

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00648-BNB

MICHAEL WAYNE NORTHCUTT, JR., aka
MICHAEL W. DIRICKSON,

Plaintiff,

v.

THE UNITED STATES JUSTICE DEPARTMENT,
ERIC HOLDER,
THE UNITED STATES FEDERAL BUREAU OF PRISON'S [sic]
APPROXIMATELY 12 UNKNOWN AGENT'S [sic] OF THE FEDERAL GOVERNMENT,
and
"ELIZABETH WOOD," Her Attorney's [sic] and/or Heirs,

Defendants.

ORDER OF DISMISSAL

Plaintiff, Michael Wayne Northcutt, Jr., also known as Michael W. Dirickson, is a prisoner in the custody of the Federal Bureau of Prisons (BOP) at the United States Penitentiary, Administrative Maximum, in Florence, Colorado. He filed *pro se* a Prisoner Complaint (ECF No. 1) for money damages, and injunctive and habeas corpus relief. He has been granted leave to proceed pursuant to 28 U.S.C. § 1915.

The Court must construe Mr. Northcutt's Prisoner Complaint liberally because he is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). If the complaint reasonably can be read "to state a valid claim on which the plaintiff could prevail, [the Court] should do so despite the plaintiff's failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with

pleading requirements.” *Hall*, 935 F.2d at 1110. However, the Court does not act as an advocate for a *pro se* litigant. *See id.* For the reasons stated below, the complaint and the action will be dismissed.

Mr. Northcutt contends that from March or April 2005 to the present, Defendants stole or held on to his “patent or invention the E-Reader, Nook and Kindle,” or stole profits apparently from the sale of those items. He further contends the Drug Enforcement Administration, Federal Bureau of Investigation, Central Intelligence Agency, BOP, or other “agents of the government” conspired to torture him physically, spiritually, and psychologically for seven years by causing him pain and muscle spasms and using “classified technology and parabolic sound, radiation, threats to kill the plaintiff to torture and kill his friends & family.” ECF No. 1 at 3. He makes numerous other equally vague and conclusory allegations for which he fails to provide factual support.

Subsection (e)(2)(B) of § 1915 requires a court to dismiss *sua sponte* an action at any time if the action is frivolous, malicious, or seeks monetary relief against a defendant who is immune from such relief. Mr. Northcutt’s allegations are factually frivolous. A claim is frivolous if it “lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A legally frivolous claim rests on “an indisputably meritless legal theory,” such as a claim that a non-existent legal interest has been infringed. *Id.* at 327. In addition, a claim is factually frivolous if it depicts “fantastic or delusional scenarios,” *id.* at 328, or where “the facts alleged rise to the level of the irrational or the wholly incredible.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). The Court finds that Mr. Northcutt’s claims rest on “fantastic or delusional scenarios” whose

factual contentions are “clearly baseless.” *Neitzke*, 490 U.S. at 327-28. Mr. Northcutt is not entitled to relief on his claims. The Prisoner Complaint and the action will be dismissed as factually frivolous.

Finally, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. Northcutt files a notice of appeal he must also pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24.

Accordingly, it is

ORDERED that the Prisoner Complaint (ECF No. 1) and the action are dismissed as factually frivolous. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 22nd day of April, 2014.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court