

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION**

DONALD BRUCE ROBERTS,)	
)	
Plaintiff,)	
vs.)	Case No. 4:14-cv-0102-TWP-WGH
)	
OFFICER D. MORRIS, et al.,)	
)	
Defendants.)	

**Entry Granting *In Forma Pauperis* Status, Discussing Complaint,
Dismissing Insufficient Claims, and Directing Further Proceedings**

The plaintiff's motion to proceed *in forma pauperis* (dkt. 2) is **granted**. No assessment of an initial partial filing fee is feasible at this time.

I. Background

Because plaintiff Donald Bruce Roberts is a prisoner as defined by 28 U.S.C. 1915(h) when he filed his complaint, the Court has screened his complaint as required by 28 U.S.C. 1915A(b). Pursuant to this statute, “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 127 S. Ct. 910, 921 (2007).

Mr. Roberts' claims are brought pursuant to 42 U.S.C. § 1983. He is confined at the Floyd County Jail. He brings this civil rights complaint against two defendants: 1) Officer D. Morris and 2) Officer R. Vest.¹ He alleges that on March 17, 2014, Officer Morris kicked him twice while he was brushing his teeth. Mr. Roberts further alleges that on May 24, 2014, Officer Vest told a visitor that he, Mr. Roberts, was a “n- hating honky.” He seeks compensatory damages.

¹The Floyd County Jail, to the extent it is also named as a defendant, is **dismissed** because it is a building, not a “person” subject to suit under section 1983.

II. Screening

To satisfy the notice-pleading standard of Rule 8(a)(2) of the *Federal Rules of Civil Procedure*, a complaint must provide a “short and plain statement of the claim showing that the pleader is entitled to relief.” Such a statement must provide the defendant with “fair notice” of the claim and its basis. *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). The complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. . . . A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation omitted). Pro se complaints such as that filed by Mr. Roberts are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Erickson*, 551 U.S. at 94; *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

Calling an inmate derogatory names is unprofessional but it does not rise to the level of a constitutional violation. *See Patton v. Przybylski*, 822 F.2d 697, 700 (7th Cir. 1987) (making racially derogatory remarks is unprofessional and inexcusable but does not support a constitutional claim); *McDowell v. Jones*, 990 F.2d 433, 434 (8th Cir. 1993) (verbal threats and name calling are not actionable under section 1983). **The claim against Officer Vest is dismissed for failure to state a claim upon which relief can be granted.**

No partial final judgment shall issue as to the claims dismissed in this Entry. The clerk shall **update the docket** to reflect the dismissal of defendant Officer Vest and the Floyd County Jail.

III. Service of Process

The claim of excessive force alleged against Officer Morris shall proceed.

The clerk shall **issue and serve process** on defendant Officer D. Morris in the manner specified by *Fed. R. Civ. P.* 4(d)(2). Process in this case shall consist of the complaint filed on August 25, 2014, applicable forms, and this Entry.

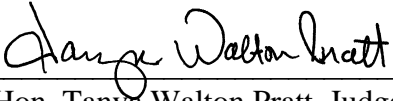
IT IS SO ORDERED.

Date: 9/4/2014

Distribution:

Donald Bruce Roberts
#24506
Floyd County Jail
Inmate Mail/Parcels
P. O. Box 1406
New Albany, IN 47150

Officer D. Morris
Floyd County Jail
P. O. Box 1406
New Albany, IN 47150


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

NOTE TO CLERK: PROCESSING THIS DOCUMENT REQUIRES ACTIONS IN ADDITION TO DOCKETING AND DISTRIBUTION.