

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

CIVIL ACTION NO. 09-CV-148-KKC

LARRY RUTHER,

PLAINTIFF,

VS:

OPINION AND ORDER

BARRY GASH, ET AL.,

DEFENDANTS.

This matter is before the Court on the Plaintiff's Motion and Affidavit in Support of Motion to Proceed in Forma Pauperis (DE 7) and for an initial screening of the Complaint pursuant to 28 U.S.C. § 1915(e)(2).

A. Pauper Status.

The Plaintiff has submitted an affidavit on E.D. Ky. Form 519 that demonstrates his inability to pay the statutory filing fee. Accordingly, the Court will grant the Motion to Proceed in Forma Pauperis.

B. Initial Screening.

As to the initial screening of the Complaint, a *pro se* complaint is held to less stringent standards than those composed by an attorney. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Federal Rule of Civil Procedure 8(a) still requires a *pro se* plaintiff's complaint to include (1) a short and plain statement of the grounds upon which the court's jurisdiction depends..., (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks.

This Court is authorized to dismiss *sua sponte* a complaint that is filed *in forma pauperis* at

any time if the action is frivolous or fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2); *Williams v. Johnson*, 55 Fed. Appx. 736 at *2 (6th Cir. 2003). In such circumstances, the court has no discretion to permit the plaintiff to amend the complaint in order to avoid dismissal. *Id.*

This action is one of six actions that the Plaintiff has filed in the United State District Court for the Eastern District of Kentucky since September 2006. The Plaintiff has filed one previous suit against the named Defendant in this case, Barry Gash. Four of these complaints were dismissed on initial screening. A fifth complaint, filed five days after this one, remains pending before Judge Karl S. Forester.

The Plaintiff's Complaint in this action does not satisfy even the minimal pleading requirements of Federal Rule of Civil Procedure 8. Further, it fails to state any claim against the Defendants. The Complaint indicates the Plaintiff is the "U.S." and seems to request a "special prosecutor and grand jury trial." The Court is unable to discern any civil claim from the Complaint.


For all these reasons, the Court hereby **ORDERS** as follows:

- (1) Plaintiff's Motion and Affidavit in Support of Motion to Proceed in Forma Pauperis (DE 7) is **GRANTED**;
- (2) Plaintiff's Complaint is **DISMISSED** with prejudice and this matter is **STRICKEN** from the active docket of the Court; and
- (3) All motions that remain pending in this action are **DENIED** as moot.

Dated this 12th day of August, 2009.



Signed By:

Karen K. Caldwell 

United States District Judge