

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE**

VIJAI KUMAR SINGH

PLAINTIFF

v.

CIVIL ACTION NO. 3:11CV-107-S

HON. DAVID J. HALE, U.S. ATTORNEY *et al.*

DEFENDANTS

MEMORANDUM OPINION

Because Plaintiff is proceeding *in forma pauperis*, this Court must initially review the complaint pursuant to 28 U.S.C. § 1915(e)(2) and *McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997). Upon initial review, this Court must dismiss a case at any time if it determines that the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. § 1915(e)(2)(B). For the reasons that follow, the complaint will be dismissed.

I.

Plaintiff Vijai Kumar Singh filed a *pro se* complaint against the Hon. David J. Hale, U.S. Attorney; the Hon Eric C. Holder, Jr., U.S. Attorney General; and Elizabeth A. Fries, FBI Special Agent. As grounds for filing this action in federal court, Plaintiff states, “I am filling this Petition against the federal Government about the civil rights violation. Under the constitution, I have rights about life, liberty and pursuit of happiness. The constitution also provides the rights of freedom, speech and workship.”

As his statement of claim, Plaintiff alleges:

I migrate this country in March 2004. The first few years was good for me. After few years, Mr. George W. Bush govt. started to gave me harassment, discrimination and frustration. This government was violating the civil rights. After the September 2005, they started to throw me a rayses, which is directly infecting my health and providing me unhealthy environment to work. This government was conservative

and orthodox and was creating racism in this country. Both branch of government (Executive & Legislative) was violating the law Do't talk, Do't tell. They are misutilizing the law and their resources for their political benefit. This government was rude and orthodox for their people and citizen.

For example, a recent example of civil right violation is started few year before. In may case, the government used the destructive software to gave me harassment and discrimination. The government used their private sources, agents and foreign associates to make me unhealthy and wealthy. I guess some foreign agents was also involved and he gave a big amount of ransome money to their agents. So that the other parts of this government was been activated. Some sources was also involved in federal government for the misutilization of this law 'Do't talk, Do't tell.' This law works simply as it means. Nobody in federal government talked me about any matter and he used the sattelite to kill me.

Plaintiff maintains that his problems began in 2005 when he joined Endress Hauser as an electronic assembler. His supervisors gave "a negative report" about him to a government officer. "After few days they put me on the hot line. After leaving from the company, they directly start to torture me through the rayses."¹ Plaintiff reports having met with an unnamed FBI Officer in Louisville last year. He states that the FBI "showed up their negative attitude to not help" him but directed him to the Metro Police Department in Greenwood, Indiana, who also "showed up a negative attitude and tolerate me for the next days." Plaintiff reports also sending an e-mail to President Obama but advises that "their team can not decide me my case yet."

As relief, Plaintiff asks the Court (1) "to take me out from coming danger and get me rid off from hot line"; (2) "to protect the basic rights of people"; (3) to direct the government officers to stop the harassment and discrimination and to stop the "misutilization of laws like Do't talk, Do't tell"; and (4) to "stop[] the satlelite wars proxy war & space war against a group."

¹In a letter to President Obama attached to the complaint, Plaintiff explains: "One day I was out of apartment and I start feeling rayses. which are coming on my body. These rayses are caused of headache and serious illness and making me unfit for the work."

II.

A *pro se* complaint should be held to a “less stringent standard” than one drafted by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Even a *pro se* complaint, however, must plead facts sufficient to show a legal wrong has been committed for which the plaintiff may be granted relief. Plaintiff advises that he filed his complaint “against the federal Government about the civil rights violation. Under the constitution, I have rights about life, liberty and pursuit of happiness. The constitution also provides the rights of freedom, speech and workship.” He does not allege facts that show any violation of his First Amendment rights to freedom of speech and worship or that demonstrate any liberty interest requiring protection under the Due Process Clause of the Fifth Amendment. Further, neither the federal Constitution nor its amendments guarantee a generalized right to the pursuit of happiness. *See Coffey v. United States*, 939 F. Supp. 185, 191 (E.D.N.Y. 1996) (“While the Declaration of Independence states that all men are endowed certain unalienable rights including ‘Life, Liberty and the pursuit of Happiness,’ it does not grant rights that may be pursued through the judicial system. Although the Constitution provides many important protections, a specific guarantee for the pursuit of happiness is not among those granted by the Constitution or its amendments.”); *Cobble v. Value City Furniture*, No. 3:06CV-631-M, 2007 WL 2228156, at *4 (W.D. Ky. July 27, 2007) (“[T]he pursuit of happiness is not a legally cognizable interest.”). Consequently, Plaintiff has failed to state a claim upon which relief may be granted against Defendants.

Additionally, “[t]he *in forma pauperis* statute, unlike Rule 12(b)(6), ‘accords judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims

whose factual contentions are clearly baseless.’” *Denton v. Hernandez*, 504 U.S. 25, 32 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 327-38 (1989)). “A finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Id.* at 33. Here, Plaintiff’s allegations (such as someone using a satellite to try to kill him and his being tortured by “rayses”) meet the frivolity standard.

For the reasons above, the Court will dismiss the action by separate Order.

Date:

cc: Plaintiff, *pro se*
Defendants
4411.005