



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, 32-33 (1992); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

### **The Complaint**

Plaintiff purports to bring this action under 18 U.S.C. §§ 2073, 2113 & 2314. Named as defendant is Hertz, the rental car agency. Plaintiff alleges that he rented a car from Hertz and that he purchased insurance with the rental. Plaintiff claims that he got into an accident in the car. Plaintiff says that Hertz sent him a bill for \$1,064.45 to cover the damages to the car. Plaintiff alleges that he tried to work out a payment plan with Hertz but that they have refused to answer his calls. Plaintiff seeks an order from this Court wiping out his debt with his bank and an order directing Hertz to return to plaintiff whatever money it took from him.

### **Discussion**

The complaint is legally frivolous. The federal criminal statutes do not afford citizens a private cause of action. Initiation of a federal criminal prosecution is a discretionary decision within the Executive Branch and is not subject to judicial compulsion. See Ray v. United States Dept. of Justice, 508 F. Supp. 724, 725 (E.D. Mo. 1981); 28 U.S.C. § 547(1). As a result, the Court will dismiss the complaint under 28 U.S.C. § 1915(e).

Accordingly,

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

**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 or fails to state a claim upon which relief can be granted, or both.

**IT IS FURTHER ORDERED** that plaintiff's motion for appointment of counsel is **DENIED** as moot. [Doc. 4]

An appropriate Order of Dismissal shall accompany this Memorandum and Order.

A handwritten signature in cursive script, appearing to read "Charles A. Shaw", written in black ink.

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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 22nd day of October, 2008.