

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ELLIOT JAMES BROWN,

Plaintiff,

v.

UNITED STATES ATTORNEY GENERAL  
ALBERTO R. GONZALES, *et al.*,

Defendants.

Case No. 06-13857

Hon. Gerald E. Rosen

**FILED**  
SEP 12 2006  
CLERK'S OFFICE  
U.S. DISTRICT COURT  
EASTERN MICHIGAN

**ORDER OF DISMISSAL UNDER 28 U.S.C. § 1915(e)(2)(B)**

At a session of said Court, held in  
the U.S. Courthouse, Detroit, Michigan  
on SEP 12 2006

PRESENT: Honorable Gerald E. Rosen  
United States District Judge

Plaintiff Elliot James Brown submitted his *pro se* complaint in this case on August 29, 2006, apparently alleging primarily that another Judge of this Court, the Honorable John Feikens, improperly dismissed a prior complaint filed by Plaintiff.<sup>1</sup> Accompanying Plaintiff's present complaint is an application to proceed *in forma pauperis*, which this Court has now granted. Having reviewed the allegations of Plaintiff's now-filed complaint, the Court readily concludes that this suit must be dismissed under 28 U.S.C. §

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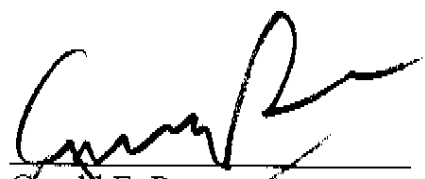
<sup>1</sup>As Judge Feikens observed in the July 31, 2006 opinion and order dismissing this earlier action, Case No. 06-13161, Plaintiff is a "frequent filer" whose complaints have regularly been dismissed on grounds of frivolousness.

1915(e)(2)(B)(i) as frivolous.

Under § 1915(e)(2)(B)(i), upon permitting a plaintiff to proceed *in forma pauperis*, the Court nevertheless may “dismiss the case at any time if the court determines that . . . the action . . . is frivolous.” See also Gibson v. R.G. Smith Co., 915 F.2d 260 (6th Cir. 1990). The Supreme Court has defined a “frivolous” action as one which “lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325, 109 S. Ct. 1827, 1831-32 (1989). The present suit is readily characterized as frivolous under this standard, where Plaintiff alleges only that Judge Feikens, acting fully within his judicial capacity, dismissed his prior complaint as frivolous. The appropriate response to such a complaint of judicial error is an appeal -- which, notably, Plaintiff is now pursuing.

For these reasons,

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that this case is DISMISSED under 28 U.S.C. § 1915(e)(2)(B).

  
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Gerald E. Rosen  
United States District Judge