

**UNITED STATES OF AMERICA
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

DON HACKETT, JR..

Plaintiff,

vs.

CASE NO. 8:07-CIV-1202-T-17-EAJ

DEMOCRATIC POLITICAL PARTY and
REPUBLICAN POLITICAL PARTY,

Defendants.

ORDER

This cause is before the Court sua sponte. The plaintiff filed a complaint in which he indicated he wishes to proceed in forma pauperis. Since the plaintiff seeks to proceed in forma pauperis, the Court must review his complaint to determine whether it is frivolous or malicious under 28 U.S.C. § 1915(d). Additionally, the Court must read a plaintiff's pro se allegations in a liberal fashion. **Haines v Kerner**, 404 U.S. 519 (1972); see also **Miller v Stanmore**, 636 F.2d 986, 988 (5th Cir. 1981).

A complaint is frivolous under § 1915(d) "where it lacks an arguable basis either in law or in fact." **Neitzke v. Williams**, 490 U.S. 319, 325 (1989). A complaint filed in forma pauperis which fails to state a claim under Rule 12(b)(6), Fed.R.Civ.P. is not automatically frivolous. Id. at 328. Section 1915(d) dismissals should only be ordered when the legal theories are "indisputably meritless", Id. at 327, or when the claims rely on factual allegation which are "clearly baseless..., a category encompassing allegations that are 'fanciful'...and 'delusional'" and which rise to the level of the "irrational or the wholly incredible." **Denton v Hernandez**, 504 U.S.25, 112 S.Ct. 1728 (1992).

The Court has read and reviewed the complaint filed herein. The pleading is a rambling twenty (20) page document which fails to set forth either factual or legal allegations which are sufficient to state a cause of action upon which a claim may be based. There is no jurisdictional allegations. The Court has determined the following to be the basic allegations of the complaint are that the plaintiff is not being considered as a serious candidate for President of the United States. The most the Court could say following its consideration of the complaint is that the plaintiff alleges that the political parties should recognize him as a candidate for president. This complaint clearly is "baseless" as defined in the Denton case: the alleged facts in this case rise to the level of the "irrational or the wholly incredible." Accordingly, because the Court is satisfied that the complaint is frivolous, it is

ORDERED that the Clerk of Court be directed to **dismiss** this action in accordance with this opinion.

DONE and ORDERED in Chambers, in Tampa, Florida, this 11th day of July, 2006.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to: All parties and counsel of record