

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SONNY JAMES FLOYD, #203115,)

Plaintiff,)

v.)

CIVIL ACTION NO. 2:05-CV-718-F
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ALABAMA DEPT. OF CORRECTIONS, et al.,)

Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

In this 42 U.S.C. § 1983 action, Sonny James Floyd [“Floyd”], a state inmate, complains that correctional officials and mental health personnel have violated his constitutional rights. Upon review of the complaint, the court concludes that dismissal of this case prior to service of process is proper under 28 U.S.C. § 1915(e)(2)(B)(i).¹

DISCUSSION

Floyd asserts that during the periods of his confinement over the past six years he “started hearing voices . . . and not just voices. They were actually talking to me through a micro computer chip that was put in my brain. They do it from a computer through a

¹A prisoner who is allowed to proceed *in forma pauperis* in this court will have his complaint screened in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B). This screening procedure requires the court to dismiss a prisoner’s civil action prior to service of process if it determines that the complaint is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

satellite (sic) or something in space. I could talk to them and they could talk to me.” *Plaintiff’s Complaint* at 1-2. He argues that “[s]omebody in the Dept. of Corrections has [terrorized] me from 1999 until 2003” utilizing the implanted computer chip. *Id.* at 2.

This court shall dismiss an *in forma pauperis* complaint “if the court determines that . . . the action . . . is frivolous or malicious.” 28 U.S.C. § 1915(e)(2)(B)(i); *see also, Neitzke v. Williams*, 490 U.S. 319, 324 (1989).² This section gives a federal district court “the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Neitzke*, 490 U.S. at 327. Examples of such claims are those that describe “fantastic or delusional scenarios.” *Id.* at 328.

The plaintiff’s allegations in the instant case fit squarely into the prohibited category. Thus, after careful review of his complaint, the court readily concludes that the facts alleged by the plaintiff are irrational and are perhaps indicative of the plaintiff’s delusional state. The allegations contained in the present complaint are a paradigm of those claims which should be subject to dismissal for frivolousness as they are truly fantastic and wholly incredible.

Accordingly, the plaintiff’s complaint should be summarily dismissed in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i). *Denton v Hernandez*, 504 U.S. 25 (1992); *Neitzke, supra*.

²Although *Neitzke* interpreted the provisions of 28 U.S.C. § 1915(d), the predecessor to § 1915(e)(2), the analysis contained therein remains applicable to the directives of the present statute.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed with prejudice prior to service of process pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i). It is further

ORDERED that on or before 25 August 2005 the parties may file objections to this Recommendation. Any objections filed must clearly identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 10th day of August, 2005.

/s/ Vanzetta Penn McPherson
UNITED STATES MAGISTRATE JUDGE