 6, 2026)
- Imbler v. Pachtman, 424 U.S. 409, 430-31 (1976)
- Anderson v. Cnty. of Hamilton, 780 F. Supp. 2d 635, 650 (S.D. Ohio 2010)
- Howard v. Livingston County, No. 21-1689, 2023 WL 334894, at *4-5 (6th Cir. Jan. 20, 2023)
- Buckley v. Fitzsimmons, 509 U.S. 259, 269 (1993)
- Jackson v. City of Cleveland, 64 F.4th 736, 743 (6th Cir. 2023)
- Ireland v. Tunis, 113 F.3d 1435, 1447 n.7 (6th Cir. 1997)
- Auriemma v. Montgomery, 860 F.2d 273, 278 (7th Cir. 1988)
- Myers v. City of Centerville, 41 F.4th 746, 758 (6th Cir. 2022)
- McDonald v. Flake, 814 F.3d 804, 812 (6th Cir. 2016)
- Grose v. Caruso, 284 Fed. App'x 279, 283-84 (6th Cir. 2008)
- Meriwether v. Hartop, 992 F.3d 492, 514 (6th Cir. 2021)
- Humphreys v. Bank of Am., 557 Fed. App'x 416, 422 (6th Cir. 2014)
- Nuchols v. Berrong, 141 Fed. App'x 451, 453 (6th Cir. 2005)
- LRL Prop. v. Portage Metro Hous. Auth., 55 F.3d 1097, 1113 (6th Cir. 1995) (Jones, J., dissenting)