

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

DARNELL WESLY MOON,)
)
 Plaintiff,)
)
 v.) No. 1:15-CV-210-SNLJ
)
 UNITED STATES OF AMERICA)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on the application of Darnell Wesly Moon for leave to commence this action without payment of the required filing fee. After reviewing plaintiff's CJA-23 Financial Affidavit, the motion will be granted. Moreover, for the reasons set forth below, this action will be dismissed without prejudice.

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if "it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325

(1989). An action fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32 (1992).

The Complaint

Plaintiff brings this action for declaratory and injunctive relief against the United States of America pursuant to “28 U.S.C. 1331; 5 U.S.C. 702” and the Religious Freedom Restoration Act. Plaintiff asks the Court “[t]o provide [him] with injunctive relief, specifically: (1) termination of his supervised release.” Plaintiff states that he is a Sunni Muslim and is currently under an order of supervised release. Plaintiff complains that he cannot travel to Mecca for the Hajj, because he cannot obtain a passport as long as he is on supervised release. He asks this Court to terminate his supervised release and grant him declaratory and injunctive relief.

Given that plaintiff is seeking an order terminating his supervised release, the Court finds that his claims are cognizable exclusively under federal habeas corpus. See *Preiser v. Rodriguez*, 411 U.S. 475, 490 (1973). As such, the Court will dismiss the instant complaint, without prejudice. If plaintiff wishes to pursue his claims in a federal habeas action at this time and is in need of court forms, he may request them from the Clerk of Court.

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint, because the complaint is legally frivolous and/or fails to state a claim upon which relief may be granted. See 28 U.S.C. § 1915(e)(2)(B).

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 24th day of November, 2015.


UNITED STATES DISTRICT JUDGE