

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

LEAUX X. HARP

Plaintiff

VS.

(DOES 1 - 666) ANY AGENCIES OR
DEPARTMENTS OF GOVERNMENT
IN CHARGE OF SIGNS ON 5TH & 6TH
OF LITTLE ROCK, ARKANSAS

Defendants

NO: 4:07CV00631 SWW

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ORDER

On July 17, 2007, Plaintiff Leaux X. Harp commenced this lawsuit *pro se*. Along with the complaint, Plaintiff filed an application to proceed *in forma pauperis* (docket entry #1). After careful review, the Court finds that the complaint should be dismissed as frivolous and that the motion to proceed *in forma pauperis* should be denied as moot.

On his complaint form, Plaintiff states the factual basis of his lawsuit as follows: “Noise in the City of Little Rock, AR. In fact, it’s fingers in your ears and run, moving 3 [indecipherable word] noise.” Plaintiff’s prayer for relief states as follows: “The placement of 6 or more signs along 5th St. printed “BIRD HUNTING [indecipherable word]” in white & red & the placement of 6 or more signs along 6th St. printed “HIGHLY LIKELY STORMY CRACKDOWN LANE” in purple & yellow either on poles or on white painted trash dumpsters

(that never have bushes dumped in them).”

The Eighth Circuit has instructed that the decision of whether a complaint is frivolous or malicious precedes the decision of whether to grant *in forma pauperis* status and whether to order service of process. *See Carney v. Houston* 33 F.3d 893, 895 (8th Cir. 1994)(quoting *Gentile v. Missouri Dept. Of Corrections*, 986 F.2d 214 (8th Cir. 1993)). “If the complaint is frivolous or malicious, the district court should dismiss it out of hand.” *Id.* A complaint is frivolous where it lacks an arguable basis either in law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325-27 (1989).

The complaint in this case lacks any basis in law or fact, and the Court finds it to be frivolous. IT IS THEREFORE ORDERED that the complaint is dismissed as frivolous, and Plaintiff’s motion to proceed *in forma pauperis* (docket entry #1) is denied as moot. Pursuant to the judgment entered together with this order, this action is dismissed with prejudice.

IT IS SO ORDERED THIS 18TH DAY OF JULY, 2007.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE