

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

THRESA LYNN WILLIAMS,)	
)	
PLANTIFF,)	
)	
v.)	1:17-CV-00964-KOB
)	
)	
STRINGER, MONTGOMERY AND)	
MONTGOMERY)	
et al.,)	
)	
DEFENDANTS.)	
)	

MEMORANDUM OPINION AND ORDER

This matter is before the court on plaintiff’s motion for leave to proceed *in forma pauperis*. (Doc. 2). Having reviewed the plaintiff’s *in forma pauperis* affidavit (doc. 2), this court finds that the plaintiff qualifies as a pauper and GRANTS plaintiff’s motion to proceed without payment of the filing fee.

The court has an obligation to review *sua sponte* the merits of *in forma pauperis* matters. Under 28 U.S.C. § 1915(e)(2)(B), a court must dismiss a case at any time, notwithstanding filing fees, if “the action or appeal is frivolous or malicious; fails to state a claim on which relief may be granted; or seeks monetary relief against a defendant who is immune from such relief.” A frivolous claim “lacks an arguable basis either in law or in fact... [and] embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Although the court is required to show leniency to a pro se plaintiff's pleadings, her complaint is still "subject to the relevant law and rules of court, including the Federal Rules of Civil Procedure." *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989). Pro se complaints must "comply with the procedural rules that govern pleadings." *Beckwith v. Bellsouth Telecomms. Inc.*, 146 Fed. Appx. 368, 371 (11th Cir. 2005). Under Rule 8 of the Federal Rules of Civil Procedure, a plaintiff must plead more "than labels and conclusions... Factual allegations must be enough to raise a right to relief above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Under 28 U.S.C. § 1915(e)(2)(B)(iii), a court must dismiss a claim by a plaintiff proceeding *in forma pauperis* if the complaint fails to state a claim on which relief may be granted or if the complaint seek monetary relief from an immune party.

In this case, the pro se complaints consist of 13 pages of allegations against 4 defendants. After carefully reviewing the complaint, the court ORDERS as follows:

1. The court DISMISSES WITH PREJUDICE as a matter of law the plaintiff's causes of action relating to any federal or state crimes because criminal statutes do not create a private right of action in a private citizen to file criminal charges. *See, e.g., Adventure Outdoors, Inc. v. Bloomberg*, 552 F.3d 1290, 1303 (11th Cir.2008) (rejecting notion that Congress authorized "a federal private right of action any time a civil plaintiff invokes a federal criminal statute").
2. The court DISMISSES WITH PREJUDICE all claims under 42 U.S.C. § 1983 against all defendants. Section 1983 requires that a state actor acting under color of state law commit the conduct of which the plaintiff complains of. *See*

Brooks, 436 U.S. 149, 156-57 (1978). The defendants in this case are *not* state actors, and thus, no federal cause of action exists under § 1983 against these defendants.

3. The court DISMISSES WITHOUT PREJUDICE any remaining state law claims against all defendants because no federal question or diversity jurisdiction exists for the court to decide any state law claims.

The court notes that the plaintiff has a parallel state action in Talladega County Circuit Court, *Williams v. Stringer, Montgomery & Montgomery*,¹ CV-2016-000176.00, in which the claimant requests relief for substantially the same state issues. Although the state court dismissed the claims against Stringer, Stringer, & Montgomery, the claims against Margaret Key Scales remain pending in state court.

Based on the rulings above, no defendants or claims remain in this case.

DONE and ORDERED this 5th day of September, 2017.



KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE

¹ The state case *Williams v. Stringer, Montgomery & Montgomery* involves the following defendants from this federal action: Stringer, Stringer & Montgomery and Margaret Key Scales.