

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

DAVID ORLANDO NOEL, SR.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 1:25-cv-101(LAG)
	:	
District Attorney GREGORY	:	
EDWARDS,	:	
	:	
Defendant.	:	

ORDER & RECOMMENDATION

Pro se Plaintiff David Orlando Noel, Sr., an inmate confined at Central State Prison in Macon, Georgia, filed a complaint under 42 U.S.C. § 1983. (Doc. 1). Plaintiff seeks leave to proceed *in forma pauperis* (“IFP”). (Doc. 2). For the reasons discussed below, Plaintiff’s motion to proceed IFP is **GRANTED**. It is **RECOMMENDED** that Plaintiff’s complaint be **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915A(b) for failure to state a claim for which relief may be granted.

MOTION FOR LEAVE TO PROCEED IFP

Plaintiff seeks leave to proceed without prepayment of the filing fee or security thereof pursuant to 28 U.S.C. § 1915(a). (Doc. 2). As Plaintiff is unable to pay the cost of commencing this action, the application to proceed IFP is **GRANTED**.

However, even if a prisoner is allowed to proceed *in forma pauperis*, he must nevertheless pay the full amount of the \$350.00 filing fee. 28 U.S.C. § 1915(b)(1). If the prisoner has sufficient assets, he must pay the filing fee in a lump sum. If sufficient assets are not in the account, the court must assess an initial partial filing fee based on the assets available. Despite this requirement, a prisoner may not be prohibited from bringing a civil action because he has no assets and no means by which to pay the initial partial filing fee. 28 U.S.C. § 1915(b)(4). In the event the prisoner has no

assets, payment of the partial filing fee prior to filing will be waived.

Plaintiff's submissions indicate that he is unable to pay the initial partial filing fee. *See* (Doc. 2); 28 U.S.C. § 1915(b)(2). Accordingly, it is hereby **ORDERED** that his complaint be filed and that he be allowed to proceed without paying an initial partial filing fee.

I. Directions to Plaintiff's Custodian

Plaintiff is required to make monthly payments of twenty percent (20%) of the deposits made to his prisoner account during the preceding month toward the full filing fee. 28 U.S.C. § 1915(b)(2). The Clerk of Court is **DIRECTED** to send a copy of this Order to the business manager of the facility in which Plaintiff is incarcerated. It is **ORDERED** that the warden of the institution in which Plaintiff is incarcerated, or the sheriff of any county wherein Plaintiff is held in custody, and any successor custodians, shall each month cause to be remitted to the Clerk of this Court twenty percent (20%) of the preceding month's income credited to Plaintiff's account at said institution until the \$350.00 filing fee has been paid in full. *Id.* In accordance with provisions of the Prison Litigation Reform Act ("PLRA"), Plaintiff's custodian is authorized to forward payments from the prisoner's account to the Clerk of Court each month until the filing fee is paid in full, provided the amount in the account exceeds ten dollars (\$10.00). It is **ORDERED** that collection of monthly payments from Plaintiff's trust fund account continue until the entire \$350.00 has been collected, notwithstanding the dismissal of Plaintiff's lawsuit or the granting of judgment against him prior to the collection of the full filing fee.

II. Plaintiff's Obligations Upon Release

Plaintiff should keep in mind that his release from incarceration/detention does not release him from his obligation to pay the installments incurred while he was in custody. Plaintiff remains obligated to pay those installments justified by the income in his prisoner trust account while he was detained. If Plaintiff fails to remit such payments, the Court authorizes collection from Plaintiff of

any balance due on these payments by any means permitted by law. Plaintiff's Complaint may be dismissed if he is able to make payments but fails to do so or if he otherwise fails to comply with the provisions of the PLRA.

PRELIMINARY REVIEW OF PLAINTIFF'S COMPLAINT

I. Standard of Review

The PLRA directs courts to conduct a preliminary screening of every complaint filed by a prisoner who seeks redress from a government entity, official, or employee. 28 U.S.C. § 1915A(a). Courts must also screen complaints filed by a plaintiff proceeding IFP. 28 U.S.C. § 1915(e). Both statutes apply in this case, and the standard of review is the same. “*Pro se* filings are generally held to a less stringent standard than those drafted by attorneys and are liberally construed.” *Carmichael v. United States*, 966 F.3d 1250, 1258 (11th Cir. 2020) (citation omitted). Still, the Court must dismiss a prisoner complaint if it “(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A(b); see also 28 U.S.C. § 1915(e).

A claim is frivolous if it “lacks an arguable basis either in law or in fact.” *Miller v. Donald*, 541 F.3d 1091, 1100 (11th Cir. 2008) (citations omitted). On preliminary review, the Court may dismiss claims that are “based on an indisputably meritless legal theory” and “dismiss those claims whose factual contentions are clearly baseless.” *Id.* (citations omitted).

A complaint fails to state a claim if it does not include “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)). “Factual allegations [in a complaint] must be enough to raise a right to relief above the speculative level[.]” *Twombly*, 550 U.S. at 555 (citations omitted). In other words, the complaint must allege enough facts “to raise a reasonable expectation that discovery will reveal evidence” supporting a claim. *Id.* at 556.

“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555).

To state a claim for relief under § 1983, a plaintiff must allege that (1) an act or omission deprived him of a right, privilege, or immunity secured by the Constitution or a statute of the United States; and (2) the act or omission was committed by a person acting under color of state law. *Hale v. Tallapoosa Cnty.*, 50 F.3d 1579, 1582 (11th Cir. 1995). If a litigant cannot satisfy these requirements or fails to provide factual allegations in support of his claim or claims, the complaint is subject to dismissal. *See, e.g., Bingham v. Thomas*, 654 F.3d 1171, 1176-77 (11th Cir. 2011) (affirming dismissal of certain claims at preliminary screening because prisoner failed to allege sufficient facts to show a violation of his rights), *abrogated on other grounds by Wade v. McDade*, 106 F.4th 1251, 1255 (11th Cir. 2024) (en banc).

II. Plaintiff's Allegations

In June 2023, Plaintiff pled guilty to Aggravated Assault with Attempt to Rape in the Superior Court of Dougherty County and received a twenty-year sentence, which he is currently serving at Central State Prison. (Doc. 1, at 1, 4). Plaintiff complains that he was “falsely accused, arrested and held without bond for 63 months . . . for a crime of which there never existed evidence to confirm had occurred.” *Id.* at 4. Plaintiff further complains that he received ineffective assistance of counsel and that he was advised to plead guilty. *Id.* Plaintiff states that he is “currently appealing that plea and asserts his innocence of alleged crime(s).” *Id.* Plaintiff seeks costs, damages, and “an investigation into the Judicial System Processes of Dougherty County.”¹ *Id.* at 5.

¹ Even if Plaintiff could prevail in his § 1983 claims, this Court has no authority to grant Plaintiff the investigative relief he seeks. The United States District Court is a trial court and not an entity that conducts investigations into other entities and persons. Indeed, the United States District Courts do not have jurisdiction to institute criminal proceedings or the authority to order state or federal law enforcement agencies or prosecutors to initiate investigations or prosecutions. *Otero v. U. S. Att’y Gen.*, 832 F.2d 141, 141 (11th Cir. 1987); *see also Bennett v. Hall*, No. 5:10-CV-291 (MTT), 2010 WL 4024006, at *2 (M.D. Ga. Sept. 13, 2010).

III. Plaintiff's Claims

Plaintiff's complaint is due to be dismissed because his malicious prosecution and/or wrongful conviction claims are barred by the doctrine set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994). In *Heck*, the Supreme Court of the United States held that “when a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence[.]” *Heck*, 512 U.S. at 487. If it would, then the prisoner's claims must be dismissed unless he “can demonstrate that the conviction or sentence has already been invalidated.” *Id.*

Here, Plaintiff admits he entered a guilty plea and is currently serving a state prison sentence. (Doc. 1, at 1, 4-5). A favorable ruling from this Court on such claims would necessarily undermine his criminal conviction and sentence. *See, e.g., Rosa v. Satz*, 840 F. App'x 491, 493 (11th Cir. 2021) (concluding *Heck* barred prisoner's claims that “prosecution and defense conspired to commit fraud in order to wrongfully convict her of murder” because such claim “necessarily implies the invalidity of her conviction”); *Abella v. Rubino*, 63 F.3d 1063, 1064-65 (11th Cir. 1995) (holding *Heck* barred damages claims based on prisoner's “contention that the defendants unconstitutionally conspired to convict him of crimes he did not commit” by “fabricating testimony and other evidence against him” because judgment in favor of prisoner on those claims would necessarily undermine his conviction); *Goldston v. City of Monroe*, 621 F. App'x 274, 278 (5th Cir. 2015) (holding plaintiff's false arrest claims were *Heck*-barred because “seeking . . . to show a lack of probable cause is in essence a collateral attack on the conviction”).

Plaintiff's complaint must therefore be dismissed unless he “can demonstrate that the conviction or sentence has already been invalidated.” *Heck*, 512 U.S. at 487. To this end, Plaintiff states that he is currently appealing his guilty plea and that he has a habeas action pending in the Superior Court of Bibb County. (Doc. 1, at 1, 4). However, Plaintiff does not show that he has been

successful in his efforts to overturn his conviction. *See id.* Because Plaintiff has failed to allege any facts demonstrating his conviction or sentence has in fact been invalidated, his claims related to his allegedly unlawful arrest, incarceration, and conviction are *Heck*-barred and should be dismissed as such. *Wilkinson v. Dotson*, 544 U.S. 74, 81-82 (2005) (noting that the Supreme Court’s relevant precedent, “taken together, indicate that a state prisoner’s § 1983 action is barred (absent prior invalidation)—no matter the relief sought (damages or equitable relief) . . .—*if* success in that action would necessarily demonstrate the invalidity of confinement or its duration”).

Moreover, even if Plaintiff’s claims were not barred by *Heck*, they are barred by prosecutorial immunity. Plaintiff names Dougherty County District Attorney Gregory Edwards as his only Defendant. (Doc. 1, at 1, 3). With respect to claims against prosecuting attorneys, the law is clear: “[I]n initiating a prosecution and in presenting the State’s case, the prosecutor is immune from a civil suit for damages under § 1983.” *Holt v. Crist*, 233 F. App’x 900, 903 (11th Cir. 2007) (quoting *Imbler v. Pachtman*, 424 U.S. 409, 431 (1976)). In other words, a prosecutor is absolutely immune from liability for actions “which occur in the course of his role as an advocate for the State,” including but not limited to “appearances in judicial proceedings . . . prosecutorial conduct before grand juries, statements made during trial, examination of witnesses, and presentation of evidence in support of a search warrant during a probable cause hearing.” *Rehberg v. Paulk*, 611 F.3d 828, 837-38 (11th Cir. 2010) (internal quotation marks and citation omitted). Prosecutors enjoy absolute immunity even when “filing an information without investigation, filing charges without jurisdiction, filing a baseless detainer, offering perjured testimony, suppressing exculpatory evidence, refusing to investigate . . . complaints about the prison system, [and] threatening . . . further criminal prosecutions.” *Hart v. Hodges*, 587 F.3d 1288, 1295 (11th Cir. 2009) (internal quotation marks and citation omitted). Here, Plaintiff’s claims against Defendant District Attorney Gregory Edwards fall squarely within the domain of prosecutorial immunity from § 1983 suits and are therefore subject to dismissal.

IV. Conclusion

As set forth above, Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**, but the complaint does not state a claim upon which relief may be granted. Accordingly, it is **RECOMMENDED** that Plaintiff's complaint be **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A for failure to state a claim for which relief may be granted.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this order and recommendation with the Honorable Leslie Abrams Gardner, United States District Court Chief Judge, **WITHIN FOURTEEN (14) DAYS** after being served with a copy of this order and recommendation. The parties may seek an extension of time in which to file written objections, provided a request for an extension is filed prior to the deadline for filing written objections. Any objection is limited in length to **TWENTY (20) PAGES**. *See* M.D. Ga. L.R. 7.4. Failure to object in accordance with the provisions of § 636(b)(1) waives the right to challenge on appeal the district judge's order based on factual and legal conclusions to which no objection was timely made. *See* 11th Cir. R. 3-1.

SO ORDERED and RECOMMENDED, this 2nd day of October, 2025.

s/ **ALFREDA L. SHEPPARD**
UNITED STATES MAGISTRATE JUDGE