

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**Case Number: 12-23759-CIV-MORENO**

KENNETH D. HUMPHREY, *et al.*,

Plaintiffs,

vs.

JANET NAPOLITANO, Secretary U.S.  
Department of Homeland Security,

Defendant.

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**ORDER DISMISSING CASE AND DENYING ALL PENDING MOTIONS AS MOOT**

THIS CAUSE came before the Court upon a *sua sponte* examination of the record. For the reasons set forth below, this case is DISMISSED. Additionally, all pending motions are DENIED AS MOOT.

In his *in forma pauperis* complaint, the Plaintiff attempts to allege RICO claims against the United States Department of Homeland Security. In reading the many allegations in Plaintiff's complaint, the Court cannot discern a federal RICO cause of action.

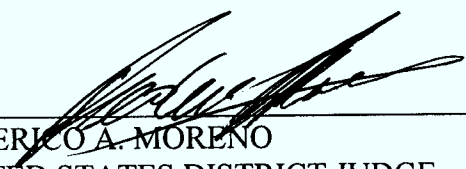
Under 28 U.S.C. § 1915(e)(2)(B)(i), a court "shall dismiss the [*in forma pauperis* action] at any time if the court determines that . . . the action . . . is frivolous or malicious." According to the United States Supreme Court, a complaint is frivolous "where it lacks an arguable basis in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (discussing dismissals under former section 1915(d), which contained the same language as current section 1915(e)(2)(B)(i)). A court may dismiss claims under section 1915(e)(2)(B)(i) where the claims rest on an indisputably meritless legal theory or are comprised of factual contentions that are clearly baseless. *Id.* at 327.

In *Neitzke*, the Supreme Court provided several examples of frivolous or malicious claims. Where the defendant is clearly immune from suit, or where the plaintiff alleges infringement of a legal interest which obviously does not exist, then the claim is founded on an indisputably meritless legal theory. *Id.* at 327. Claims detailing fantastic or delusional scenarios fit into the factually baseless category. *Id.* at 327-28. Finally, this Court also notes that a *pro se* plaintiff must be given greater leeway in pleading her complaint. *Haines v. Kerner*, 404 U.S. 519 (1972).

Mindful of these principles, the Court proceeds to evaluate Plaintiff's *in forma pauperis* complaint. Plaintiff's complaint contains a litany of allegations against the Government. Much of the complaint is incoherent and even after a careful review it is difficult to find allegations that support a cause of action under the civil RICO statute. Plaintiff's complaint is frivolous under 28 U.S.C. § 1915(e)(2)(B)(i) because it does not contain "an arguable basis in law or in fact." *Neitzke*, 490 U.S. at 327. After reviewing the entire complaint, the Court concludes that the claims are indisputably meritless. Accordingly, it is

**ADJUDGED** that this case is **DISMISSED**, and all pending motions are **DENIED AS MOOT**. This case is **CLOSED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 22<sup>nd</sup> day of October, 2012.

  
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FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Counsel of Record