

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHANTELL D. NEWMAN,	:
	:
Plaintiff,	:
	:
v.	: Civil Action No. 22-1052-RGA
	:
THE BIDEN ADMINISTRATION,	:
	:
Defendant.	:

Shantell D. Newman, New Castle, Delaware. Pro Se Plaintiff.

MEMORANDUM OPINION

December , 2022
Wilmington, Delaware

ANDREWS, U.S. District Judge:

Plaintiff Shantell Newman appears *pro se* and has been granted leave to proceed *in forma pauperis*. (D.I. 4). She commenced this action on August 10, 2022. (D.I. 2). The Court proceeds to screen the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

BACKGROUND

The following facts are taken from the Complaint and assumed to be true for purposes of screening the Complaint. See *Umland v. PLANCO Fin. Servs., Inc.*, 542 F.3d 59, 64 (3d Cir. 2008). Plaintiff alleges that a truck transporting 100 monkeys to a CDC research lab crashed on a Pennsylvania highway, the CDC “issued killings for the monkeys”, everyone is at risk, and now we have money pox. (D.I. 2 at 4-5).

Plaintiff seeks full disclosure under 15 U.S.C. § 1611 “on how the monkeys were able to spread a virus. (*Id.* at 5). She alleges Defendant has caused her friends pain, and she seeks 700 million dollars. (*Id.* at 5, 7).

SCREENING OF COMPLAINT

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 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); *Erickson v. Pardus*, 551 U.S. 89, 93 (2007). Because Plaintiff proceeds *pro se*, her

pleading is liberally construed and her Complaint, “however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. at 94.

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) and § 1915A(b)(1) 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 her complaint unless amendment would be inequitable or futile. See *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002).

A well-pleaded complaint must contain more than mere labels and conclusions. See *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). 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.

A court reviewing the sufficiency of a complaint must take three steps: (1) take note of the elements the plaintiff must plead to state a claim; (2) identify allegations that,

because they are no more than conclusions, are not entitled to the assumption of truth; and (3) when there are well-pleaded factual allegations, assume their veracity and then determine whether they plausibly give rise to an entitlement to relief. *Connelly v. Lane Constr. Corp.*, 809 F.3d 780, 787 (3d Cir. 2016). Elements are sufficiently alleged when the facts in the complaint “show” that the plaintiff is entitled to relief. *Iqbal*, 556 U.S. at 679 (quoting Fed. R. Civ. P. 8(a)(2)). 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

Plaintiff cannot bring a private civil cause of action under 15 U.S.C. § 1611, a criminal statute under the Truth in Lending Act. *Otto v. Wells Fargo Bank, N.A.*, 693 F. App’x 161, 163-64 (3d Cir. 2017) (citing *Vallies v. Sky Bank*, 591 F.3d 152, 156 (3d Cir. 2009) (distinguishing between the private cause of action under 15 U.S.C. § 1640 and the criminal liability imposed by 15 U.S.C. § 1611 in describing the range of remedies under the Truth in Lending Act); see also, e.g., *United States v. City of Philadelphia.*, 644 F.2d 187, 198-99 (3d Cir. 1980).

In addition, Defendant is immune from suit. The Biden Administration is the executive branch of the United States government. It is well established that an action against the United States cannot be maintained unless the United States waives its sovereign immunity. *United States v. Mitchell*, 445 U.S. 535, 538 (1980). A waiver of sovereign immunity cannot be implied but must be unequivocally expressed. *Id.* (citing *United States v. King*, 395 U.S. 1, 4 (1969)). “It is axiomatic that the United States may not be sued without its consent and that the existence of consent is a prerequisite for

jurisdiction.” *United States v. Mitchell*, 463 U.S. 206, 212 (1983). Accordingly, the Complaint will be dismissed.

CONCLUSION

For the above reasons, the Court will dismiss the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (iii). Amendment is futile.

An appropriate Order will be entered.