



(B) the action or appeal –

- (i) is frivolous or malicious;
- (ii) fails to state a claim on which relief may be granted; or
- (iii) seeks monetary relief against a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2).

The one-page Complaint states that Witherspoon’s “cause of action” is for “confiscation of personal property (handcuffs w/ cases and keys)” and demands the return of that property. No additional information is provided. To the extent Plaintiff may be attempting to seek relief under 42 U.S.C. § 1983 for a violation of his Fourth Amendment protection against unreasonable searches and seizures, his claim must be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The applicable standard of review for dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as the standard for a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Grayson v. Mayview State Hosp., 293 F.3d 103 (3d Cir. 2002). To state a claim that survives a Rule 12(b)(6) motion to dismiss, a complaint must contain “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). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). The Court cannot draw such an inference from the Complaint filed by Witherspoon. He alleges no facts concerning the actions of Defendant, identified only as “P.O. Mercer of New Jersey Transit Police” nor how such actions would have violated Witherspoon’s constitutional rights.

For these reasons, the Court will permit Plaintiff's Complaint to be filed without prepayment of the filing fee but will simultaneously order it to be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). An appropriate Order will be filed.

s/Stanley R. Chesler  
STANLEY R. CHESLER  
United States District Judge

Dated: September 17, 2014