

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-62303-CIV-DIMITROULEAS

ELKINO DENARDO DAWKINS, SR.

Magistrate Judge Snow

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

THIS CAUSE is before the Court upon Plaintiff Elkino Denardo Dawkins, Sr.'s Complaint [DE 1], filed herein on October 26, 2011, and Plaintiff's Motion for Leave to Proceed *in Forma Pauperis* [DE 3]. The Court has carefully reviewed the Complaint and is otherwise fully advised in the premises.

Plaintiff's barebones Complaint purports to allege violations of 42 U.S.C. § 1983 by the United States for treason, mutiny, tyranny, and conspiracy. He claims fourteen quadrillion dollars in damages.

Because Plaintiff is attempting to proceed *in forma pauperis*, this Court may screen Plaintiff's complaint and dismiss it if it fails to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(a), (e). Although courts "do and should show a leniency to pro se litigants not enjoyed by those with the benefit of a legal education," GJR Investments, Inc. v. County of Escambia, Fla., 132 F.3d 1359, 1369 (11th Cir. 1998); Powell v. Lennon, 914 F.2d 1459, 1463 (11th Cir. 1990), this leniency does not give a court license to serve as de facto counsel for a party or to rewrite an otherwise deficient pleading in order to sustain an action. GJR

Investments, Inc., 132 F.3d at 1369; Pontier v. City of Clearwater, 881 F. Supp. 1565, 1568 (M.D. Fla. 1995). Rule 8(a) of the Federal Rules of Civil Procedure requires that a pleading shall contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). Allegations that consist of nothing more than legal conclusions are insufficient. Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949-50 (2009). In his pro se Complaint, Plaintiff has failed to clearly set forth his claims against the Defendant. Plaintiff’s complaint fails to provide any factual information as to how the United States committed these alleged violations and how Plaintiff was harmed; the entirety of the allegations are legal conclusions.

In Anderson v. District Board of Trustees of Central Florida Community College, 77 F.3d 364, 366-67 (11th Cir. 1996), the Eleventh Circuit, concerned about the ramifications of cases proceeding on the basis of “shotgun” pleadings, noted:

Experience teaches that, unless cases are pled clearly and precisely, issues are not joined, discovery is not controlled, the trial court’s docket becomes unmanageable, the litigants suffer and society loses confidence in the court’s ability to administer justice.

See also Cesnik v. Edgewood Baptist Church, 88 F.3d 902, 905 (11th Cir. 1996); L.S.T. Inc. v. Crow, 49 F.3d 679, 684 (11th Cir. 1995).

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff Elkino Denardo Dawkins, Sr.’s Complaint [DE 1] is hereby **DISMISSED** with leave to refile an Amended Complaint by November 28, 2011, that comports with the Federal Rules of Civil Procedure, the Southern District of Florida Local Rules, and this Order.
2. In redrafting an amended complaint, the Plaintiff shall set forth each legal claim in a separate count. Further, each count shall state with specificity both the factual and legal

basis for each claim it sets forth. Other numbered paragraphs may be incorporated by reference but this must be done with particular care so that only relevant paragraphs are referenced. It is impermissible to attempt a wholesale incorporation by reference of all preceding paragraphs. A failure to comply with this order may result in a dismissal with prejudice of this action.

3. Plaintiff's Motion for Leave to Proceed in Forma Pauperis [DE 3] is hereby **DENIED without prejudice.**

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 27th day of October, 2011.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Elkino Dawkins
1300 Washington Ave.
Miami Beach, FL 33139