

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-2738

STANLEY J. CATERBONE,
Appellant

v.

LANCASTER CITY BUREAU OF POLICE; CRAIG STEDMAN, Lancaster County District Attorney; STEVE MIDCLIFF, CEO Lancaster Regional Hospital; DR. ANTHONY MASTROPIETRO, Medical Director Lancaster Regional Hospital; LINDA S. WENGER, PA-C Lancaster Regional Hospital; CHRISTINE M. DANG, M.D. Lancaster Regional Hospital; MASTROPIETRO ASSOCIATES FAMILY PRACTICE; BLACK AND BLACK DENTAL; DR. JOHN E. BLACK, III, Black and Black Dental; SOUTHEAST HEALTH CLINIC BRIGHTSIDE BAPTIST CHURCH; DR. LEO DORIZYNSKI, Psychiatry Department Lancaster General Hospital; DR. SEAN COLDREN, M.D. Psychiatry Department Lancaster General Hospital; DR. EMILY PRESSLEY, M.D. Psychiatry Department Lancaster General Hospital; DR. DANIEL MCINTYRE, M.D. Lancaster General Hospital; LANCASTER GENERAL HOSPITAL DEPARTMENT OF PSYCHIATRY; DR. TATE, Lancaster Emergency Associates of Lancaster General Hospital; AMY MILLHOUSE, Lancaster General Hospital; OFFICER ERIC MCCRADY, Lancaster City Bureau of Police; LANCASTER COUNTY MENTAL HEALTH/MENTAL RETARDATION DEPARTMENT COUNTY OF LANCASTER; JAMES MCLAUGHLIN, Director Mental Health/Mental Retardation Department; CRISIS INTERVENTION OF LANCASTER COUNTY; MR. MCCARDY, Executive Director Crisis Intervention of Lancaster County; BOARD OF COMMISSIONERS COUNTY OF LANCASTER PA; DENNIS STUCKEY, Chairman Board of Commissioners County of Lancaster PA; HOUSE OF PASTA BAR & RESTAURANT; YORGEY'S RESTAURANT & BAR; UPS COPY STORE; ART WARD PROPRIETOR UPS COPY STORE; PENNSYLVANIA STATE POLICE TROOP J. LINCOLN HIGHWAY EAST; COMMANDER PA STATE POLICE TROOP J LINCOLN HIGHWAY EAST; PENNSYLVANIA DEPARTMENT OF TRANSPORTATION (PENNDOT); BEVERLY J. POINTS, Esq. Legal Counsel Pennsylvania Department of Transportation; LANCASTER COUNTY DEPARTMENT OF SHERIFFS; TERRY BERGMAN, Sheriff of Lancaster County Department of Sheriffs; MARK REESE, Chief Deputy Lancaster County Department of Sheriffs; RANDALL O. WENGER, Prothonotary; LANCASTER REGIONAL MEDICAL

CENTER; DR. L. WENGER, Lancaster Regional Medical Center; WEIS MARKETS; WEIS PHARMACY; AMY BRENT, Pharmacist District Manager Weis Market; CVS PHARMACY Manor Shopping Center; FULTON FINANCIAL CORPORATION; FULTON BANK; MR. R. SCOTT SMITH, CEO Fulton Financial Corporation; PHILLIP WENGER, COO Fulton Financial Corporation; MR. CRAIG RODA, CEO Fulton Bank; MS. DANA CHRYST, Board of Directors Fulton Financial Corporation; GENERAL HOSPITAL; DR. WEST, New Holland Dental Clinic; LANCASTER NEWSPAPERS INC.; STEVE WEAVER, Manager Lancaster Newspaper; JOHN BUCKWALTER, Board of Directors Chairman Lancaster Newspapers; HIGH INDUSTRIES; FRANK MACCABE, High Hotels; S. DALE HIGH, High Industries; BARLEY SNYDER LLC.; SHAWN LONG, Esq., Barley Snyder LLC; WGAL TV-8; PAUL QUINN, General Manager WGAL TV-8; DOUG ALLEN, WGAL TV-8; JANELLE STELLSON, WGAL TV-8; SUSAN SHIPIRO, WGAL TV-8; BARBARA BARR, WGAL TV-8; LANCASTER COUNTY BOARD OF COMMISSIONERS LANCASTER; COPY MAX/IMPRESSO OFFICE MAX; LANCASTER COUNTY CLERK OF COURTS, Lancaster County Court of Common Pleas; RYAN P. AUMENT, Lancaster County Clerk of Courts; LANCASTER GENERAL HOSPITAL EMERGENCY DEPARTMENT; NURSE 1, of July 13 2009 of the Lancaster General Hospital Emergency Department; NURSE 2, of July 13 2009 of the Lancaster General Hospital Emergency Department; DR. VITO DICAMILLO, of the Lancaster General Hospital Emergency Department; WACHOVIA BANK; BRANCH MANAGER WACHOVIA BANK; ANNIE BAILEYS RESTAURANT AND BAR; MARION COURTROOM RESTAURANT AND BAR; MARION STREET CAFE; MIKE GEESEY, Proprietor Marion Courtroom; ALLEY KAT BAR AND RESTAURANT; JOHN KATRAS, Proprietor Alley Kat Bar and Restaurant; BRETT STABLEY, Manager Alley Kat Bar and Restaurant; ROSA ROSA RESTAURANT; RUBY TUESDAY RESTUARANT BAR AND GRILL Manor Shopping Center; VALENTINOS CAFE, Lancaster; BRICKYARD BAR; LANCASTER COUNTY RESTUARANT ASSOCIATION; DAVID PFLUMM; PENNSYLVANIA CAREER LINK, Liberty Place; LANCASTER EMPLOYMENT TRAINING AGENCY (LETA); MARK SPRUNGER, Executive Director LETA; RED ROSE TRANSIT AUTHORITY (RRTA); DAVID KILMER, Red Rose Transit Authority; LANCASTER CITY POLICE BUREAU; KEITH SADDLER, Chief of Police Lancaster City Police Bureau; SGT. RICHARD COSMORE, Lancaster City Police Bureau Lancaster; CITY HOUSING INSPECTION DEPARTMENT; MR. MCGUIRE, Lancaster City Housing Inspection; DEPARTMENT AND NON-UNIFORMED UNION REPRESENTATIVE; LANCASTER CITY POLICE UNION; RICHARD GRAY, Mayor City of Lancaster; LANCASTER COUNTYWIDE COMMUNICATIONS; WILLIAM RICHARD PLANK; RESIDENTS OF 1200 BLOCK FREMONT STREET LANCASTER PA; LANCASTER COUNTY DISTRICT ATTORNEY OFFICE; CRAIG STEDMAN, Lancaster District Attorney; MICHAEL LANDIS, Detective Lancaster County District Atty Office; LOUIS FARINA, President Judge Lancaster County Court of Common Pleas; JUDGE JAMES P. CULLEN, Lancaster County Court of Common Pleas; PENNSYLVANIA LIQUOR CONTROL

BOARD, Commonwealth of Pennsylvania; THOMAS CORBETT, Attorney General Office Pennsylvania Attorney General; UNITED STATES ATTORNEY OFFICE OF THE EASTERN DISTRICT OF PENNSYLVANIA; ERIC HOLDER, United States Attorney General; FEDERAL BUREAU OF INVESTIGATION (FBI), Harrisburg Office; FEDERAL BUREAU OF INVESTIGATION (FBI), Philadelphia Office; SHERYL CROW, Interscope Recording Artist; UNITED STATES NATIONAL SECURITY AGENCY (NSA); UNITED STATES DEPARTMENT OF DEFENSE (D.O.D.); DEPARTMENT OF DEFENSE INTELLIGENCE AGENCY (DIA); ROBERT GATES, United States Secretary of Defense; BARACK OBAMA, United States President; DR. AMINTA HAWKINS-BREAN, PH.D. Vice President Student Affairs Millersville University; JODIE RICHARDSON, Secretary of Student Affairs Millersville University; LORI B. AUSTIN, Director of Judicial Affairs Millersville University; VICTOR DESANTIS, Director Graduate Studies and Research Program Millersville University; MARJORIE M. WARMKESSLER, PH.D. Humanities Librarian and Librarian Instruction Coordinator Millersville University; MILLERSVILLE UNIVERSITY POLICE DEPARTMENT; NATHANIEL BOMBERGER, Legislative Assistant; P. MICHAEL STURLA, Pennsylvania House of Representatives; JOHN ROCHAT, Chief of Police Millersville Borough Police Department; MILLERSVILLE BOROUGH POLICE DEPARTMENT; ROBERT S. WALKER; ATT MOBILE PHONE; SPRINT MOBILE PHONE; BEST BUY; HILDEY'S BAR; THE JUKE BOX; JOHN KATRAS; FLEET AND AUTO; PRESS ROOM; LNP ENTERPRISES; ALLSTATE INSURANCE COMPANY; OFFICE MAX; LANCASTER REGIONAL HEALTH SYSTEM; PATIENT FIRST URGENT CARE; ALTANA RESTAURANT; BEN FRANK; AMALFI PROPERTIES; TELLUS360 BAR AND RESTUARANT; CORTY BYRON; ANNIE BAILEY' S RESTAURANT; JOSHUA FUNK; CIGAR BAR; DANIEL FALCON; LANCASTER DISPENSING COMPANY; BRADLEY DEFORGE; JUDY ROSS; YORGOS BAR AND RESTAURANT; GEORGE KATSAROS; MRS. KATSAROS; LENS CRAFTERS; DR. JOHN H. BROADDUS & ASSOCIATES, Optometrists; CARTRIDGE WORLD; KOHLS DEPARTMENT STORE; EYEMART EXPRESS STORE; DR. HARRY BREITMAN; OFFICE MAX STORE #854; CENTRAL INTELLIGENCE AGENCY, CIA; LEON PANETTA, Director, Central Intelligence Agency; MARRIOTT MOTEL; PENN SQUARE GRILL AND BAR; INTERSTATE HOTELS & RESORTS; SPRING HOUSE BREWING COMPANY, Taproom; President DONALD J. TRUMP; MR. JEFFREY SESSIONS, United States Attorney General, U.S. Department of Justice; GEICO ADVANTAGE INSURANCE COMPANY; JESSICA BAAS of Geico Insurance Company; RICH RUOFF, Founder of Roots and Blues; LANCASTER ROOTS AND BLUES FESTIVAL; DENNIS REINAKER, Lancaster County Court of Common Pleas President Judge; DAVID ASHWORTH, Lancaster County Court of Common Pleas Judge; JEFFREY D. WRIGHT, Lancaster County Court of Common Pleas Judge; ADAM J. WITKONIS, Lancaster County Magisterial District Court Judge; LANCASTER COUNTY DISTRICT ATTORNEY'S OFFICE; LANCASTER COUNTY DISTRICT ATTORNEY'S OFFICE CHIEF OF DETECTIVES; MASON PFLUMM, Stalking, Harassment, Threats;

ABIGAL PFLUMM, Stalking, Harassment, Threat; ELIZABETH PFLUMM, Stalking, Harassment, Threats; KEAGAN PFLUMM, Stalking, Harassment, Threats; WILLIAM PFLUMM, Stalking, Harassment, Threats; GREG BURIE, Stalking, Harassment, Threats; KEVIN HOBDDAY, Stalking, Harassment, Threats; ANNA CATERBONE, Stalking, Harassment, Threats; STEVE CATERBONE, Stalking, Harassment, Threats; PHIL CATERBONE, Stalking, Harassment, Threats; KIESHLA CALCORFI, Pritz/Enterprise Auto- False Statements to Authorities; LANCASTER BARNSTORMERS; DAKOTA BASEBALL; IAN RIZOW; BOB LISS; STEVE ZUCKERMAN; BOB ZUCKERMAN; FREMONT STREET NEIGHBORS; ROBERT GEIGER; CAROL GEIGER; CHARLES WEICKSEL; JOSHUA M TANNER; CHARLES WEICKSEL; KARLA AREAS; THEODORE R WILSON, JR.; JENNIFER N WILSON; CHARLES S WEICKSEL, SR.; LINDA NOLL; FRANK C FIX, II; A MARLENE FIX; JANICE L MCELROY; NORBERT E. HERR; BERYL M. HERR; WILLIAM C HOLZ; JILL SHORT; CHRISTINE MCCUEN; VIVAK PATEL; RONALD N TROUT; JEANETTE E. TROUT; KATHERINE SHAMBAUGH; BRUCE E CULLERS; TRACEY L. CULLERS; KENNETH W LAUKHUFF; MARLENE LAUKHUFF; M EILEEN BAUER; BRIAN M PARIS; JUSTIN E FISHER; 789 MAIN STREET LLC; DAVID M SCHRECK; EDWARD EVINS; FRANCES C FOEHLINGER; RONALD D BOWMAN; LORI C BOWMAN; DANIEL COLON; DAWN M SUTTON; KENDALL SUTTON; ERIK GRAHAM; COURTNEY GRAHAM; RONALD L GROFF; HELEN E. GROFF; RICHARD L BOAS; SYLVIA F BOAS; MARYANN BECHTEL; PETE BECHTEL; MEGAN BECHTEL; WALTER F HERZOG; BARBARA SAGERER; THU VAN NGUYEN; HOI THI DOAN; FRED L. DINGS, II; MELODY M DINGS; ELIZABETH M DEAN; FAIZA ALI; RICHARD L HILL; LINDA L HILL; MANUEL TORIBIO; TORIBIO TORIBIO; SABRINA KAUFFMAN; SANDRA DELAHOZ; JAMES T BORTZFIELD; LINDA MOYER; DANIEL MOYER, IV, Garages and Orchard; THERESA A ARMARTER; MELVIN STEPHANIE; JONATHAN MICHAEL MCDOWELL; ROBERTA M ZETTLEMOYER; PROGRAM ASSISTANCE CORP; JACQUELINE N FLAHARTY; DAVID DARRAH; BELLVEDERE INN; THE HONORABLE EDWARD G. SMITH, United States District Court for the Eastern District of Pennsylvania; CENTER CITY BRANCH LANCASTER YMCA; RAYMOND PENNINO; VILLANOVA WEST BAR AND RESTUARANT; RANDY, Bartender; HOUSE OF PASTA; ASHLEY DOE; THE GRAHAMS; LOWES STORE; MILLER OPTICAL; TJ ROCKWELLS RESTAURANT AND BAR; MANHIEM TOWNSHIP POLICE DEPARTMENT; M&T BANK; KRISTINA E. FINDIKYAN; HEARST CORPORATION; WGAL-TV; SGT. CHARLES M. MELHORN of Manheim Township Police Department; PETE ANDERS of Millersville University Police Department; MILLERSVILLE UNIVERSITY POLICE DEPARTMENT; TURKEY HILL CONVENIENCE STORES; PENNSYLVANIA SUPERIOR COURT PROTHONOTARY; PENNSYLVANIA SUPREME COURT PROTHONOTARY; MARK ZUCKERBERG; FACEBOOK; PA FILE AND SERVE; JAMES ELMER MITCHELL; JOHN BRUCE JESSEN, CIA Torture Psychologists; NAUGHTY GOOSE BAR; LOXLEY' BAR AND RESTAURANT; SKETCHERS

STORE; AMVETS POST 19; SONS OF SQUADRON 19; KEVIN MILLER; CHRISTOPHER A. WRAY, Director of the FBI; WEIS PHARMACY; JOHN DOE, Pharmacist One Weis Pharmacy; JANE DOE, Pharmacist Two Weis Pharmacy; CVS PHARMACY; JOHN DOE, Pharmacist One CVS Pharmacy; BRENDEES IRISH BAR; MISTER LUBECENTER; JARRAD BERKIHISER, Acting Chief, Lancaster City Police Dept; D KANUCK of the Lancaster City Police Department; S.A.I.C. CORPORATION; DEBORAH LEE JAMES, CEO, S.A.I.C. Corporation; BOBBY RAY INMAN; LT. BRADLEY SHENK, Lancaster City Police Department; OFFICER HERR, Lancaster City Police Departments; OFFICER ROTHERMEL, Lancaster City Police Department; OFFICER HAGEN, Lancaster City Police Department; LANCASTER COUNTY PRISON; CHERYL STEBERGER, Warden, Lancaster County Prison; LT. LEESE, Lancaster County Prison; DR. LEE, Lancaster County Prison; MDJ ADAM WITKONIS, Lancaster County District Magistrate; ADA ELLISON, Assistant Lancaster County District Attorney; DR. LIVIA K. BAUBLITZ, D.O.; ASHLEY BLAKE, Pretrial Intake Specialist, Lancaster County Court Administration, Bail Supervision; DANENE SORACE, Lancaster City Mayor; DENISE REINAKER, Lancaster County Court of Common Pleas President Judge; GINA HASPEL, Director of the Central Intelligence Agency, CIA; NEW HOLLAND DENTAL CLINIC

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil No. 18-cv-02710)
District Judge: Honorable Jeffrey L. Schmehl

Submitted for Possible Dismissal Due to a Jurisdictional Defect,
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
February 7, 2019

Before: CHAGARES, RESTREPO, and SCIRICA, Circuit Judges

(Opinion filed February 19, 2019)

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

Stanley J. Caterbone appeals from an order of the United States District Court for the Eastern District of Pennsylvania, which dismissed his complaint. We will dismiss his appeal under 28 U.S.C. § 1915(e)(2)(B)(i).

Caterbone filed a “Preliminary Injunction for Emergency Relief,” followed by an “Amended Preliminary Injunction for Emergency Relief,” each naming 294 defendants. The District Court construed the filings as a complaint and an amended complaint. After granting Caterbone’s motion to proceed in forma pauperis (“IFP”), on July 24, 2018, the Court dismissed the majority of the claims in the complaints with prejudice as factually frivolous under the screening provisions of § 1915(e)(2)(B)(i). However, the Court dismissed without prejudice Caterbone’s claims based on an involuntary commitment in 2016 and a false arrest and imprisonment claim on a stalking charge in November 2017, and allowed Caterbone to file a second amended complaint within thirty days, based on those claims only.

Instead of filing a second amended complaint, Caterbone filed a motion for reconsideration, appearing to defend the sufficiency of his earlier filed amended complaint. The District Court denied the motion on August 1, 2018, and Caterbone appealed.

We first address our appellate jurisdiction. We have jurisdiction to review final orders of the District Court. 28 U.S.C. § 1291. We generally do not have jurisdiction to consider an appeal from an order when any of the claims have been dismissed without prejudice. See Borelli v. City of Reading, 532 F.2d 950, 951-52 (3d Cir. 1976) (per

curiam). But because Caterbone did not file a second amended complaint within the time that the District Court allowed, the dismissal of his claims without prejudice has become final.¹ See Batoff v. State Farm Ins. Co., 977 F.2d 848, 851 n.5 (3d Cir. 1992).

Under 28 U.S.C. § 1915(e)(2)(B)(i), we must dismiss an appeal that “lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). We agree with the District Court that the claims of the amended complaint that were dismissed with prejudice consisted of rambling and vague allegations that lacked any arguable basis in fact. And to the extent any of the allegations were grounded in reality, those claims failed for the other reasons given by the District Court: (1) the complaint fails to comply with Rule 8 of the Federal Rules of Civil Procedure, as it lacks “a short and plain statement of the claim showing that the pleader is entitled to relief”; (2) there is no private right of action under the criminal statutes that Caterbone cites; (3) he attempts to sue entities or persons that are immune from suit, such as federal agencies, the Pennsylvania State Police, and state court judges; and (4) many of his claims are barred by the two-year statute of limitations for civil rights claims. See Dkt. #5. As for the claims that were dismissed without prejudice, we agree with the District Court that those claims were also deficient as pleaded, as Caterbone’s complaint failed to provide “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on

¹ Indeed, the District Court denied Caterbone’s motion for reconsideration, and Caterbone filed his notice of appeal, before the 30 days had elapsed. We therefore review both the dismissal order and the order denying reconsideration.

its face.” See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

Caterbone’s motion for reconsideration also lacked merit. Because the motion failed to point out any error in the District Court’s original decision that would require reconsideration, or otherwise provide a basis for reconsideration, the District Court did not abuse its discretion in denying the motion. See Lazaridis v. Wehmer, 591 F.3d 666, 669 (3d Cir. 2010) (per curiam).

Similarly, Caterbone’s notice of appeal and the documents that he filed in support of this appeal do not explain how his amended complaint complied with Fed. R. Civ. P. Rule 8, nor does he challenge the District Court’s other bases for dismissal: that there is no private right of action under the criminal statutes that he cites, that he has attempted to sue immune persons and entities, and that many of his claims are time-barred. Rather, the documents simply repeat fantastical allegations from his amended complaint and add other similarly improbable allegations. Because the appeal has no arguable legal merit, we will dismiss the appeal under 28 U.S.C. § 1915(e)(2)(B)(i). See Third Circuit LAR 27.4 and I.O.P. 10.6.