

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2447

ROBERT DUNCAN a/k/a James Malone,
Appellant

v.

CITY OF PHILADELPHIA; LARRY KRASNER, in his official capacity as D.A. for Philadelphia County and in his individual capacity; JOSHUA A. MYERS, in his official capacity as A.D.A. for Philadelphia County and in his individual capacity

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2:26-cv-02671)
District Judge: Honorable Kai N. Scott

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 16, 2026
Before: BIBAS, CHUNG, and BOVE, *Circuit Judges*

(Opinion filed September 22, 2026)

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

Pro se appellant Robert Duncan, also known as James Malone, appeals from the dismissal of his civil rights suit by the United States District Court for the Eastern District of Pennsylvania. For the reasons that follow, we will affirm the District Court's order.

Duncan filed suit in April 2026 under 42 U.S.C. § 1983, alleging that his rights were violated during the prosecution of his two DUI convictions. He named as defendants the City of Philadelphia, Philadelphia District Attorney Larry Krasner, and Philadelphia Assistant District Attorney Joshua A. Myers.

In his complaint Duncan claimed that his criminal trials were “fixed” by the defendants (with the assistance of the two Philadelphia County Court of Common Pleas Judges who presided over his cases, though they are not named as defendants). He also claimed that D.A. Krasner erred by refusing to recuse the entire Philadelphia D.A.'s Office after Duncan filed a complaint against Krasner's wife. Duncan sought \$200 million in damages from each defendant.

After filing his complaint, Duncan moved to recuse the assigned District Judge because she presided over a previous case of his, and because she previously served as a judge on the Philadelphia County Court of Common Pleas.

The District Court dismissed Duncan's claims during screening for failure to state a claim and denied Duncan's motion to recuse. Duncan timely appealed.

We have jurisdiction under 28 U.S.C. § 1291.¹ We exercise plenary review over the District Court’s sua sponte dismissal for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). *See Allah v. Sieverling*, 229 F.3d 220, 223 (3d Cir. 2000). We review the District Judge’s denial of recusal for an abuse of discretion. *See In re Kensington Int’l Ltd.*, 368 F.3d 289, 300-01 (3d Cir. 2004). Because Duncan is pro se, we liberally construe his filings. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). For the reasons that follow, we will affirm the decision of the District Court.

The District Court correctly dismissed as non-cognizable Duncan’s claims that the defendants brought about his conviction by “trial fixing.” “[A]n action seeking damages for an unconstitutional malicious prosecution, conviction, or imprisonment under section 1983 is not cognizable if ‘a judgment in favor of the plaintiff would necessarily imply the invalidity of [an extant] conviction or sentence.’” *Curry v. Yachera*, 835 F.3d 373, 377–78 (3d Cir. 2016) (quoting *Heck v. Humphrey*, 512 U.S. 477, 487 (1994)). Duncan has made no attempt to argue that his convictions or sentences were overturned, and the Pennsylvania Unified Judicial System confirms that they are still valid. Thus, these claims are non-cognizable.²

¹ Duncan also filed a motion for reconsideration, which the District Court denied. Because Duncan did not file a new or amended notice of appeal from that order, we lack jurisdiction to review it. *See Fed. R. App. P. 4(a)(4)(B)(ii); Carrascosa v. McGuire*, 520 F.3d 249, 253-54 (3d Cir. 2008).

² The state docket sheets report that Duncan was sentenced to short prison terms that have long since ended, but “we apply *Heck*’s favorable-termination requirement whenever a § 1983 action would necessarily undermine an outstanding state conviction, even if the

Moreover, to the extent that Duncan’s claim regarding Krasner’s recusal does not necessarily imply the invalidity of his conviction, that claim is barred by prosecutorial immunity. *See Roberts v. Lau*, 90 F.4th 618, 624 (3d Cir. 2024) (ruling that prosecutors are absolutely immune from § 1983 claims based on their engagement “in conduct that serves a quasi-judicial function”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 934 (9th Cir. 2012) (ruling that a County Attorney’s decision to recuse himself or to proceed through a conflict was protected by prosecutorial immunity); *Rudow v. City of New York*, 822 F.2d 324, 328–29 (2d Cir. 1987) (ruling that a Human Rights Commission prosecutor’s decision not to disqualify herself was protected by absolute prosecutorial immunity).

Finally, we find no abuse of discretion in the District Judge’s decision not to recuse herself. The District Court denied Duncan’s motion after determining that Duncan’s allegations regarding her former position as a judge on the Court of Common Pleas were too vague and his allegations based on his dissatisfaction with her prior rulings were inadequate. We agree. *See United States v. Martorano*, 866 F.2d 62, 68 (3d Cir. 1989) (“Again, since the test for recusal is a reasonable person one, a movant must supply some objective facts that support his position, not mere speculation.”); *Securacomm Consulting, Inc. v. Securacom Inc.*, 224 F.3d 273, 278 (3d Cir. 2000) (“We

plaintiff is . . . no longer incarcerated.” *Coello v. DiLeo*, 43 F.4th 346, 353 n.2 (3d Cir. 2022).

have repeatedly stated that a party's displeasure with legal rulings does not form an adequate basis for recusal").

For the foregoing reasons, we will affirm the judgment of the District Court.