

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BASAVARAJ HOOLI,	:
	:
Plaintiff,	:
	:
v.	: Civil Action No. 21-609-RGA
	:
JEANINE KLEIM, JR., et al.,	:
	:
Defendants.	:

Basavaraj Hooli, New Castle, Delaware. Pro Se Plaintiff.

MEMORANDUM OPINION

November 17, 2021
Wilmington, Delaware

/s/ Richard G. Andrews

ANDREWS, U.S. District Judge:

Plaintiff Basavaraj Hooli, who appears *pro se* and has been granted leave to proceed *in forma pauperis*, filed this action on April 29, 2021. (D.I. 2). I will review and screen the Complaint under 28 U.S.C. § 1915(e)(2)(B).

BACKGROUND

Plaintiff filed this action as an appeal from a decision of the Justice of the Peace Court of Delaware in and for Kent County. (D.I. 2 at 1). The state court matter was dismissed for Plaintiff's failure to serve a complaint that he had filed against Jeanine Kleim who is also a defendant in the instant case. (*Id.* at 3-4).

Plaintiff explains that he was homeless and went to the Dover Interfaith Mission. (*Id.* at 5). At some point, he was hospitalized due to COVID, and during the hospitalization his personal belongings, including a gold ring and a neck chain and two passport, were taken. (*Id.* at 1). He places a value of about \$13,750 on the stolen items. (*Id.* at 5). Plaintiff claims that Interfaith personnel are responsible for the lost items. (*Id.* at 5-6).

LEGAL STANDARDS

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

A complaint is not automatically frivolous because it fails to state a claim. See *Dooley v. Wetzel*, 957 F.3d 366, 374 (3d Cir. 2020). “Rather, a claim is frivolous only where it depends ‘on an “indisputably meritless legal theory” or a “clearly baseless” or “fantastic or delusional” factual scenario.’” *Id.*

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 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*, 574 U.S. 10 (2014). A complaint may not be dismissed, however, for imperfect statements of the legal theory supporting the claim asserted. See *id.* at 11.

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

The Complaint will be dismissed for lack of jurisdiction. I have reviewed the Complaint and it does not raise a federal civil claim for violations of the United States Constitution or federal statutes. See 28 U.S.C. § 1331. While it is not clear whether the parties are citizens of different states, it is clear that the claimed damages are significantly below what is required for diversity jurisdiction. See 28 U.S.C. § 1332. Finally, to the extent Plaintiff seeks to appeal a state court order, his remedy does not lie in federal court. There is no appellate jurisdiction in this Court for appeals from state court, and, in particular, from a Justice of the Peace Court.

CONCLUSION

For the above reasons, the Court will the dismiss the Complaint for want of jurisdiction. The Court finds amendment futile.

An appropriate order will be entered.