

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

THOMAS BEAUCHAMP
ADC #059296

PLAINTIFF

V.

NO: 4:06CV00333 SWW

ARKANSAS, STATE OF *et al.*

DEFENDANTS

ORDER

Plaintiff, an inmate at the Ouachita River Correctional Unit of the Arkansas Department of Correction (“ADC”), filed a *pro se* complaint (docket entry #2), pursuant to 42 U.S.C. § 1983, alleging Defendants violated his constitutional rights by taking money and jewelry, which belonged to his daughter, from a safe in his home. Because Plaintiff has failed to state a cognizable claim for relief under § 1983, the Court recommends that Plaintiff’s complaint be dismissed with prejudice.

I. Screening

The Prison Litigation Reform Act (“PLRA”) requires federal courts to screen prisoner complaints seeking relief against a governmental entity, officer, or employee. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that: (a) are legally frivolous or malicious; (b) fail to state a claim upon which relief may be granted; or (c) seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

In conducting its review, the Court is mindful that a complaint should be dismissed for failure to state a claim only if it appears beyond doubt that a plaintiff can prove no set of facts that would entitle him to relief. *Springdale Educ. Ass’n v. Springdale Sch. Dist.*, 133 F.3d 649, 651 (8th

Cir. 1998). When making this determination, the Court must accept the factual allegations in the complaint as true, and hold a plaintiff's *pro se* complaint "to less stringent standards than formal pleadings drafted by lawyers. . . ." *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (*per curiam*). However, such liberal pleading standards apply only to a plaintiff's factual allegations. *Neitzke v. Williams*, 490 U.S. 319, 330 n. 9 (1989). Finally, a plaintiff's complaint still must contain facts sufficient to state a claim as a matter of law and must not be merely conclusory in its allegations. *Martin v. Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985).

II. Plaintiff's Claims

According to Plaintiff, on or about February 20, 2004, members of the group six drug task force came to his house, and seized about \$3,500.00 in cash, three shotguns, and jewelry. Plaintiff asserts that the money and jewelry belonged to his daughter, Tommie Jo Head. For relief, Plaintiff seeks the return of his daughter's property.

III. Analysis

A plaintiff invoking federal jurisdiction must establish "standing" to pursue a particular claim. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). As part of the standing requirement, a plaintiff must show that he or she has suffered "an injury in fact" that is concrete and particularized, not conjectural or hypothetical. *Id.* A "particularized" injury is one that affects a plaintiff in a personal and individual way. *Id.* at 561 n.4. To meet the injury-in-fact requirement, the party invoking federal jurisdiction must be among those injured by the defendant's conduct. *Steger v. Franco*, 228 F.3d 889, 893 (8th Cir. 2000).

Plaintiff's complaint fails to state a claim because he is seeking relief for a loss allegedly sustained not by him, but by his daughter. He therefore lacks standing to bring the claim, and his

complaint must be dismissed.

IV. Conclusion

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's complaint (docket entry #2) is DISMISSED for failure to state a claim upon which relief may be granted.

2. This dismissal counts as a "strike" for purposes of 28 U.S.C. § 1915(g).

3. The Court certifies that, pursuant to 28 U.S.C. § 1915(g), any appeal from the order and judgment dismissing this action is considered frivolous and not in good faith.

DATED this 17th day of March, 2006.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE