

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

**MARK LESLIE HATFIELD**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 4:16CV-P144-JHM**

**DAVIES COUNTY DETENTION CENTER JAIL**

**DEFENDANT**

**MEMORANDUM OPINION**

Plaintiff Mark Leslie Hatfield, a pretrial detainee proceeding in forma pauperis, filed the instant pro se complaint pursuant to 42 U.S.C. § 1983 (DN 1). The complaint is presently before the Court for initial review pursuant to 28 U.S.C. § 1915A and *McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007). For the reasons that follow, this action will be dismissed.

**I. SUMMARY OF CLAIMS**

Plaintiff names one Defendant in this action, the Daviess County Detention Center Jail (DCDC). As relief, he seeks monetary damages.

In his complaint, Plaintiff alleges as follows:

Here at Davies County Detention Center we are given the ability to grieve any problems we have. However none of the complaints are actually listened to none of the Davies County Detention Officers here try to resolve the complaints they just give us some type of Bullsh-- response on the kiosk and that's it and they do not respond at all to the grievance appeals which is denying me part of the grievance process which is against my rights.

**II. STANDARD OF REVIEW**

When a prisoner initiates a civil action seeking redress from a governmental entity, officer, or employee, the trial court must review the complaint and dismiss the complaint, or any portion of it, if it determines that the complaint 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. 28 U.S.C. § 1915A; *McGore v. Wrigglesworth*, 114 F.3d at 604. A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 90 U.S. 319, 325 (1989). The trial court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. *Id.* at 327. In order to survive dismissal for failure to state a claim, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

“[A] district court must (1) view the complaint in the light most favorable to the plaintiff and (2) take all well-pleaded factual allegations as true.” *Tackett v. M & G Polymers, USA, LLC*, 561 F.3d 478, 488 (6th Cir. 2009) (citing *Gunasekera v. Irwin*, 551 F.3d 461, 466 (6th Cir. 2009) (citations omitted)). “But the district court need not accept a ‘bare assertion of legal conclusions.’” *Tackett v. M & G Polymers, USA, LLC*, 561 F.3d at 488 (quoting *Columbia Natural Res., Inc. v. Tatum*, 58 F.3d 1101, 1109 (6th Cir. 1995)). The court’s duty “does not require [it] to conjure up unpled allegations,” *McDonald v. Hall*, 610 F.2d 16, 19 (1st Cir. 1979), or to create a claim for a plaintiff. *Clark v. Nat’l Travelers Life Ins. Co.*, 518 F.2d 1167, 1169 (6th Cir. 1975). To command otherwise would require the district court “to explore exhaustively all potential claims of a pro se plaintiff, [and] would also transform the district court from its legitimate advisory role to the improper role of an advocate seeking out the strongest arguments and most successful strategies for a party.” *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985).

### III. LEGAL ANALYSIS

Title 42, Section 1983 creates no substantive rights, but merely provides remedies for deprivations of rights established elsewhere. As such, it has two basic requirements: (1) the deprivation of federal statutory or constitutional rights by (2) a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Flint v. Ky. Dep't of Corr.*, 270 F.3d 340, 351 (6th Cir. 2001).

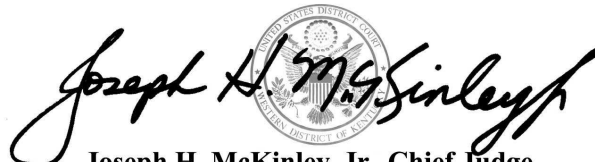
Plaintiff complains that Defendant does not try to resolve the grievances filed by prisoners. He further states that Defendant does not respond to grievance appeals. Plaintiff claims that Defendant's failures have denied him his rights.

Prisoners do not possess a constitutional right to a prison grievance procedure. *Jones v. N.C. Prisoners' Labor Union*, 433 U.S. 119, 138 (1977) (Burger, J., concurring) ("I do not suggest that the [grievance] procedures are constitutionally mandated."); *Young v. Gundy*, 30 F. App'x 568, 569-70 (6th Cir. 2002) ("A grievance appeal does not implicate the First Amendment right of access to the courts because there is no inherent constitutional right to an effective prison grievance procedure."); *Antonelli v. Sheahan*, 81 F.3d 1422, 1430 (7th Cir. 1996) (finding that plaintiff's allegation that the institution's grievance procedures were inadequate to redress his grievances did not violate the Due Process Clause and did not "give rise to a liberty interest protected by the Due Process Clause"). "All circuits to consider this issue have . . . found that there is no constitutionally protected due process right to unfettered access to prison grievance procedures." *Walker v. Mich. Dep't of Corr.*, 128 F. App'x 441, 445 (6th Cir. 2005). Further, if the prison provides a grievance process, violations of its procedures or its ineffectiveness do not rise to the level of a federal constitutional right. See *Lee v. Mich. Parole Bd.*, 104 F. App'x 490, 493 (6th Cir. 2004) ("Section 1983 liability may not be imposed simply because a defendant denied an administrative grievance or failed to act based upon information

contained in a grievance.”); *Argue v. Hofmeyer*, 80 F. App’x 427, 430 (6th Cir. 2003) (stating that “there is no inherent constitutional right to an effective prison grievance procedure”) (citing cases); *LaFlame v. Montgomery Cty. Sheriff’s Dep’t*, 3 F. App’x 346, 348 (6th Cir. 2001) (holding that plaintiff’s allegation that jail staff ignored the grievances he filed did not state a § 1983 claim “because there is no inherent constitutional right to an effective prison grievance procedure”); *Overholt v. Unibase Data Entry, Inc.*, No. 98-3302, 2000 WL 799760, at \*3 (6th Cir. June 14, 2000) (“The defendants were not obligated to ‘properly’ respond to Overholt’s grievances because there is no inherent constitutional right to an effective prison grievance procedure.”).

Since a violation of a constitutional right is required in order to obtain relief under § 1983, Plaintiff’s claims regarding the problems with the grievance procedures at DCDC fail to state a claim upon which relief may be granted. Accordingly, this action will be dismissed by separate Order.

Date: March 28, 2017

  
Joseph H. McKinley, Jr., Chief Judge  
United States District Court

cc: Plaintiff, pro se  
Defendant  
4414.003