



## Gaskins v. South Carolina, State of

2015 | Cited 0 times | D. South Carolina | September 15, 2015

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION Sasha Alajawon Gaskins in propria persona, ) Civil Case No.  
2:15-cv-2589-DCN-MGB Plaintiff, ) v. ) REPORT AND RECOMMENDATION South Carolina, State  
of, ) in her private and individual capacity ) doing business as Scarlett A. Wilson, ) Defendant. )  
\_\_\_\_\_ )

Plaintiff Sasha Alajawon Gaskins is proceeding pro se and brings this civil action against the defendant, named as State of SOUTH CAROLINA, d/b/a Scarlett A. Wilson - Alajawon: Gaskin© Intervenor. (DE# 1, capitals in original). Plaintiff has paid the filing fee and is not proceeding in forma pauperis. After careful review, the undersigned recommends that the Complaint be dismissed without prejudice, and without issuance and service of process, for the following reasons: I. Pro Se Prisoner Although plaintiff indicates on the face of the ia plaintiff is proceeding without the assistance

of an attorney. Therefore, she is proceeding pro se Additionally, although her address at a post office box in Clinton, South Carolina, a records check reveals that the plaintiff is currently incarcerated at Leath Correctional Institution in Greenwood, South Carolina (and was incarcerated there at the time this suit was filed). See <http://public.doc.state.sc.us/scdc-public>. She was convicted of armed robbery and burglary, sentenced to eighteen (18) years imprisonment, and has been incarcerated since 2011 to serve such sentence. This Court may properly take judicial notice of such public records. See *Papasan v. Allain*, 478 U.S. 265, 268 n. 1 (1986) in our review of the complaint from taking notice of items in the public record *Philips v. Pitt*

Cty. M l Hosp., 572 F.3d 176, 180 (4th Cir.2009). II. Liberal Construction of Pro se Pleadings Pro se pleadings are given liberal construction and are held to a less stringent standard than formal pleadings drafted by attorneys. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam); transform the court into an advocate. Only those questions which are squarely presented to a

*Weller v. Dept. of Soc. Servs. for City of Baltimore*, 901 F.2d 387, 391 (4th Cir.1990). failure to allege facts that set forth a cognizable claim. *United States v. Wilson*,

699 F.3d 789, 797 (4th Cir.2012), cert. denied, 133 S.Ct. 2401 (2013). generous construction of pro se



## Gaskins v. South Carolina, State of

2015 | Cited 0 times | D. South Carolina | September 15, 2015

complaints ... [do] not require ... courts to conjure up questions Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985) cert. denied, 475 U.S. 1088 (1986). III. Factual Allegations It is nearly impossible to discern any coherent factual allegations, as plaintiff has filed a 14-page complaint that can only be described as nonsensical. A few excerpts will suffice to illustrate this. For example, plaintiff indicates:

Family am the Movant [hereinafter] referred to Secured Party/Plaintiff. Secured Party/Plaintiff is a natural born, free. Living, breathing, flesh and blood human with sentient and moral existence, a real woman upon the soil, a juris et de jure, also known as a Secured Party and a (sic)

(DE# 1 at 5). She also refers to herself as a debtor and secured party, for example:

This Secured Party is the Holder-In-Due-Course and has established an un-rebuttable Superior Claim over that of the STATE OF SOUTH CAROLINA, concerning the Debtor. Furthermore, STATE OF SOUTH CAROLINA cannot state a claim against DEBTOR SASHA ALAJAWON GASKINS. (DE# 1 at 13). Amidst the many disconnected and unintelligible statements, plaintiff indicates: wn, until such a time as written proof of jurisdiction is demonstrated and filled (sic) in the court record of this case, the Accused shall be entitled to the conclusive presumption that She includes a page it Presented AS/UNDER LETTER RO (DE# 1 at 4, capitals in original). State Constitution of the United States Constitution, its Ordinances, Statutes, Codes, or

Regulations; or subject of, or to, the Executive, Legislative, nor Judicial Jurisdiction of its actor(s) agent(s) officer(s), employee(s), or elected officials of Government, as defined as Corporate and punctuation in original). Sole Beneficiary of the SASHA ALAJAWON GASKINS © Cestui Que Vie trust, a documented 1 ntment of Trustee Notice of Fiduciary Trusteeship Duty Limited Fiduciary Trusteeship

Contract None of them shed any light on what controversy, claims,

or facts may be at issue, or what possible basis might exist for federal jurisdiction. Although plaintiff includes sections (sic) (DE# 1 at 5-6, 13), they do not clarify matters in any way. (DE# 1 at 5). For

example, i asks:

1. That the COURT OF GENERAL SESSIONS OF THE 9th Circuit, Cause No. 2010 GS 1004761 is vacated for want of Subject Matter Jurisdiction and Dismiss with Prejudice. 2. That the Secured Party, Sasha Alajawon Gaskins© be discharged from the custody of any/all STATE OF SOUTH CAROLINA AGENCIES. 3. that Scarlett A. Wilson must prove and provide on the record that she had neither any jurisdiction nor any Law that can supersede the Holder- In-Due-Course Priority Claim. If Scarlett A. Wilson states any Law, please have her for the record showing any/all Certifications of Statutes that she may use. IV. Analysis A. Rule 12(b)(1) Lack of Subject Matter



## Gaskins v. South Carolina, State of

2015 | Cited 0 times | D. South Carolina | September 15, 2015

Jurisdiction Even liberally construing the complaint, it is not possible to discern any cause of action, much less any coherent supporting facts bling, and 1 - receive the profits and benefits of an estate, but with the legal title and possession (as well as the duty of defending the same) residing in another. nonsensical. The United States Supreme Court has explained that a patently insubstantial complaint may be dismissed for want of subject-matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). *Neitzke v. Williams*, 490 U.S. 319, 327 n.6 (1989); see also *Hagans v. Lavine*, 415 U.S. 528, 536 537 (1974) (collecting cases and this Court has repeatedly held that the federal courts are without power to entertain claims otherwise within o be absolutely devoid of merit ; *Holloway v. Pagan River Dockside Seafood, Inc.*, 669 F.3d 448, 452 53 (4th Cir.2012) (same). This is such a case. The complaint so attenuated and unsubstantial as to be absolutely Fed.R.Civ.P. 12(b)(1). ds for Fed.R.Civ.P. 8(a)(1). No basis for subject matter jurisdiction can be discerned from the 14-page rambling complaint. The complaint refers to a wide smattering of statutes and purported cases that have no relation to each other. For example, in disconnected fashion, the complaint refers to the , 48 C.F.R. § 1 (Federal Acquisition Regulation), 48 C.F.R. § 53 (specifying agency-prescribed forms for use in acquisition), 48 C.F.R. § 228 (General Contracting Requirements for the Department of Defense), and so forth. Although plaintiff cites 28 U.S.C. § 1331, no federal question can be discerned from the complaint, even with liberal construction. The complaint alleges no discernible cause of action. Even liberally construing it, the complaint fails to alle and fails to allege facts that would provide any basis for federal question jurisdiction. See, e.g., *Brunson v. United States*, 2014 WL 4402803 (D.S.C.) (J. Anderson) (summarily dismissing complaint because it alleged irrational, factually frivolous allegations which were insufficient to establish subject matter jurisdiction); *Carter v. Ervin*, 2014 WL 2468351 (D.S.C.) (J. Wooten) (same, summarily dismissing complaint without prejudice and without issuance and service of process), appeal dismissed by 585 Fed.Appx. 98 (4th Cir. 2014). P ollow and has many hall-marks of, and appears to be premised on, See *Parker v. Spencer*, 2015 WL 3870277, \*3 (D.S.C.) (quoting *United States v. Ulloa x 105*, 106 n. 1 (2d Cir.2013) sovereign citizens are a loosely affiliated group who believe that the state and federal governments lack constitutional legitimacy and therefore have no authority to regulate their behavior ); *Presley v. Prodan*, 2013 WL 1342465, \*2 (D.S.C.), adopted by 2013 WL 1342539 (D.S.C.) (collecting cases describing the movement and its common features). For example, plaintiff contends that she is a not subject to the laws and jurisdiction of the United States or South Carolina. She alleges that the state court over her and that her state criminal conviction is therefore Courts have repeatedly rejected this baseless theory of jurisdiction. See *United States v. Benabe*, 654 F.3d 753, 76 Regardless of an individual s claimed status - -and-blood rejected summarily, however they are presented. , cert. denied, 132 U.S. 1051 (2012); *United*

*States v. Schneider*, 910 F.2d 1569, 1570 (7th theory *United States v. Jagim*, 978 F.2d

1032, 1036 (8th Cir.1992) (defendant claimed outside the jurisdiction of the United xpending any more of this .

Even giving this petition the liberal construction afforded to pro se filings, the complaint is subject



## Gaskins v. South Carolina, State of

2015 | Cited 0 times | D. South Carolina | September 15, 2015

to dismissal pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction. See, e.g., *Randolph v. Metlife Bank NA*, 2013 WL 1386346 (D.S.C.) (despite references to various federal legal authorities, the complaint provided no basis for federal question jurisdiction), adopted by 2013 the complaint raised no colorable federal question The Fourth Circuit Court of Appeals has explained that because a court lacks subject matter

jurisdiction over an obviously frivolous complaint, dismissal prior to service of process is permitted. *Chong Su Yi v. Soc. Sec. Admin.*, 2014 WL 629513, at \*1 (4th Cir.) (affirming dismissal of factually and legally frivolous claims in a fee-paid pro se case) seeks damages for her current incarceration based on a purported lack of jurisdiction over her as

(premised on a frivolous . The patently insubstantial properly be dismissed for lack of subject- matter jurisdiction under Rule 12(b)(1). *Neitzke*, 490 U.S. at 327 n.6. B. Non-Cognizable Claims for Damages In her complaint, plaintiff does not refer to 42 U.S.C. § 1983, does not refer to any constitutional rights, and does not allege facts that would suggest a cognizable claim for any sort of constitutional violation. pro se pleadings, the *Wilson*, 699 F.3d at 797. Although

plaintiff does not base her suit on any statute that would provide a basis for subject matter jurisdiction in the federal courts, p determination of this court that [state] jurisdiction is, in fact, lacking in the cause in question, any act (or future acts) of detention, arrest, incarceration, or physical harm to Sasha Alajawon Gaskins®, Sui Juri, a real flesh and blood State Citizen is assigned the minimum monetary values as per precedent established by *Trezevant v. City of Tampa*, 741 D.2d 336 (1984), where the court awarded \$25,000.00 per 23 minute period, i.e. \$65,217.91 per hour, plus punitive damages in the amount decided solely by Sasha Alajawon Gaskins®, Sui Juri, Secured Party (DE# 1 at 3, as in original). 2

Even assuming federal jurisdiction, and further assuming that could be liberally construed as an action under claim for monetary damages is not cognizable because her state conviction has not been overturned or otherwise called into question. See *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) (holding that a § 1983 suit for monetary damages is barred if prevailing in the action would necessarily require the plaintiff to prove the unlawfulness of her conviction); *Muhammad v. Close*, 540 U.S. 749, 751 (2004) s § 1983 damages action would implicitly question the validity of conviction or duration of sentence, the litigant must first achieve favorable termination of his available state, or federal habeas, opportunities to challenge the underlying conviction or . 3 If plaintiff desires to challenge her state conviction and sentence (rather than seeking monetary damages premised on a frivolous theory that the state court lacked jurisdiction over her , those allegations would have to be timely raised in a habeas petition 2 There is no case opinion at t 741 D.2d 336 3 To the extent plaintiff may be attempting to seek monetary damages from South Carolina doing business as prosecutor Scarlett A. Wilson, the complaint does not allege any actions by Wilson, and in any event, prosecutors have absolute immunity for activities in or connected with judicial proceedings, including criminal trials. See *Buckley v. Fitzsimmons*, 509 U.S. 259, 272 73 (1993); *Burns v. Reed*, 500



## Gaskins v. South Carolina, State of

2015 | Cited 0 times | D. South Carolina | September 15, 2015

U.S. 478, 489-91 (1991); *Dababnah v. KellerBurnside*, 208 F.3d 467, 470 (4th Cir.2000). Thus, any claim for damages based on the Scarlett A. role in prosecuting the plaintiff's state criminal case would be barred from suit under § 1983. under 28 U.S.C. § 2254 following exhaustion of state remedies. Muhammed, 540 U.S. at 750 (observing that damages are not available in habeas actions). IV. Recommendation Accordingly, the Magistrate Judge recommends that the complaint (DE# 1) be dismissed without prejudice, and without issuance and service of process. Given that the pro se plaintiff is presently incarcerated, the Clerk of Court is directed to enter a change of address for the plaintiff (SCDC ID: 00345415) at Leath Correctional Institution, 2809 Airport Road, Greenwood South Carolina 29649.

September 15, 2014 Charleston, South Carolina

IMPORTANT NOTICE on the following page:

00345415)

5

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 (4 th

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

Post Office Box 835 Charleston, South Carolina 29402 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).

Page 10 of 10 Page 10 of 10

