motion for extention of Time
Due to Prison Conditions, I am not able to go to the law library and or mailroom as needed.
I am filing this Pro-se Petition for writ of Certiorari
Cecil Quinn Jr. V. Mark Hayes
7:23-CV-06174-HMH-JDA
Filed Feb 25-2025
No. 24-6248

Request for Guide to filing a Petition for Writ of Certiorari and proper court form.

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6248

CECIL JEROME QUINN, JR.,

Plaintiff - Appellant,

v.

MARK J. HAYES; HOPE M. BLACKLEY; GAIL MOFFITT; DANIEL CUDE; JAMES CHEEKS; TREY GOWDY,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Henry M. Herlong, Jr., Senior District Judge. (7:23-cv-06174-HMH)

Submitted: February 20, 2025 Decided: February 25, 2025

Before AGEE, HARRIS, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Cecil Jerome Quinn, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cecil Jerome Quinn, Jr., appeals the district court's order accepting the recommendation of the magistrate judge and dismissing his 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915A(b). We have reviewed the record and find no reversible error. *See Shaw v. Foreman*, 59 F.4th 121, 126 (4th Cir. 2023) (providing standard of review). Accordingly, we affirm the district court's order. *Quinn v. Hayes*, No. 7:23-cv-06174-HMH (D.S.C. Feb. 8, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Cecil Jerome Quinn, Jr.,	)	
	)	C.A. No. 7:23-6174-HMH-KFM
Plaintiff,	)	
	)	
vs.	)	**OPINION & ORDER**
	)	
Mark J. Hayes, Hope M. Blackley, Gail Moffitt, Daniel Cude, James Cheeks, Trey Gowdy,	)	
	)	
Defendants.	)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin made in accordance with 28 U.S.C. § 636(b) and District of South Carolina Local Civil Rule 73.02. Plaintiff, a state prisoner proceeding pro se and in forma pauperis, brings this 42 U.S.C. § 1983 action alleging that Defendants violated his constitutional rights. In her Report and Recommendation filed on January 16, 2024, Judge Austin recommended dismissing Plaintiff's claims without issuance and service of process pursuant to 28 U.S.C. § 1915A. (R&R 10, ECF No. 18.) Plaintiff filed a number of motions for miscellaneous relief that are confusing and difficult to decipher. However, the court construes the filings as objections to the Report and Recommendation and a motion to appoint counsel.

Objections to a report and recommendation must be specific. A report and recommendation carries no "presumptive weight," and the responsibility for making a final determination remains with the court. Mathews v. Weber, 423 U.S. 261, 271 (1976). The court

reviews de novo "those portions of the report . . . to which objection is made" and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge" or "recommit the matter . . . with instructions." 28 U.S.C. § 636(b)(1). "To trigger de novo review, an objecting party 'must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.'" Elijah v. Dunbar, 66 F.4th 454, 460 (4th Cir. 2023) (quoting United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007)). In the absence of specific objections, the court reviews only for clear error, Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005), and need not give any explanation for adopting the report, Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

Upon review, Plaintiff has not filed any specific objections to the substance of the magistrate judge's findings or conclusions. Therefore, having reviewed the Report and Recommendation, the court adopts Judge Austin's Report and Recommendation and incorporates it herein.

It is therefore

ORDERED that the motion to appoint counsel, docket number 23, is denied. It is further

ORDERED that this action is dismissed without issuance and service of process pursuant to 28 U.S.C. § 1915A.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
February 8, 2024

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Cecil Jerome Quinn, Jr., Plaintiff,	)	C/A No. 7:23-cv-06174-HMH-JDA
v.	)	**REPORT AND RECOMMENDATION**
Mark J. Hayes, Hope M. Blackley, Gail Moffitt, Daniel Cude, James Cheeks, Trey Gowdy, Defendants.	)	

Cecil Jerome Quinn, Jr. ("Plaintiff"), proceeding pro se and in forma pauperis, brings this civil action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. Plaintiff is an inmate in the custody of the South Carolina Department of Corrections ("SCDC") and is presently confined at the Broad River Correctional Institution. [Doc. 1-4 at 2.] Pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., the undersigned Magistrate Judge is authorized to review such complaints for relief and submit findings and recommendations to the District Court. For the reasons below, the undersigned finds that this action is subject to summary dismissal.

BACKGROUND

Plaintiff commenced this action by filing approximately 80 pages of documents, including handwritten allegations and documents from Plaintiff's state court proceedings. [Docs. 1; 1-1.] Thereafter, Plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983 on the standard form [Doc. 1-4] along with an additional 113 pages of documents [Docs. 1-5; 1-6].

Although the Complaint is confusing and difficult to decipher, the Court is able to glean the following pertinent allegations. Plaintiff contends that he is wrongly imprisoned

under false pretenses and "incarcerated for a crime that did not exist." [Doc. 1-4 at 5.] Plaintiff appears to allege that Defendants engaged in a "conspiracy to cover-up and hide documents" to keep Plaintiff in prison. [*Id*. at 5–6.]

For his relief, Plaintiff seeks indictments against Defendants and for them to "serve the same amount of prison time as I had to serve under false pretense," for his criminal record to be cleared, and that he be released from incarceration. [*Id*. at 7–8.] Plaintiff also appears to seek money damages. [*Id*. at 7 (asking that Defendants be required to "pay the maximum amount of . . . money . . . as justified").]

STANDARD OF REVIEW

Plaintiff filed this action pursuant to 28 U.S.C. § 1915, the in forma pauperis statute. This statute authorizes the District Court to dismiss a case if it is satisfied that the action "fails to state a claim on which relief may be granted," is "frivolous or malicious," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). Further, Plaintiff is a prisoner under the definition in 28 U.S.C. § 1915A(c), and "seeks redress from a governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a). Thus, even if Plaintiff had prepaid the full filing fee, this Court would be charged with screening Plaintiff's lawsuit to identify cognizable claims or to dismiss the Complaint if (1) it were frivolous, malicious, or failed to state a claim upon which relief may be granted, or (2) if it sought monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A.

Because Plaintiff is a pro se litigant, his pleadings are accorded liberal construction and held to a less stringent standard than formal pleadings drafted by attorneys. *See*

Erickson v. Pardus, 551 U.S. 89, 94 (2007). However, even under this less stringent standard, Plaintiff's Complaint is subject to summary dismissal. The mandated liberal construction afforded to pro se pleadings means that if the court can reasonably read the pleadings to state a valid claim on which Plaintiff could prevail, it should do so, but a district court may not rewrite a petition to include claims that were never presented, *Barnett v. Hargett*, 174 F.3d 1128, 1133 (10th Cir. 1999), or construct Plaintiff's legal arguments for him, *Small v. Endicott*, 998 F.2d 411, 417–18 (7th Cir. 1993), or "conjure up questions never squarely presented" to the court, *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985). The requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. *See Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 391 (4th Cir. 1990).

Although the Court must liberally construe the pro se Complaint and Plaintiff is not required to plead facts sufficient to prove his case as an evidentiary matter in his pleadings, the 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)); *see also Francis v. Giacomelli*, 588 F.3d 186, 193 (4th Cir. 2009) (explaining that a plaintiff may proceed into the litigation process only when his complaint is justified by both law and fact); *cf. Skinner v. Switzer*, 562 U.S. 521, 530 (2011) (holding that plaintiff need not pin his claim for relief to precise legal theory). "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.'" *Owens v. Baltimore City State's Attorneys Office*, 767 F.3d 379, 388 (4th Cir. 2014).

A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "And, although the pleading requirements of Rule 8(a) are very liberal, more detail often is required than the bald statement by plaintiff that he has a valid claim of some type against defendant." *Migdal v. Rowe Price-Fleming Int'l, Inc.*, 248 F.3d 321, 326 (4th Cir. 2001) (citation and internal quotations omitted). This is particularly true in a § 1983 action where "liability is personal, based upon each defendant's own constitutional violations." *Trulock v. Freeh*, 275 F.3d 391, 402 (4th Cir. 2001). "In order for an individual to be liable under § 1983, it must be affirmatively shown that the official charged acted personally in the deprivation of the plaintiff's rights. . . . Consequently, [defendants] must have had personal knowledge of and involvement in the alleged deprivation of [plaintiff]'s rights in order to be liable." *Wright v. Collins*, 766 F.2d 841, 850 (4th Cir. 1985) (internal quotation marks omitted). While Plaintiff is not required to plead facts sufficient to prove his case as an evidentiary matter in his Complaint, he must allege facts that support a claim for relief. *Bass v. DuPont*, 324 F.3d 761, 765 (4th Cir. 2003); *White v. White*, 886 F.2d 721, 723–74 (4th Cir.1989) (dismissing complaint dismissed because it "failed to contain any factual allegations tending to support his bare assertion").

DISCUSSION

As noted, Plaintiff filed this action pursuant to 42 U.S.C. § 1983, which "'is not itself a source of substantive rights,' but merely provides 'a method for vindicating federal rights

elsewhere conferred.'" *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979)). A civil action under § 1983 "creates a private right of action to vindicate violations of 'rights, privileges, or immunities secured by the Constitution and laws' of the United States." *Rehberg v. Paulk*, 566 U.S. 356, 361 (2012). To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). Here, Plaintiff's Complaint is subject to summary dismissal for the reasons that follow.

Defendants entitled to dismissal

As an initial matter, all of the named Defendants are entitled to dismissal from this action because they are immune from suit, because they are not state actors, or because Plaintiff has failed to state facts showing their personal involvement in the alleged unlawful conduct.

Defendant Hayes

Defendant Hayes is identified in the Complaint as a circuit court judge. [Doc. 1-4 at 2.] It is well settled that judges have absolute immunity from a claim for damages arising out of their judicial actions unless they have acted in the complete absence of all jurisdiction. *See Mireles v. Waco*, 502 U.S. 9, 11–12 (1991); *Stump v. Sparkman*, 435 U.S. 349, 351–64 (1978); *see also Chu v. Griffith*, 771 F.2d 79, 81 (4th Cir. 1985) (explaining that if a challenged judicial act was unauthorized by law, the judge still has immunity from a suit seeking damages). Whether an act is judicial or non-judicial relates to the nature of

the act, such as whether it is a function normally performed by a judge and whether the parties dealt with the judge in his judicial capacity. *Mireles*, 502 U.S. at 12. Immunity applies even when the judge's acts were in error, malicious, or in excess of his authority. *Id.* at 12–13. Absolute immunity is "an immunity from suit rather than a mere defense to liability." *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985). Here, Plaintiff's allegations against Defendant Hayes relate to his judicial actions. Thus, because the alleged misconduct of Defendant Hayes arose out of his judicial actions, judicial immunity squarely applies and should bar this lawsuit against him.

Defendants Blackley and Moffitt

Defendants Blackley and Moffitt are both identified as clerks of court. [Doc. 1-4 at 2–3.] As such, and based on Plaintiff's allegations and supporting documents, they are both entitled to quasi-judicial immunity. It is well settled that, like judges, clerks of court and other court support personnel are entitled to immunity when performing their quasi-judicial duties. *See Jarvis v. Chasanow*, 448 F. App'x 406 (4th Cir. 2011); *Brooks v. Williamsburg Cnty. Sheriff's Office*, No. 1:15-cv-1074-PMD-BM, 2016 WL 1427316, at *6 (D.S.C. Apr. 11, 2016). "Absolute immunity 'applies to all acts of auxiliary court personnel that are basic and integral part[s] of the judicial function.'" *Jackson v. Houck*, 181 F. App'x 372, 373 (4th Cir. 2006) (citation omitted).

Here, the alleged wrongful acts, or failure to act, of Defendants Blackley and Moffitt were part of their judicial or quasi-judicial function and they have immunity from this lawsuit. Accordingly, Plaintiff's claims against these Defendants should be dismissed, with prejudice, as frivolous pursuant to 28 U.S.C. § 1915(d) because the claims are barred by

absolute immunity. *See Mills v. Marchant*, No. 8:19-cv-1512-TMC-JDA, 2019 WL 2647600, at *3 (D.S.C. June 4, 2019) (collecting cases), *Report and Recommendation adopted by* 2019 WL 2644216 (D.S.C. June 27, 2019).

Defendants Cude and Gowdy

Defendants Cude and Gowdy are identified as solicitors.[1] [Doc. 1-4 at 3–4.] These Defendants are both entitled to prosecutorial immunity. In *Imbler v. Pachtman*, 424 U.S. 409 (1976), the United States Supreme Court held that prosecutors, when acting within the scope of their duties, have absolute immunity from liability under § 1983 for alleged civil rights violations committed in the course of proceedings that are "intimately associated with the judicial phase of the criminal process." *Id.* at 430. For example, when a prosecutor "prepares to initiate a judicial proceeding," "appears in court to present evidence in support of a search warrant application," or conducts a criminal trial, bond hearings, grand jury proceedings, and pretrial "motions" hearings, absolute immunity applies. *Van de Kamp v. Goldstein*, 555 U.S. 335, 341–45 (2009). Here, these Defendants' alleged wrongful conduct appears intricately related to the judicial process. Therefore, Defendants Cude and Gowdy have absolute immunity from this suit and should be dismissed from this action.

Defendant Cheeks

Defendant Cheeks, who is identified as "counsel" [*id*. at 4], is entitled to summary dismissal because he is not a state actor for purposes of this § 1983 action. As noted, in order to state a § 1983 claim, Plaintiff must allege that he was deprived of a constitutional

[5] In South Carolina, regional prosecutors are called solicitors and assistant solicitors. *See* S.C. CONST Art. V, § 24; S.C. Code § 1-7-310.

right by a person acting under the color of state law. *Dowe v. Total Action Against Poverty in Roanoke Valley*, 145 F.3d 653, 658 (4th Cir. 1998). Defendant Cheeks was Plaintiff's attorney in the state court criminal proceedings against him that give rise to his present claims. [Docs. 1-5 at 23; 1-6 at 1.] However, Plaintiff has not alleged facts showing that Defendant is a state actor. "[A] public defender does not act under color of state law when performing a lawyer's traditional functions as counsel to a defendant in a criminal proceeding." *Polk Cnty. v. Dodson*, 454 U.S. 312, 317, 325 (1981); *see also Hall v. Quillen*, 631 F.2d 1154, 1156 (4th Cir. 1980) (concluding a court-appointed attorney was entitled to dismissal of the plaintiff's § 1983 claim against him for want of state action). Plaintiff has not made any allegations to plausibly show that Defendant Cheeks exceeded the "traditional functions as counsel." *Polk Cnty.*, 454 U.S. at 325; *see also Trexler v. Giese*, No. 3:09-cv-144-CMC-PJG, 2010 WL 104599, at *3 (D.S.C. Jan. 7, 2010) (finding attorney was entitled to summary dismissal in § 1983 action where attorney's representation in the state criminal case fell "squarely within the parameters of his legal representation" although the plaintiff was unhappy with the manner in which the attorney represented her). Accordingly, Plaintiff's claims against Defendant Cheeks are not proper in this § 1983 action, and this Defendant is entitled to dismissal for lack of state action. *See Curry v. South Carolina*, 518 F. Supp. 2d 661, 667 (D.S.C. 2007) (explaining public defenders are not state actors under § 1983 and thus entitled to dismissal).

Plaintiff's claims are subject to dismissal

Further, Plaintiff's Complaint as a whole is subject to dismissal for the reasons below.

The Complaint should be dismissed because it is frivolous and is barred by the doctrine set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994). Plaintiff appears to seek release from the custody of SCDC. However, release from prison is not available in this civil rights action. *See Heck*, 512 U.S. at 481 (stating that "habeas corpus is the exclusive remedy for a state prisoner who challenges the fact or duration of his confinement and seeks immediate or speedier release, even though such a claim may come within the literal terms of § 1983"); *Preiser v. Rodriguez*, 411 U.S. 475, 487–88 (1973) (explaining a challenge to the duration of confinement is within the core of habeas corpus).

Further, because Plaintiff appears to seek money damages based on his allegedly unlawful conviction and confinement in SCDC [*see* Doc. 1-4 at 7 (requesting that Defendants be required to "pay the maximum amount of . . . money . . . as justified due to my federal bill of rights")], his claim is premature because he is currently serving a sentence for a conviction that has not yet been invalidated. In *Heck*, the Supreme Court pronounced,

> [I]n 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 a 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.

Id. Further, the Supreme Court stated 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; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.

Id. This is known as the "favorable termination" requirement, which Plaintiff has not alleged he has satisfied. *See Wilson v. Johnson*, 535 F.3d 262, 263 (4th Cir. 2008).

The *Heck* holding applies to this case. Plaintiff alleges that Defendants acted to violate his constitutional rights, resulting in an unlawful conviction and false imprisonment. However, Plaintiff does not allege that his conviction has been invalidated, for example, by a reversal on direct appeal or a state or federal court's issuance of a writ of habeas corpus. Accordingly, Plaintiff's claims are barred and should be dismissed as a right of action has not accrued.

CONCLUSION

Consequently, for the reasons stated above, it is recommended that the District Court dismiss this action without issuance and service of process pursuant to 28 U.S.C. § 1915A.[2]

IT IS SO RECOMMENDED.

s/Jacquelyn D. Austin
United States Magistrate Judge

January 16, 2024
Greenville, South Carolina

Plaintiff's attention is directed to the important notice on the next page.

[2] The undersigned finds that Plaintiff cannot cure the defects in his Complaint by mere amendment and therefore recommends that the instant action be dismissed without affording Plaintiff an opportunity to amend because further amendment would be futile. *See Bing v. Brivo Sys., LLC*, 959 F.3d 605, 610–12, 614–15 (4th Cir. 2020).

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
250 East North Street, Suite 2300
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

FILED: February 25, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6248, Cecil Quinn, Jr. v. Mark Hayes
7:23-cv-06174-HMH

NOTICE OF JUDGMENT

Judgment was entered on this date in accordance with Fed. R. App. P. 36. Please be advised of the following time periods:

PETITION FOR WRIT OF CERTIORARI: The time to file a petition for writ of certiorari runs from the date of entry of the judgment sought to be reviewed, and not from the date of issuance of the mandate. If a petition for rehearing is timely filed in the court of appeals, the time to file the petition for writ of certiorari for all parties runs from the date of the denial of the petition for rehearing or, if the petition for rehearing is granted, the subsequent entry of judgment. See Rule 13 of the Rules of the Supreme Court of the United States; www.supremecourt.gov.

VOUCHERS FOR PAYMENT OF APPOINTED OR ASSIGNED COUNSEL: Vouchers must be submitted within 60 days of entry of judgment or denial of rehearing, whichever is later. If counsel files a petition for certiorari, the 60-day period runs from filing the certiorari petition. (Loc. R. 46(d)). If payment is being made from CJA funds, counsel should submit the CJA 20 or CJA 30 Voucher through the CJA eVoucher system. In cases not covered by the Criminal Justice Act, counsel should submit the Assigned Counsel Voucher to the clerk's office for payment from the Attorney Admission Fund. An Assigned Counsel Voucher will be sent to counsel shortly after entry of judgment. Forms and instructions are also available on the court's web site, www.ca4.uscourts.gov, or from the clerk's office.

BILL OF COSTS: A party to whom costs are allowable, who desires taxation of costs, shall file a Bill of Costs within 14 calendar days of entry of judgment. (FRAP 39, Loc. R. 39(b)).

PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC: A petition for rehearing must be filed within 14 calendar days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. A petition for rehearing en banc must be filed within the same time limits and in the same document as the petition for rehearing and must be clearly identified in the title. The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel.

Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 3900 words if prepared by computer and may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the court. (FRAP 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

U.S. COURT OF APPEAL FOR THE FOURTH CIRCUIT BILL OF COSTS FORM
(Civil Cases)

Directions: Under FRAP 39(a), the costs of appeal in a civil action are generally taxed against appellant if a judgment is affirmed or the appeal is dismissed. Costs are generally taxed against appellee if a judgment is reversed. If a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed as the court orders. A party who wants costs taxed must, within 14 days after entry of judgment, file an itemized and verified bill of costs, as follows:

- Itemize any fee paid for docketing the appeal. The fee for docketing a case in the court of appeals is $600 (effective 12/1/2023). The $5 fee for filing a notice of appeal is recoverable as a cost in the district court.
- Itemize the costs (not to exceed $.15 per page) for copying the necessary number of formal briefs and appendices. (The court typically orders 4 copies when tentatively calendared; 0 copies for service unless brief/appendix is sealed.). The court bases the cost award on the page count of the electronic brief/appendix. Costs for briefs filed under an informal briefing order are not recoverable.
- Cite the statutory authority for an award of costs if costs are sought for or against the United States. See 28 U.S.C. § 2412 (limiting costs to civil actions); 28 U.S.C. § 1915(f)(1) (prohibiting award of costs against the United States in cases proceeding without prepayment of fees).

Any objections to the bill of costs must be filed within 14 days of service of the bill of costs. Costs are paid directly to the prevailing party or counsel, not to the clerk's office.

Case Number & Caption: _____

Prevailing Party Requesting Taxation of Costs: _____

Appellate Docketing Fee (prevailing appellants):			**Amount Requested: _____**			**Amount Allowed: _____**	
Document	**No. of Pages**		**No. of Copies**		**Page Cost (≤$.15)**	**Total Cost**	
	Requested	**Allowed** (court use only)	**Requested**	**Allowed** (court use only)		**Requested**	**Allowed** (court use only)
TOTAL BILL OF COSTS:						$0.00	$0.00

1. If copying was done commercially, I have attached itemized bills. If copying was done in-house, I certify that my standard billing amount is not less than $.15 per copy or, if less, I have reduced the amount charged to the lesser rate.
2. If costs are sought for or against the United States, I further certify that 28 U.S.C. § 2412 permits an award of costs.
3. I declare under penalty of perjury that these costs are true and correct and were necessarily incurred in this action.

Signature: _____ **Date:** _____

Certificate of Service

I certify that on this date I served this document as follows:

Signature: _____ **Date:** _____

FILED: February 25, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6248
(7:23-cv-06174-HMH)

CECIL JEROME QUINN, JR.

Plaintiff - Appellant

v.

MARK J. HAYES; HOPE M. BLACKLEY; GAIL MOFFITT; DANIEL CUDE; JAMES CHEEKS; TREY GOWDY

Defendants - Appellees

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

24-6248

Cecil Jerome Quinn, Jr.
#311338
BROAD RIVER CORRECTIONAL INSTITUTION
4460 Broad River Road
Columbia, SC 29210-0000