

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO
CIVIL ACTION NO. 4:09CV-37-M**

JAMES W. MORRIS

PLAINTIFF

v.

JOHN ALLISON *et al.*

DEFENDANTS

MEMORANDUM OPINION & ORDER

Plaintiff James W. Morris filed a *pro se* complaint (DN 1) along with an application to proceed without prepayment of fees (DN 2). **IT IS ORDERED** that the application to proceed without prepayment of fees is **GRANTED**. Since Plaintiff is proceeding *in forma pauperis*, this Court must review the instant action pursuant to 28 U.S.C. 1915(e) and *McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997). For the reasons set forth herein, the instant action will be dismissed.

I. SUMMARY OF CLAIMS

Plaintiff used a court-supplied general complaint form to initiate this lawsuit. Plaintiff lists “BB&T (John Allison; Paulson Bucks; Kelly King; Paul Miller)” as Defendants in the case caption. Plaintiff lists only Mary Ann Riley/Jones as a Defendant in the space where Defendants are to be listed. In the section requesting Plaintiff to state the grounds for filing his case in federal court, Plaintiff states as follows:

(Democrats) Possibly issuing out Bank Cards; while trying to set up my family Politically 1983? 2004-2007. While Banking with BB&T in the past there was illegal funds taken out of my Bank Account while Mrs. Riley worked there, also my Bank Card was turned in yrs later to Mrs. Anderson aftering closing the account. While having an Owensboro Federal Credit Union account my card came up missing in the ATM machine. Also a picture of her nephew Brad is shown given a card that may have been mine

under my account yrs. later. While using her families influence since 1979 whoops 1983??

Further, on the page stating the prayer for relief, Plaintiff states the following:

How about a boot up their ass on Independence Day & the statue of liberty shakes her fist along to the Burns, Smiths!!! You will no longer Be getting rich while using my name as political or non political tools!!! (Compensate) There will never be an excuse for the Betrayal & abortion of my Kids!!! stop the damn poisoning, Lawless judgements

In the prayer for relief itself, Plaintiff states:

- a. To Prove that her family not only Conspired against me & my family but to let them harsly know that they are not the true Americans nor. Romans!!!
- b. To Reimburse me & my family of any money that was taken; property & Assetts returned.
- c. Treasury notes, Bonds, stocks CD's
Acknowledgement of past murder now my time for an eye for an eye & tooth for an tooth!!!
- d. Damn humiliation to her & her family Nationally just as they have me!!!! Not Silently either & I will claim such order!!!
- e. Show where they have been not only using the CIA, Bosses, But lawless judgements through local churches!!

II. ANALYSIS

Under 28 U.S.C. § 1915(e), which governs *in forma pauperis* proceedings, the Court has a mandatory duty to screen initial filings. *McGore v. Wigglesworth*, 114 F.3d 601 (6th Cir. 1997). Specifically, a district court must dismiss an action that the court finds to be frivolous or malicious or that fails to state a claim. *See* 28 U.S.C. § 1915(e)(2)(B)). The federal courts liberally construe the pleadings of *pro se* parties in order to guarantee that those who are without the resources to hire a licensed attorney have a fair opportunity to state their case. *See Haines v. Kerner*, 404 U.S. 519 (1972). However, the courts are not obligated to entertain claims which appear to be delusional. *See Prewitt v. United States Postal Serv.*, 754 F.2d 641, 641 (5th Cir.

1985) (“[W]e stand at the gate of the realms of fantasy. We decline to enter in.”). “The *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.’ ‘Examples of the latter class,’ we said, ‘are claims describing fantastic or delusional scenarios, claims with which federal district judges are all too familiar.’” *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.

The Court has carefully reviewed Plaintiff’s complaint and concludes that it must be dismissed. First, the complaint makes no reference to Defendants Allison, Bucks, King, and Miller, except in the portions of the complaint in which Defendants are to be listed. It states no facts regarding personal involvement by any of these Defendants. While the Court has a duty to construe *pro se* complaints liberally, Plaintiff is not absolved of his duty to comply with the Federal Rules of Civil Procedure by providing Defendants with “fair notice of the basis for his claims.” *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002). Because Plaintiff has not alleged any facts involving these Defendants, the complaint fails to state any claims for relief against them, and the claims against these Defendants will be dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii).

Moreover, with regard to Defendants BB&T and Riley/Jones, while Plaintiff’s beliefs may be sincere, his allegations are implausible. These claims are legally frivolous as they lack an arguable basis either in law or in fact. *Neitzke*, 490 U.S. at 325; *see also Denton*, 504 U.S. at

32. Pursuant to 28 U.S.C. 1915(e), “frivolousness is a decision entrusted to the discretion of the court entertaining the *in forma pauperis* petition.” *Denton*, 504 U.S. at 33. Plaintiff’s allegations that Defendants and other have targeted him for political or other purposes simply do not warrant further factual development in this lawsuit. *See, e.g., Miller v. Chicago Pub. Library*, No. 05-C-7095, 2006 U.S. Dist. LEXIS 27555 (N.D. Ill. Apr. 11, 2006) (claim of conspiracy involving pornographers, drug traffickers, CIA, Illinois governor, and Illinois attorney general dismissed as frivolous under § 1915(e)(2)(B)(i)). This Court is not the forum that can provide Plaintiff with the type of assistance he needs. Accordingly, the claims against Defendants BB&T and Riley/Jones will be dismissed under 28 U.S.C. § 1915(e)(2)(B)(i) as frivolous.

The Court will enter an Order consistent with this Memorandum Opinion.

Date:

cc: Plaintiff Morris, *pro se*
4414.010