

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

THEODIS BROWN, SR.,)	
)	
Plaintiff,)	
)	
v.)	No. 4:10-CV-173 TIA
)	
BHC (STATE GOVERNMENT AGENCY))	
& CAMPUS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of Theodis Brown, Sr., for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the motion, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. As a result, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Additionally, the Court has reviewed the complaint and will dismiss it pursuant to 28 U.S.C. § 1915(e)(2)(B).

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. An action is frivolous if it “lacks an arguable basis in either law or fact.” Neitzke v. Williams, 490 U.S. 319, 328 (1989). An action is malicious if it is undertaken for the purpose of harassing the named defendants and not for the purpose of vindicating a cognizable right. Spencer v. Rhodes, 656 F. Supp. 458, 461-63 (E.D.N.C. 1987), aff’d, 826 F.2d 1059 (4th Cir. 1987). A complaint fails to state a claim if it does

not plead “enough facts to state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955, 1974 (2007).

Discussion

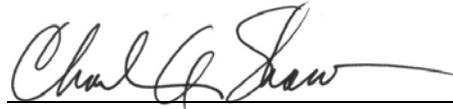
Plaintiff purportedly brings this action pursuant to Title VII of the Civil Rights Act of 1964, RICO, and the False Claims Act. The complaint is completely devoid of any facts that would show that the named defendants have committed any actionable civil wrongs. At times, the complaint refers to documents that are not identified and are not attached as exhibits to the complaint. Further, it appears that plaintiff is complaining about conduct that occurred no later than October 1998, well beyond the statute of limitations of Title VII. Finally, plaintiff has an extensive history of filing frivolous actions in this Court. See, e.g., Brown v. RICO Defendants, 4:09-CV-158 JCH (E.D. Mo.); Brown v. St. Louis Election Board, 4:08-CV-1164 CAS (E.D. Mo.); Brown v. Missouri Division of Fire Safety, 4:07-CV-1840 MLM (E.D. Mo.). For these reasons, the Court finds that this action is both frivolous and malicious 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 frivolous and malicious.

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

A handwritten signature in cursive script, reading "Charles A. Shaw", written in black ink. The signature is positioned above a horizontal line.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 5th day of February, 2010.