

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSÉ M. BETANCOURT,

Plaintiff

v.

LUIS SEPÚLVEDA and
COURT-APPOINTED FACILITATOR FOR
THE BENEFIT OF MANUEL BETANCOURT,

Defendants

CIVIL NO. 09-1925 (JP)

OPINION AND ORDER

Before the Court is a complaint (No. 2) filed by Plaintiff José Betancourt against Defendants Luis Sepúlveda and the Court-appointed Facilitator for the benefit of Manuel Betancourt. For the reasons stated herein, Plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

In the instant case, Plaintiff filed the complaint on September 14, 2009 (No. 2), and an application to proceed *in forma pauperis* (No. 1). The Court granted the motion to proceed *in forma pauperis* (No. 4). In said Order, the Court also ordered Plaintiff to amend the complaint in order to comply with the requirements of Ashcroft v. Iqbal, ---U.S.---, 129 S. Ct. 1937 (2009), on or before October 15, 2009. Plaintiff failed to comply with said Order.

When a plaintiff seeks to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a), a court may dismiss the plaintiff's case if satisfied that it is frivolous or malicious, fails to state a claim

upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e). A claim is frivolous within the meaning of § 1915(e) if it is based on an indisputably meritless legal theory, which lacks a basis in law. Neitzke v. Williams, 490 U.S. 319, 327 (1989) (explaining that *sua sponte* dismissal under 28 U.S.C. § 1915 is warranted only if a complaint is "clearly baseless"). See González-González v. U.S.A., 257 F.3d 31 (1st Cir. 2001).

The Court finds that Plaintiff's claim is frivolous as it presents incomprehensible allegations. The complaint states only legal conclusions and citations to federal law. It is entirely lacking factual allegations. Such a complaint cannot proceed in federal court. Ashcroft v. Iqbal, ---U.S.---, 129 S. Ct. 1937 (2009). The Court also notes that Plaintiff has filed a number of similar lawsuits in the district since 2006, nearly all of which have been dismissed as frivolous. See, e.g, Betancourt v. Calderoni, Cv. 06 - 1903 (D.P.R. 2007); Betancourt v. Vigoritto, Cv. 07-1851 (D.P.R. 2007). Accordingly, the Court will enter a separate Judgment dismissing the case without prejudice.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 16th day of October, 2009.

s/Jaime Pieras, Jr.
JAIME PIERAS, JR.
U.S. SENIOR DISTRICT JUDGE