

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

ERIC ZERMENO,

Plaintiff,

v.

No. 2:19 CV 316

PATRICK EWING, JUWAN HOWARD,
and ALONZO MOURNING,

Defendants.

OPINION and ORDER

Eric Zermeno, without counsel, filed a complaint seeking to have three former NBA basketball players incarcerated for twenty years if they do not pay him 997 million dollars. Zermeno alleges that the Chicago Bulls and the New York Knicks “talk shit about my name [and] blame me and the Mexican bloodline I run with.” (DE # 1 at 2.) He alleges “Alonzo Mourning, Juwan Howard, and Patrick Ewing had people cause a lot of war turfs, gang violence, between Gary, IN, East Chicago and Chicago, IL . . .” (*Id.*)

Zermeno seeks leave to proceed in forma pauperis. However, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), “the court shall dismiss the case at any time if the court determines that . . . the action . . . is frivolous or malicious . . .” Such is the case here. Though it is usually necessary to hold a hearing to determine the merits of a claim, “[s]ometimes, however, a suit is dismissed because the facts alleged in the complaint are so nutty (‘delusional’ is the polite word) that they’re unbelievable, even though

there has been no evidentiary hearing to determine their truth or falsity.” *Gladney v. Pendleton Correctional Facility*, 302 F.3d 773, 774 (7th Cir. 2002). See also *Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000). Therefore this case will be dismissed. Though it is usually necessary to permit a plaintiff the opportunity to file an amended complaint when a case is dismissed sua sponte, see *Luevano v. Wal-Mart*, 722 F.3d 1014 (7th Cir. 2013), that is unnecessary where the amendment would be futile. *Holland v. City of Gary*, 503 F. App’x 476, 477–78 (7th Cir. 2013) (amendment of complaint with fantastic and delusional allegations would be futile). See also *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 432 (7th Cir. 2009).

This is not the only frivolous and malicious case filed by Zermeno. In *Zermeno v. Saikawa*, 2:19-CV-302 (N.D. Ind. filed August 16, 2019), his claims against Nissan and Porsche executives were found frivolous and malicious when he alleged that they had mined his brain and stolen the designs of several high end cars.

Enough is enough. “Abusers of the judicial process are not entitled to sue and appeal without paying the normal filing fees – indeed, are not entitled to sue and appeal, period. Abuses of process are not merely not to be subsidized; they are to be sanctioned.” *Free v. United States*, 879 F.2d 1535, 1536 (7th Cir. 1989). “Federal courts have both the inherent power and constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions.” *In re McDonald*, 489 U.S. 180, 185 n. 8 (1989) quoting *In re Martin-Trigona*, 737 F. 2d 1254, 1261 (2nd Cir. 1984).

For these reasons, the court:

(1) **DENIES** the in forma pauperis motion (DE # 2);

(2) **DISMISSES** this case as frivolous and malicious pursuant to 28 U.S.C. § 1915(e)(2)(B)(i); and

(3) **CAUTIONS** Eric Zermeno if he files another frivolous or malicious lawsuit, he may be fined, sanctioned, or restricted.

SO ORDERED.

Date: August 27, 2019

s/James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT