

ALD-252

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-1945

JEREMIAH MOORE,
Appellant

v.

COMMONWEALTH OF PENNSYLVANIA;
MAGISTRATE DISTRICT COURTHOUSE 38-1-12;
GREGORY SCOTT; EDWARD KROPP, SR.; POTTSTOWN POLICE
DEPARTMENT; JAMIE O'NIELL; CRAIG A. JOHNSON

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2:21-cv-05519)
District Judge: Honorable Juan R. Sánchez

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
September 29, 2022

Before: JORDAN, RESTREPO, and SCIRICA, Circuit Judges

(Opinion filed: October 13, 2022)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Jeremiah Moore, proceeding pro se and in forma pauperis, appeals from the District Court's order dismissing his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). We will summarily affirm.

I.

In December 2021, Moore filed a civil rights action under 42 U.S.C. § 1983, alleging that he was unlawfully arrested and incarcerated in violation of the Fourth, Fifth, Eighth, and Fourteenth Amendments and in contravention of the Universal Declaration of Human Rights. Moore named as defendants the Commonwealth of Pennsylvania, the Magistrate District Courthouse 38-1-12, Magisterial District Judges Gregory Scott and Edward Kropp, Sr., the Pottstown Police Department, and Police Officers Jamie O'Neill and Craig Johnson. The District Court screened the action under 28 U.S.C. § 1915(e) and dismissed it for failure to state a claim upon which relief may be granted.

II.

We have jurisdiction pursuant to 28 U.S.C. § 1291 and exercise plenary review over a District Court's sua sponte dismissal of a complaint under § 1915(e). Dooley v. Wetzel, 957 F.3d 366, 373 (3d Cir. 2020). To avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Talley v. Wetzel, 15 F.4th 275, 286 n.7 (3d Cir. 2021) (cleaned up). “In assessing

the Complaint, we are mindful of our obligation to liberally construe a pro se litigant's pleadings." Dooley, 957 F.3d at 374 (cleaned up). We may summarily affirm if the appeal fails to present a substantial question. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

III.

The District Court properly dismissed all claims against the Commonwealth of Pennsylvania, the Magistrate District Courthouse 38-1-12, and the Pottstown Police Department.¹ First, regarding the Commonwealth of Pennsylvania, states are not "persons" within the meaning of § 1983, and Moore's suit against the Commonwealth is also barred by the Eleventh Amendment. See Will v. Mich. Dep't of State Police, 491 U.S. 58, 65–66 (1989). Similarly, the Magisterial District Court, as a part of Pennsylvania's Unified Judicial System, shares in the Commonwealth's immunity and is not considered a "person" subject to liability under § 1983. See Callahan v. City of Philadelphia, 207 F.3d 668, 673 (3d Cir. 2000); see also Benn v. First Judicial Dist. of Pa., 426 F.3d 233, 240–41 (3d Cir. 2005). Likewise, although local governmental units may constitute "persons" against whom suit may be brought under § 1983, see Monell v.

¹ To the extent that Moore requested a "declaration" that the defendants' conduct violated his rights, this request does not amount to a request for declaratory relief. Declaratory relief is "prospective in nature," CMR D.N. Corp. v. City of Philadelphia, 703 F.3d 612, 628 (3d Cir. 2013), and Moore's request seeks retrospective relief, see Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc. (1993), 506 U.S. 139, 145–46 (1993).

Dep't of Soc. Servs., 436 U.S. 658, 694 (1978), municipal police departments like the Pottsville Police Department are governmental sub-units that are not distinct from the municipalities of which they are a part, see Bonenberger v. Plymouth Twp., 132 F.3d 20, 25 n.4 (3d Cir. 1997), and thus may not be separately sued under § 1983.²

The District Court also properly dismissed all claims against Magisterial District Judges Scott and Kropp. To the extent that Moore included allegations against Judges Scott and Kropp, he described judicial acts conducted within the scope of their jurisdiction. Therefore, they are entitled to absolute immunity. See Stump v. Sparkman, 435 U.S. 349, 355–57 (1978) (explaining that judges are not civilly liable for judicial acts); see also Mireles v. Waco, 502 U.S. 9, 11–12 (1991) (per curiam) (explaining that judicial immunity is only overcome for nonjudicial actions or for judicial actions taken in the complete absence of jurisdiction).

The District Court was also correct to dismiss the claims against Officers O'Neill and Johnson. As the District Court noted, Moore's claims of false arrest and false imprisonment were time-barred. Section 1983 claims are subject to Pennsylvania's two-

² In any event, Moore has not alleged that any of his injuries were the result of a policy or custom as would be necessary to implicate municipal liability under § 1983. See Monell, 436 U.S. at 694 (“[A] local government may not be sued under § 1983 for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, . . . inflicts the injury that the government as an entity is responsible under § 1983.”).

year statute of limitations.³ See Bougher v. Univ. of Pittsburgh, 882 F.2d 74, 78 (3d Cir. 1989), see also 42 Pa. Cons. Stat. § 5524. For a claim of false arrest or false imprisonment, the limitations period begins to run when the plaintiff is detained pursuant to legal process rather than when the plaintiff is released. See Wallace v. Kato, 549 U.S. 384, 389–90 (2007). The commitment order attached to Moore’s complaint and the trial court’s public docket, of which we take judicial notice, see Orabi v. Att’y Gen., 738 F.3d 535, 537 n.1 (3d Cir. 2014), demonstrate that Moore was detained pursuant to legal process when he was arraigned on the charges in September 2019. See ECF No. 2, p. 15; Commonwealth v. Moore, MJ-38112-CR-0000417-2019 (C.P. Montgomery County). He did not initiate this action until December 2021, after the statute of limitations expired.

³ Ordinarily, the statute of limitations is an affirmative defense that must be pleaded and that is subject to waiver. See Chainey v. Street, 523 F.3d 200, 209 (3d Cir. 2008). But, for the claims for which a time-bar and the absence of meritorious tolling issues were obvious from the face of the complaint, the District Court could properly dismiss them as time-barred sua sponte under 28 U.S.C. § 1915(e)(2)(B)(ii). See Jones v. Bock, 549 U.S. 199, 215 (2007). To the extent that Moore claims he was prevented from timely filing because of general pandemic conditions and his experience with a case of COVID-19, see 3d Cir. ECF No. 7, p. 3, he does not present any specific information that would change the result reached by the District Court. See Menominee Indian Tribe of Wis. v. United States, 577 U.S. 250, 255 (2016) (explaining that, to be entitled to equitable tolling, a litigant must show, inter alia, that an extraordinary circumstance prevented timely filing); cf. Ross v. Varano, 712 F.3d 784, 803 (3d Cir. 2013) (explaining that, in the context of equitably tolling the time to file a habeas petition, a petitioner must show “a causal connection, or nexus, between the extraordinary circumstances he faced and the petitioner’s failure to file a timely federal petition”).

Accordingly, the false arrest and false imprisonment claims were time-barred, and the District Court properly dismissed them.

The District Court also liberally construed Moore's complaint to include a claim of malicious prosecution, which involves "detention accompanied, not by absence of legal process, but by *wrongful institution* of legal process." Wallace, 549 U.S. at 390. "[A] malicious-prosecution claim accrues when criminal proceedings end in the plaintiff's favor." Randall v. City of Phila. L. Dep't, 919 F.3d 196, 198 (3d Cir. 2019) (citing Heck v. Humphrey, 512 U.S. 477, 489 (1994)). Moore's complaint and exhibits to his complaint reflect that two charges were dismissed at the preliminary hearing in October 2019, and the remaining charges were held over for the Court of Common Pleas. To the extent that Moore's malicious prosecution claim related to the two earlier-dismissed charges, the claim is time-barred because Moore did not initiate this action until December 2021, more than two years after their dismissal.

Regarding the charges that remained pending after the preliminary hearing, Moore's complaint reflects that he ultimately pleaded guilty to operating a vehicle without valid inspection stickers, in exchange for "no further prosecution on related charges." See ECF No. 2, p. 4. The District Court correctly noted that success on the malicious prosecution claim would impugn the validity of Moore's intact conviction and concluded that the claim is barred by the favorable termination rule. See Heck, 512 U.S.

at 489 (explaining that, where a plaintiff seeks damages attributable to an unconstitutional conviction or sentence, a § 1983 cause of action does not accrue until the conviction or sentence has been invalidated or terminated favorably). And to the extent that Moore’s malicious prosecution claim was premised on the charges that were dismissed or otherwise not prosecuted as a part of his guilty plea, these charges were not “favorably terminated.” See Curry v. Yachera, 835 F.3d 373, 378 (3d Cir. 2016) (explaining that, “even where the prosecution moves to dismiss criminal charges, there is no favorable termination if the dismissal was the result of a compromise, because this would not indicate that the accused is actually innocent of the crimes charged”) (cleaned up). Accordingly, the District Court properly dismissed these claims.⁴

Finally, the District Court was correct that the Declaration of Human Rights cannot provide the basis for any claims. The Declaration is a non-binding declaration that provides no private right of action. See Sosa v. Alvarez-Machain, 542 U.S. 692, 734 (2004).⁵

⁴ To the extent that Moore raised tort claims under Pennsylvania state law, the District Court did not err in declining to reach these claims, as the claims over which it had original jurisdiction were properly dismissed. See Hedges v. Musco, 204 F.3d 109, 123 (3d Cir. 2000).

⁵ The District Court did not abuse its discretion by declining to grant Moore leave to amend his complaint, as amendment would be futile under the circumstances of this case. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).

IV.

Accordingly, we will affirm the judgment of the District Court. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.