

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
(at London)

DENNIS SHAWN ROBERTS,
Plaintiff,

v.

WAYNE COUNTY, *et al.*,

Defendants.

Civil Action No. 6: 22-CV-066-CHB

MEMORANDUM OPINION AND ORDER
DENYING MOTION TO PROCEED IN
FORMA PAUPERIS, DISMISSING CASE

*** **

Plaintiff Dennis Shawn Roberts is an inmate confined at the Wayne County Detention Center in Monticello, Kentucky. Proceeding without an attorney, Roberts has filed a civil complaint [R. 1] and a motion to proceed *in forma pauperis*. [R. 3] However, Roberts' fee motion is not signed by him as required by Rule 11(a) of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 11(a) (requiring that "[e]very pleading, written motion, and other paper must be signed...by a party personally if the party is unrepresented."). Nor is the financial information submitted by Roberts certified by prison staff, as required by 28 U.S.C. § 1915(a)(2). *See* 28 U.S.C. § 1915(a)(2) (requiring a motion to pay the filing fee in installments filed pursuant to § 1915 be accompanied by "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint..., obtained from the appropriate official of each prison at which the prisoner is or was confined."). For these reasons, Roberts' motion to proceed *in forma pauperis* will be denied.

Even so, the Court will conduct a preliminary review of Roberts' complaint pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A. A district court must dismiss any claim that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *McGore v. Wrigglesworth*, 114 F.3d 601, 607-08 (6th Cir. 1997).

The Court evaluates Roberts' complaint under a more lenient standard because he is not represented by an attorney. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Burton v. Jones*, 321 F.3d 569, 573 (6th Cir. 2003). At this stage, the Court accepts the plaintiff's factual allegations as true, and his legal claims are liberally construed in his favor. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007). Even so, a complaint must set forth claims in a clear and concise manner, and 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); *Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010). *See also* Fed. R. Civ. P. 8.

Roberts' complaint alleges that he is "on a child support bond of \$500 dollars." [R. 1] He then alleges that "[t]oday I learned that over three thousand dollars was excepted at the child support bond paid." [*Id.*] Based on these allegations, he claims that he is being held "under wrongful imprisonment." [*Id.*] He seeks monetary damages in the amount of \$2000.00 per day "for every day I miss work and further hardship" from Defendants Wayne County, Wayne County Detention, and Child Services Office. He also "invite(s) internal affairs to investigate" his claim, requests that a U.S. Marshal serve the Defendants, and asks to file a "claim under U.S.C. § 2241, 2254, or 2255." [R. 1] In a note submitted with his complaint, Roberts states that he "asked Deputy Koger to please sign and mail my mail he refused to do so which another

rights violation and I believe should also be named in said lawsuit as well as Deputy Lathan. I'll leave it to the court to decide and will expect due respect in [decision]." [R. 1-1]¹

As an initial matter, it is Roberts' obligation, not the Court's, to identify the nature of Roberts' claim for relief. The Court may not provide him with legal assistance. *Aladimi v. Grant Cty. Detention Ctr.*, 2010 WL 399107, at *5 (E.D. Ky. Jan.27, 2010) ("Article III of the federal Constitution limits the jurisdiction of federal courts to consideration of actual cases and controversies, and federal courts are not permitted to render advisory opinions. Neither the Court, nor its administrative staff, are empowered either to dispense legal advice to parties, or to practice their case on their behalf.") (citations omitted).

In addition, despite Roberts' references to 28 U.S.C. §§ 2241, 2254, 2255, he does not seek release from confinement (which is "the heart of habeas corpus," *Wilson v. Williams*, 961 F.3d 829, 838 (6th Cir. 2020)), but instead seeks monetary damages. He filed his complaint on a civil rights complaint form to be used by a *pro se* prisoner pursuing a claim under 42 U.S.C. § 1983 and demands a jury trial. Finally, he states in the letter filed with his complaint that he believes that Deputy Koger and Deputy Latham "should also be named in said lawsuit" because they refused to "sign and mail my mail," which he states is "another rights violation." [R. 1-1] Taken together, these factors support the conclusion that, despite the references to federal habeas statutes, Roberts' complaint is properly characterized as a complaint challenging the circumstances of his confinement filed pursuant to 42 U.S.C. § 1983.

¹ Roberts did not move to amend his complaint. Even if his note could be broadly construed as a motion to amend his complaint, it would be denied for failure to tender a proposed amended complaint, which is a necessary step to permit the Court to assess its viability or to ensure that the proposed amendment would not be futile. *Kuyat v. BioMimetic Therapeutics, Inc.*, 747 F.3d 435, 414 (6th Cir. 2014) (a party seeking an amendment must attach a copy of the proposed amended complaint to his motion).

The Court has thoroughly reviewed Roberts' complaint, but concludes that it must be dismissed for failure to state a claim upon which relief may be granted. Federal notice pleading requires, at a minimum, that the complaint advise each Defendant of what he allegedly did or did not do that forms the basis of the plaintiff's claim against him. *Iqbal*, 556 U.S. at 678; *Grinter v. Knight*, 532 F.3d 567, 577 (6th Cir. 2008). Otherwise, it is unduly burdensome (if not impossible) for any particular Defendant to meaningfully respond to the claims asserted against them. "Even a pro se prisoner must link his allegations to material facts...and indicate what each defendant did to violate his rights..." *Sampson v. Garrett*, 917 F.3d 880, 882 (6th Cir. 2019) (citing *Hill*, 630 F.3d at 471; *Lanman v. Hinson*, 529 F.3d 673, 684 (6th Cir. 2008)).

Roberts' only explanation of his claims is his allegation that that he was "on a child support bond of \$500. Today I learned that over three thousand dollars was excepted at the child support bond paid." [R. 1 at p. 2] However, this fragmented allegation is woefully short of an allegation that, if true, supports a claim for relief. The lack of factual detail supporting Roberts' claim for relief and the vague and conclusory nature of his allegations are sufficient reasons to dismiss his claims without prejudice for failure to adequately state a claim for relief. *See Iqbal*, 556 U.S. at 678; *Hill*, 630 F.3d at 470.

Nor does his conclusory claim that he is being held "under wrongful imprisonment" state a claim for relief, as "[l]egal conclusions that are 'masquerading as factual allegations' will not suffice." *Heyne v. Metro. Nashville Pub. Sch.*, 655 F.3d 556, 563–64 (6th Cir. 2011) (quoting *Terry v. Tyson Farms, Inc.*, 604 F.3d 272, 276 (6th Cir.2010) (other citations omitted)). Vague allegations that one or more of the defendants acted wrongfully or violated the plaintiff's constitutional rights are insufficient to adequately state a claim for relief. *Laster v. Pramstaller*, No. 08-CV-10898, 2008 WL 1901250, at *2 (E.D. Mich. April 25, 2008).

In addition, Roberts fails to name a viable Defendant against whom he seeks to pursue his claims. Roberts' identification of "Child Services Office" as a Defendant is simply too vague to adequately identify the particular office or agency against whom he seeks to proceed. Nor may Roberts bring a claim against the "Wayne County Detention Center," as the Detention Center itself is not a suable entity apart from the county that operates it. *Matthews v. Jones*, 35 F.3d 1046, 1049 (6th Cir. 1994) ("Since the Police Department is not an entity which may be sued, Jefferson County is the proper party to address the allegations of Matthews's complaint."). While Roberts also names Wayne County as a Defendant, because a county government is only responsible under 42 U.S.C. § 1983 when its employees cause injury by carrying out the county's formal policies or practices, *Monell v. Dept. of Social Services*, 436 U.S. 658, 694 (1978), a plaintiff must specify the county policy or custom which he alleges caused his injury. *Paige v. Coyner*, 614 F.3d 273, 284 (6th Cir. 2010). Roberts makes no allegation that the events about which he complains are the product of a county policy or custom, and he therefore fails to state a claim for relief against the county. *Thomas v. City of Chattanooga*, 398 F.3d 426, 429 (6th Cir. 2005). *See also Bright v. Gallia County, Ohio*, 753 F.3d 639, 660 (6th Cir. 2014).

Finally, Roberts may not obtain the monetary relief he seeks through the present action. To obtain his release from custody, Roberts must file a habeas corpus proceeding challenging his detention, not a civil rights action. *Adams v. Morris*, 90 F. App'x 856, 858 (6th Cir. 2004); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). And he may not sue for damages asserting that he is wrongfully imprisoned until he has obtained the reversal of the underlying criminal charges. *Sanders v. Detroit Police Dep't*, 490 F. App'x 771, 773 (6th Cir. 2012); *Heck*

v. Humphrey, 512 U.S. 477, 486-87 (1994). Roberts' complaint is therefore premature until he has satisfied this condition precedent to suit.

For all of these reasons, Roberts' complaint will be dismissed for failure to state a claim for which relief may be granted.

Accordingly, **IT IS ORDERED** that:

1. Roberts' motion to proceed *in forma pauperis* [**R. 3**] is **DENIED**;
2. Roberts' complaint [**R. 1**] is **DISMISSED** without prejudice;
3. Any other pending request for relief is **DENIED** as moot;
4. Judgment shall be entered contemporaneously with this Memorandum Opinion and Order; and
5. This matter is **STRICKEN** from the Court's Docket.

This the 19th day of April, 2022.



Claria Horn Boom

CLARIA HORN BOOM,
UNITED STATES DISTRICT COURT JUDGE
EASTERN AND WESTERN DISTRICTS OF
KENTUCKY