UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

JERMELL FERGUSON,)	Case No.: 1:16 CV 1336
Plaintiff)	JUDGE SOLOMON OLIVER, JR.
v.)	JOBOL SOLOWOT OLI VLIN, JR.
STATE OF OHIO, et al.,)	
Defendants)	MEMORANDUM OF OPINION AND ORDER

On June 2, 2016, plaintiff *pro se* Jermell Ferguson, an inmate at the Cuyahoga County Jail, filed this civil rights action against the State of Ohio, the Cuyahoga County Prosecutor, and the City of Cleveland. While the complaint is unclear, plaintiff appears to allege he was given permission to reside at a property owned by someone he knew, but is now in jail because that person told police plaintiff did not belong on the property. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915A.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; *Siller v. Dean*, No. 99-5323, 2000 WL 145167, at *2 (6th Cir. Feb. 1, 2000).

Principles requiring generous construction of *pro se* pleadings are not without limits. Beaudett v. City of Hampton, 775 F.2d 1274, 1277 (4th Cir. 1985). A complaint must contain either direct or inferential allegations respecting all the material elements of some viable legal theory to satisfy federal notice pleading requirements. See Schied v. Fanny Farmer Candy

Shops, Inc., 859 F.2d 434, 437 (6th Cir. 1988). District courts are not required to conjure up

questions never squarely presented to them or to construct full blown claims from sentence

fragments. Beaudette, 775 F.2d at 1278. To do so would "require ...[the courts] to explore

exhaustively all potential claims of a pro se plaintiff, ... [and] would...transform the district court

from its legitimate advisory role to the improper role of an advocate seeking out the strongest

arguments and most successful strategies for a party." Id.

It is evident plaintiff seeks to challenge his incarceration. The Supreme Court has held

that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his

sole federal remedy is a writ of habeas corpus." *Preiser v. Rodriguez*, 411 U.S. 475, 501 (1973).

Further, absent allegations that criminal proceedings terminated in plaintiff's favor or that a

conviction stemming from the asserted violation of his rights was reversed, expunged by

executive order, declared invalid by a state tribunal, or called into question by a federal court's

issuance of a writ of habeas corpus, he may not recover damages for his claim. Heck v.

Humphrey, 512 U.S. 477, 487 (1994).

Based on the foregoing, this action is dismissed under section 1915A. The court

certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken

in good faith.

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.

CHIEF JUDGE

UNITED STATES DISTRICT COURT

June 27, 2016

-2-