

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM LACY,

Plaintiff,

Case No. 1:12-cv-1393

v

HON. JANET T. NEFF

BRAEBURN CAPITAL, et al.,

Defendants.

OPINION AND ORDER

Plaintiff William Lacy, proceeding in forma pauperis, initiated the present action against Defendants Braeburn Capital, the United States of America, and “Apple” on December 21, 2012, asserting a claim of “invalid pre trial litigation” (Dkt 1 at 4). On January 10, 2013, the Magistrate Judge filed a Report and Recommendation (R & R), recommending that the action be dismissed upon initial screening on grounds that the complaint fails to state a claim on which relief may be granted (Dkt 6). *See* 28 U.S.C. § 1915(e)(2)(B)(ii). The matter is presently before the Court on Plaintiff’s objections to the Report and Recommendation (Dkt 8). Plaintiff has also since filed a “Motion to Send the U.S. Marshall” (Dkt 10); a “Request A Federal Order to Apple to Release the Address of Braeburn Capital to the U.S. Court” (Dkt 12); a “Request for a Decision from the U.S. Court Before the Intel CEO Retires in May 2013 Which Can Affect the Plaintiff’s Case. And Not to Wait on the Decision from Appeals” (Dkt 13); and a motion for order titled “The U.S.C.O.A. is Requested to Send the Case Back to the U.S. Court for Trial Based on New Evidence From the U.S. Government and Not Conflict What is Already Accepted for Trial by the U.S. Court” (Dkt 15).

In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections, denies the motions as moot, and issues this Opinion and Order.

As stated by the Magistrate Judge in the Report and Recommendation, “[p]ursuant to Federal Rule of Civil Procedure 12(b)(6), a claim must be dismissed for failure to state a claim on which relief may be granted unless the ‘[f]actual allegations [are] enough to raise a right for relief above the speculative level on the assumption that all of the complaint’s allegations are true’” (Dkt 6 at 1) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). The Magistrate Judge further correctly noted that in order to satisfy this Rule, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face’” (*id.*) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

Plaintiff’s complaint, as well as his objections to the Report and Recommendation, contain nothing more than unsubstantiated assertions that fail to provide any specific factual support for his claim. Plaintiff’s objections also contain pictures that fail to support his claim, but instead merely add to the confusion of his incoherent allegations. Because “Plaintiff has failed ... to allege any facts, which if proven, would entitle him to prevail on any claims asserted in his complaint” (Dkt 6 at 3), the Magistrate Judge correctly recommended that his complaint be dismissed for failure to state a claim. Accordingly, Plaintiff’s objections to the Report and Recommendation are denied as without merit, and this Court approves and adopts the Report and Recommendation as the Opinion of the Court. Plaintiff’s additional motions, which were filed merely to progress this litigation, are therefore rendered moot.

As this Opinion and Order resolves the last pending claim, a Judgment will also be entered. *See* FED. R. CIV. P. 58. For the above reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Accordingly:

IT IS HEREBY ORDERED that the objections (Dkt 8) are DENIED and the Report and Recommendation (Dkt 6) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (Dkt 1) is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff’s “Motion to Send the U.S. Marshall” (Dkt 10); “Request A Federal Order to Apple to Release the Address of Braeburn Capital to the U.S. Court” (Dkt 12); “Request for a Decision from the U.S. Court Before the Intel CEO Retires in May 2013 Which Can Affect the Plaintiff’s Case. And Not to Wait on the Decision from Appeals” (Dkt 13); and motion for order titled “The U.S.C.O.A. is Requested to Send the Case Back to the U.S. Court for Trial Based on New Evidence From the U.S. Government and Not Conflict What is Already Accepted for Trial by the U.S. Court” (Dkt 15) are DENIED as moot.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C § 1915(a)(3) that an appeal of the Judgment would not be taken in good faith.

Dated: April 29, 2013

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge