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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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STEVEN DALE DAVIS,  
Plaintiff,

v.

UTAH DEP'T OF CORRS. et al.,  
Defendants.

**MEMORANDUM DECISION &  
DISMISSAL ORDER**

Case No. 2:15-CV-269-DAK

District Judge Dale A. Kimball

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Plaintiff, Steven Dale Davis, has filed with the Court a prisoner pro se civil rights complaint. *See* 42 U.S.C.S. § 1983 (2017). The Court approved Plaintiff's application to proceed *in forma pauperis*. *See* 28 *id.* § 1915.

The Complaint's allegations are leveled at Defendant Utah Department of Corrections (UDOC). To summarize, Plaintiff accuses Defendant of gassing him as he entered prison in 2004. He further asserts that there is a "coup within the Department of Correction," in which "they are trying for full takeover, and using me as their tool to do so." The Court has screened Plaintiff's Complaint under §§ 1915(e)(2) and 1915A and now dismisses it for being frivolous and failing to state a claim upon which relief may be granted. *See id.* §§ 1915(e)(2)(B) & 1915A.

Section 1915 grants this Court the power to "pierce the veil of the complaint's factual allegations." *Denton v. Hernandez*, 504 U.S. 25, 32 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 327 (1989)). Although Plaintiff's allegations must be viewed in his favor, "a court may dismiss a claim as factually frivolous . . . if the facts alleged are 'clearly baseless,' a category

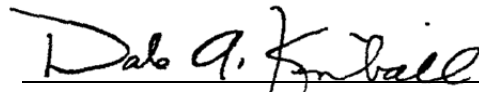
encompassing allegations that are 'fanciful,' 'fantastic,' and 'delusional.'" *Id.* at 32-33 (citations omitted). Accordingly, a determination of factual frivolousness is proper "when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Id.* at 33.

Plaintiff's assertions here fit these definitions of factual frivolousness. The fantastic claims in Plaintiff's complaint about being gassed and used as a pawn in a coup involving UDOC have a delusional quality and are patently unbelievable. The claims here must therefore be dismissed as factually frivolous. *See* 28 U.S.C.S. § 1915(e)(2)(B)(i) (2017).

**IT IS HEREBY ORDERED** that Plaintiff's § 1983 complaint is **DISMISSED** under §§ 1915(e)(2)(B) and 1915A because his claims are either frivolous or fail to state a claim upon which relief may be granted. *See* 28 id. §§ 1915(e)(2)(B) & 1915A. This case is **CLOSED**.

DATED this 22<sup>nd</sup> day of May, 2017.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style and is positioned above a horizontal line.

DALE A. KIMBALL  
United States District Judge