

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

ERIC FLORES,

Petitioner,

vs.

UNITED STATES ATTORNEY
GENERAL, FEDERAL BUREAU OF
INVESTIGATION,

Respondents.

Case No. 2:15-cv-00002-SLG

ORDER OF DISMISSAL

On April 24, 2015, Eric Flores, a self-represented resident of Texas, filed a class action Petition to Challenge the Constitutionality of the First Amendment, an Application to Waive Prepayment of the Filing Fee, and a Motion to Transfer his case to the District of Columbia.¹ Title 28 U.S.C. Section 1915 requires the Court to review the action, and to dismiss if the action “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.”²

¹ Dockets 1, 3, 5, 6.

² 28 U.S.C. § 1915(e)(2)(B); see also *Lopez v. Smith*, 203 F.3d 1122, 1129 n. 10 (9th Cir. 2000) (“Congress inserted 1915(e)(2) into the in forma pauperis statute, and we must follow this clear statutory direction.”); *Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001) (“The district court . . . properly concluded that Calhoun’s [non-prisoner] complaint should not be allowed to proceed. See 28 U.S.C. §1915(e)(2)(B)(iii) (requiring dismissal of in forma pauperis proceedings that seek monetary relief against immune defendants.)”; *Bilal v. Driver*, 251 F.3d 1346, 1348 (11th Cir. 2001) (Under section § 1915(e)(2)(B)(ii) . . . “dismissal is now mandatory. . . . [T]he complaint now may . . . be dismissed under section 1915 for failure to state a claim.”); *Marts v. Hines*, 117 F.3d 1504, 1506 (5th Cir.1997) (en banc) (§ 1915(e)(2)(B)(i) “requires dismissal of frivolous IFP actions even if they are brought by non-prisoner plaintiffs.”).

As a preliminary matter, Mr. Flores cannot file a class action without counsel.³ Only an “attorney admitted to practice as an attorney and counselor at law before the courts of the State of Alaska, is eligible for admission to practice in the United States District Court for the District of Alaska.”⁴ And “[a] person may not engage in the practice of law in the state unless the person is licensed to practice law in Alaska and is an active member of the Alaska Bar.”⁵ Mr. Flores is not a member of the Alaska Bar,⁶ and may not bring a class action in this Court.

Moreover, Mr. Flores has filed similar cases in numerous other United States District Courts.⁷ In one of his filings to this Court, Mr. Flores indicates he has

³ See, e.g., *Simon v. Hartfield Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008) (“28 U.S.C. § 1654 provides that in federal court, ‘parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.’ Significant is the language contained in the statute that limits the authorization of civil litigants to ‘plead and conduct *their own cases personally*.’ *Id.* (Emphasis added).

. . . It is well established that the privilege to represent oneself *pro se* provided by § 1654 is personal to the litigant and does not extend to other parties or entities.”) (citations omitted).

⁴ D. Ak. LR 83.1(a)(1).

⁵ *Christensen v. Melinda*, 857 P.2d 345, 346 (Alaska 1993) (citing Alaska Bar Rule 63); see also Alaska Rule of Civil Procedure 81(a)(1) (“only attorneys who are members of the Alaska Bar Association shall be entitled to practice in the courts of this state”).

⁶ See www.alaskabar.org.

⁷ See, e.g., *Flores v. U.S. Atty.*, 4:15–CV–58, 2015 WL 2193784 *1 (E.D. N.C. May 11, 2015) (“[T]his action [is] DISMISSED as frivolous”); *Gen. Flores v. United States Attorney General, et al.*, 2:15–cv–1207, 2015 WL 2085561 *1 (S.D. Ohio, May 5, 2015) (“Plaintiff’s Complaint fails to state a claim upon which relief can be granted. Accordingly, Plaintiff’s Complaint is hereby DISMISSED pursuant to Section 1915(e)(2).”); *Flores v. U.S. Attorney General, Federal Bureau of Investigation*, 2:15-cv-00288 (D. Utah, opened 4/24/15); *Flores v. U.S. Attorney General, F.B.I.*, 4:15-cv-00048 (N.D. Miss., opened 4/20/15); *Flores v. U.S. Attorney General, F.B.I.*, 1:15-cv-00010 (D. Guam, opened 2:15-cv-00002-SLG, *Flores v. U.S. Attorney General, et al.*

instituted this same civil cause of action in over twenty five United States District Courts throughout the country.⁸ In the Petition Mr. Flores filed in this Court, he states:

In this particular civil case, the petitioner has established venue of jurisdiction in the United States District Court in Arkansas by asserting that ; (1) the respondents residency or place of business is within the geographic location of Arkansas and that ; (2) the respondents acts or omissions that give rise to the legal claims occurred from within the geographic location Arkansas where the legal claims are being filed in the United States District Court in Arkansas.

The aforementioned two jurisdictional factors satisfy the burden of establishing the prerequisite of venue of jurisdiction in the United States District Court in Arkansas for the purpose of adjudicating the petitioners "Petition to Challenge the Constitutionality of the First Amendment Right to Free Exercise of Religious Belief" for want of prosecution.⁹

Mr. Flores has made no allegations that appear to have anything to do with the District of Alaska.

The United States District Court for the Western District of Kentucky, in dismissing Mr. Flores' similar case filed in that court, explains as follows:

Petitioner filed a 64–page complaint entitled “Petition to Challenge the Constitutionality of the First Amendment.” A review of PACER reveals that Petitioner recently filed the same complaint in many other district courts throughout the country. He names as

4/20/15); *Flores v. U.S. Attorney General, F.B.I.*, 1:15-cv-00039 (D. N.D., opened 4/17/15); *Flores v. U.S. Attorney General, F.B.I.*, 3:15-cv-00217 (D. Nev., opened 4/17/15); *Flores v. U.S. Attorney General, F.B.I.*, 1:15-cv-00842 (D. Colo., opened 4/17/15); *Flores v. U.S. Attorney General, F.B.I.*, 2:15-cv-02851 (C.D. Calif., opened 4/17/15).

⁸ Docket 5 at 1.

⁹ Docket 1 at 5.

Respondents the U.S. Attorney General, with an address in Washington, D.C., and the Federal Bureau of Investigation, with an address in Texas. Petitioner's address is also in Texas. None of the allegations in the complaint appear to have anything to do with the Western District of Kentucky.¹⁰

The Court concluded that “[t]he instant action must be dismissed as frivolous. An action has no arguable factual basis when the allegations are delusional or ‘rise to the level of the irrational or the wholly incredible.’”¹¹

Likewise, the United States District Court for the District of Oregon states:

This is not the first time Plaintiff has attempted to litigate these, or similar, claims. Plaintiff filed the Complaint currently pending before this Court with 28 other United States courthouses. . . . Over the years, he has filed similar claims in federal courts across the country. Those courts have summarily dismissed as frivolous Plaintiff's claims of government employees directing satellite transmissions at Mexican-American citizens.

. . .

This Court reaches the same conclusion. Even liberally construing Plaintiff's Complaint, it is facially frivolous.¹²

And the United States District Court for the Eastern District of Missouri concluded as follows:

Having carefully reviewed the complaint, the Court concludes that plaintiff's factual allegations are delusional and fail to state a claim or cause of action. In this regard, the Court takes judicial notice of two substantially similar cases that plaintiff filed in the District of Maine. See *Flores v. U.S. Attorney General*, No. 2:13-CV-52-DBH (D.Me.2013); *Flores v. U.S. Attorney General*, No. 2:13-CV-7-DBH

¹⁰ *Flores v. U.S. Atty. Gen.*, 5:15-cv-85, 2015 WL 2018384 *1 (W.D. Ken. May 1, 2015).

¹¹ *Id.* at *2 (quoting *Denton v. Hernandez*, 504 U.S. 25, 33 (1992)).

¹² *Flores v. U.S. Atty Gen.*, 1:15-cv-00644, 2015 WL 2260551 *3 (D. Oregon, May 12, 2015) (citations omitted).

(D.Me.2013). In both cases, the District Court of Maine summarily dismissed plaintiff's allegations under § 1915(e)(2)(B) and warned plaintiff that any further frivolous filings would result in filing restrictions being placed upon him.

For these reasons, the instant action will be dismissed as legally frivolous and delusional under § 1915(e)(2)(B). Plaintiff is warned that any further frivolous filings may result in filing restrictions being placed upon him in the Eastern District of Missouri.¹³

As with the similar cases Mr. Flores has filed in other jurisdictions,¹⁴ the case he filed in this Court is frivolous.¹⁵

¹³ *Flores v. U.S. Atty. Gen.*, 1:15-cv-55, 2015 WL 1757523 *2 - *3 (E.D. Missouri April 17, 2015) (The Court also denies class certification, because Mr. Flores is not an attorney, and lists a number of other cases filed by Mr. Flores around the country, noting that sanctions have been imposed by courts as a result.).

¹⁴ See, e.g., *Flores*, 2015 WL 2018384 at *1 (“Petitioner alleges that ‘executive employees of the federal government’ used ‘advanced technology with a direct signal to the satellite in outerspace that has the capability of calculateing genetic code to cause the petitioner[']s Uncle Jorge Salas severe heart pain for long durations’ and then used their official capacity to influence the county forensic laboratory to ‘fabercate frivolous documents resembling legitimate adtopsy reports’ that his uncle died of natural causes. He also alleges that the ‘organized group of executive employees’ used the direct signal of a satellite to cause him severe mental pain which impaired his thought process in order to prevent him from pursuing his appellate remedies. He further alleges that the ‘advanced technology with a direct signal to the satellite in outerspace that has the capability of calculateing a genetic code’ to cause suffering and to control mental states has been used on various of his family members.”).

¹⁵ See *Denton*, 504 U.S. at 32-33 (“Factual frivolousness includes allegations that are clearly baseless, fanciful, fantastic, or delusional.”) (citing *Neitzke v. Williams*, 490 U.S. 319, 325, 327, 328 (1989); *Neitzke*, 490 U.S. at 325 (“[A] complaint . . . is frivolous where it lacks an arguable basis either in law or in fact.”); *Cato v. United States*, 70 F.3d 1103, 1105 n. 2 (9th Cir. 1995) (A complaint may be dismissed as frivolous if it “merely repeats pending or previously litigated claims.”) (citations and internal quotations omitted).

IT IS THEREFORE ORDERED:

1. This case is DISMISSED, as required by 28 U.S.C. § 1915(e)(2)(B), with prejudice.¹⁶
2. All outstanding motions are DENIED.
3. The Clerk of Court is directed to enter a Judgment in this case.

Dated at Anchorage, Alaska this 20th day of May, 2015.

/s/ SHARON L. GLEASON
United States District Judge

¹⁶ See *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002) (dismissal, with prejudice, upheld after “weigh[ing] the following factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits.”) (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)).