

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

BEATRICE DOWNS,

Plaintiff,

v.

Civil Action No. 3:06cv631

HENRICO COUNTY and
FEDERAL BUREAU INVESTIGATION,

Defendants.

MEMORANDUM OPINION

Beatrice Downs filed this action, proceeding *pro se* and *in forma pauperis*, against Henrico County and the Federal Bureau of Investigation. In her Complaint (Docket No. 3), Downs alleges that she has been harassed and retaliated against for the past fourteen years because she filed a discrimination claim with the Equal Employment Opportunity Commission in 1992 or 1993 against her employer, the Medical College of Virginia. The Complaint appears to be prosecuted under 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Federal Agents, 403 U.S. 398 (1971). In the Complaint, Downs alleges a wide-ranging conspiracy that appears to permeate every province of her life and implicates, *inter alia*, the Henrico Police Department, Wachovia Bank, Henrico Doctors Hospital, Henrico County Department of Health, the Ku Klux Klan, her automobile insurer, the Federal Bureau of Investigation, and perhaps even Wal-Mart Corporation and her daughter's beauty salon and piano teachers.

This matter is before the Court on an uncaptioned motion (Docket Nos. 4 and 5) filed by the plaintiff. For the reasons set forth below, the motion is denied.

BACKGROUND

On September 28, 2006, one day after the Complaint was filed, Downs filed an uncaptioned pleading which she refers to as a motion (Docket Nos. 4 and 5). In paragraph one of the motion, Downs appears to move for a temporary restraining order or a preliminary injunction to stop an eviction allegedly scheduled on October 3, 2006. In paragraph two of the motion, she seeks what appears to be a preliminary injunction to stop unnamed individuals from calling her mother. In paragraph three of the motion, Downs seeks a permanent injunction against a number of people who are referred to in her Complaint from retaliating against her for filing the Complaint in this action. In paragraph four of the motion, she asks for the appointment of counsel to represent her in this action.

DISCUSSION

Having reviewed the Complaint and having concluded that it is fanciful and delusional the Court exercises its discretion under 28 U.S.C. § 915(d) to dismiss the action because the Complaint lacks any arguable basis in law or fact. Denton v. Hernandez, 504 U.S. 25 (1992); Brown v. Briscoe, 998 F.2d 201 (4th Cir. 1993). The

Court finds that the substantive claims in the Complaint are fanciful and delusional and that they present no basis for a claim upon which relief can be granted.

To the extent that the uncaptioned motion filed on September 28, 2006 seeks a temporary restraining order or preliminary injunction against an eviction, it fails because the Complaint does not even mention an eviction, and it is axiomatic that a motion for a temporary restraining order or preliminary injunction must be based on a Complaint where an actionable claim is stated. Accordingly, to the extent that the untitled document is a motion for a temporary restraining order or a motion for preliminary injunction, it is denied. To the extent that the untitled document presents, in paragraphs two and three, requests for permanent injunctive relief based on achieving a successful outcome in the Complaint, the motion is denied because the Complaint is being dismissed as fanciful, delusional and without legal merit. To the extent that the untitled document moves for the appointment of counsel, the Court finds that it is not appropriate to appoint counsel in this case because none of the criteria in so doing are met.

CONCLUSION

For the foregoing reasons, the motion for a temporary restraining order or preliminary injunction is denied, the motion for appointment of counsel is denied, the motion for permanent

injunction is denied, and the action is dismissed without prejudice.

The Clerk is directed to send a copy of this Order to the plaintiff and counsel for the defendants.

It is so ORDERED.

/s/

Robert E. Payne
United States District Judge

Richmond, Virginia
Date: October 3, 2006