

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MATTHEW N.P. JONES,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 18-1381-RGA
	:	
DELAWARE STATE POLICE	:	
HEADQUARTERS,	:	
	:	
Defendant.	:	

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Matthew N.P. Jones, Greenwood, Delaware. Pro Se Plaintiff.

**MEMORANDUM OPINION**

February 11, 2019  
Wilmington, Delaware

  
ANDREWS, U.S. District Judge:

Plaintiff Matthew Jones, who appears *pro se* and has been granted leave to proceed *in forma pauperis*, filed this action on September 5, 2018. (D.I. 2). He appears *pro se* and has been granted leave to proceed *in forma pauperis*. He asserts jurisdiction by reason of a federal question and a federal defendant.<sup>1</sup> The Court proceeds to screen the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

### **BACKGROUND**

Plaintiff alleges the events complained of occurred between 2010 and 2018. No specific dates are provided. Plaintiff alleges that he has been stopped on numerous occasions without cause and forced to wait while dogs arrived to assist in searching his car. He was stopped and asked to take a breathalyzer test. When he passed, Plaintiff was taken to the police station and required to submit to a blood test or be charged with a DUI. Plaintiff has never been charged with a DUI. Plaintiff alleges that during the stops, his vehicle was often towed even though no charges were filed. On one occasion, he was followed for over twenty miles by a Delaware State Police officer.

Another time, a State Police officer persuaded a female to pursue a sex offender allegation against Plaintiff. Plaintiff was charged and arrested. The case was nolle prossed. Finally, Plaintiff alleges that he was raped by the Troop 7 Police at different times during his childhood. Plaintiff seeks ten billion dollars in damages.

### **LEGAL STANDARDS**

A federal court may properly dismiss an action *sua sponte* under the screening

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<sup>1</sup> There are no federal defendants.

provisions of 28 U.S.C. § 1915(e)(2)(B) if “the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.” *Ball v. Famiglio*, 726 F.3d 448, 452 (3d Cir. 2013); see also 28 U.S.C. § 1915(e)(2) (*in forma pauperis* actions). The Court must accept all factual allegations in a complaint as true and take them in the light most favorable to a *pro se* plaintiff. *Phillips v. County of Allegheny*, 515 F.3d 224, 229 (3d Cir. 2008).

An action is frivolous if it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Under 28 U.S.C. § 1915(e)(2)(B)(i), a court may dismiss a complaint as frivolous if it is “based on an indisputably meritless legal theory” or a “clearly baseless” or “fantastic or delusional” factual scenario. *Neitzke*, 490 U.S. at 327-28; *Wilson v. Rackmill*, 878 F.2d 772, 774 (3d Cir. 1989).

The legal standard for dismissing a complaint for failure to state a claim pursuant to § 1915(e)(2)(B)(ii) is identical to the legal standard used when ruling on Rule 12(b)(6) motions. *Tourscher v. McCullough*, 184 F.3d 236, 240 (3d Cir. 1999). However, before dismissing a complaint or claims for failure to state a claim upon which relief may be granted pursuant to the screening provisions of 28 U.S.C. § 1915, the Court must grant Plaintiff leave to amend his complaint unless amendment would be inequitable or futile. See *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002).

Plaintiff proceeds *pro se* and, therefore, his pleading is liberally construed and his amended complaint, “however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89,

94 (2007). Under Rule 12(b)(6), a motion to dismiss may be granted only if, accepting the well-pleaded allegations in the complaint as true and viewing them in the light most favorable to the plaintiff, a court concludes that those allegations “could not raise a claim of entitlement to relief.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007). “Though ‘detailed factual allegations’ are not required, a complaint must do more than simply provide ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action.’” *Davis v. Abington Mem’l Hosp.*, 765 F.3d 236, 241 (3d Cir. 2014) (quoting *Twombly*, 550 U.S. at 555). In addition, a plaintiff must plead facts sufficient to show that a claim has substantive plausibility. See *Johnson v. City of Shelby*, 135 S.Ct. 346, 347 (2014). A complaint may not be dismissed, however, for imperfect statements of the legal theory supporting the claim asserted. See *id.* at 346.

When reviewing the sufficiency of a complaint, a court should follow a three-step process: (1) consider the elements necessary to state a claim; (2) identify allegations that are merely conclusions and therefore are not well-pleaded factual allegations; and (3) accept any well-pleaded factual allegations as true and determine whether they plausibly state a claim. See *Connelly v. Lane Constr. Corp.*, 809 F.3d 780, 787 (3d Cir. 2016); *Williams v. BASF Catalysts LLC*, 765 F.3d 306, 315 (3d Cir. 2014). Deciding whether a claim is plausible will be a “context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

## DISCUSSION

Defendant Delaware State Police is immune from suit. The Eleventh Amendment protects states and their agencies and departments from suit in federal court regardless of the kind of relief sought. *Pennhurst State School & Hosp. v.*

*Halderman*, 465 U.S. 89, 100 (1984). “Absent a state’s consent, the Eleventh Amendment bars a civil rights suit in federal court that names the state as a defendant.” *Laskaris v. Thornburgh*, 661 F.2d 23, 25 (3d Cir. 1981) (citing *Alabama v. Pugh*, 438 U.S. 781 (1978)). Delaware has not waived its immunity from suit in federal court; although Congress can abrogate a state’s sovereign immunity, it did not do so through the enactment of 42 U.S.C. § 1983. See *Brooks-McCollum v. Delaware*, 213 F. App’x 92, 94 (3d Cir. 2007).

Therefore, the Court will dismiss the Complaint based upon Defendant’s immunity from suit pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii). Since it appears plausible that Plaintiff may be able to articulate a claim against alternative defendants, he will be given an opportunity to amend his pleading. See *O’Dell v. United States Gov’t*, 256 F. App’x 444 (3d Cir. 2007) (leave to amend is proper where the plaintiff’s claims do not appear “patently meritless and beyond all hope of redemption”).

### **CONCLUSION**

For the above reasons, the Court will dismiss the Complaint pursuant to 28 U.S.C. §1915(e)(2)(B)(iii). Plaintiff will be given leave to file an amended complaint.

An appropriate order will be entered.