

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE
CIVIL ACTION NO. 3:10CV-128-H**

DAVID R. ZITTLER

PLAINTIFF

v.

FAMILY

DEFENDANT

MEMORANDUM OPINION

Plaintiff filed the instant civil action in this Court on March 1, 2010. The document initiating the suit is a two-page, hand-written document that does not identify defendants, set forth intelligible facts, or demand any relief. After Plaintiff failed to respond to a Notice of Deficiency, the Court entered an Order on April 9, 2010, giving Plaintiff 21 days to re-file his complaint on a Court-approved form, prepare summonses to be served upon each Defendant, and re-file his application to proceed without prepayment of fees. The Order warned Plaintiff that failure to file these documents within 21 days or show good cause for his failure to do so would result in the dismissal of the action. More than 21 days have passed, and Plaintiff has failed to respond to the Court's Order.

“[A] district court may, at any time, *sua sponte* dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999). The document initiating this lawsuit is unintelligible, and the Court cannot discern from it any allegations, Defendants, or claims for relief. Therefore, the allegations in Plaintiff's complaint “are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open

to discussion.” *Apple*, 183 F.3d at 479. The instant action must, therefore, be dismissed for lack of subject matter jurisdiction.

The Court will enter a separate Order consistent with this Memorandum Opinion.

Date:

cc: Plaintiff, *pro se*
4412.010