

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MAGALY E. HERIVEAUX,

Plaintiff,

-against-

DEPARTMENT OF HOMELAND SECURITY;
SECRETARY OF HOMELAND SECURITY,

Defendants.

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VITALIANO, D.J.

By order dated January 15, 2016, the Court prohibited Magaly Heriveaux (“Heriveaux”) from filing any future actions in the Eastern District of New York unless she (1) provides pre-payment of the filing fee in accordance with 28 U.S.C. § 1914, or (2) obtains judicial permission for her proposed filing and otherwise meets the standards for *in forma pauperis* status. *See Heriveaux v. Fed. Bureau of Investigation*, 15-cv-4999 (ENV) (LB) (E.D.N.Y. Jan. 15, 2016) (ECF No. 12 at 4). The Court issued this order in response to Heriveaux's incessant filing of duplicative and incomprehensible complaints, as well as her inevitable and equally meritless rebound motions for reconsideration of the orders dismissing those complaints. On July 9, 2018, Heriveaux filed the instant motion seeking permission to file an *in forma pauperis* complaint, along with a proposed complaint, an affidavit/affirmation in support and an application to proceed *in forma pauperis* (“IFP”). *See* Mot. for Leave to File (ECF No. 4); Mot. to Proceed IFP (ECF No. 2).¹

¹ The Clerk of Court properly filed these submissions on the miscellaneous docket.

Discussion

As with her fifteen prior complaints,² Heriveaux's proposed complaint is objectively nonsensical and frivolous. *See* Compl. at 3 (ECF No. 1) ("On Friday, July 6, 2018, these set of Haitian-American representatives engaged in obstruction of justice for the second time, and prevented me from trying to submit my court petition on time with MTA disruptions. During the past two business days they used the waves of their machine to slow down the train against the conductors' will."). Even if these allegations make sense to Heriveaux, her subjective understandings cannot save the objectively nonsensical pleadings she proposes from rejection. As a consequence, the submissions are not to be filed on the active civil docket.

Conclusion

In line with the foregoing, Heriveaux's motion for leave to file a new complaint as proposed is denied. Her motion to proceed IFP is denied as moot. The Court's January 15, 2016 order, prohibiting Heriveaux from filing any further actions in this district unless she either (1)

² *See Heriveaux v. FEMA*, No. 15 Civ. 2326 (ENV) (LB) (E.D.N.Y. May 10, 2015) (ECF No. 5) (dismissing the complaint as frivolous); *Heriveaux v. Sec'y of Def.*, No. 15 Civ. 340 (ENV) (LB) (E.D.N.Y. May 11, 2015) (ECF No. 10) (same); *Heriveaux v. Fed. Gov't*, No. 14 Civ. 7105 (ENV) (LB) (E.D.N.Y. May 12, 2015) (ECF No. 11) (same); *Heriveaux v. Berrien Cty.*, No. 15 Civ. 4138 (ENV) (LB) (E.D.N.Y. Aug. 3, 2015) (ECF No. 4) (same); *Heriveaux v. Fed. Bureau of Investigation*, No. 15 Civ. 4999 (ENV) (LB) (E.D.N.Y. Oct. 30, 2015) (ECF No. 5) (same); *Heriveaux v. Sec'y of Def.*, No. 16 Civ. 178 (ENV) (LB) (E.D.N.Y. Jan. 15, 2016) (docket order) (same); *Heriveaux v. Nat'l Sec. Agency*, No. 16 MC 836 (ENV) (E.D.N.Y. May 5, 2016) (ECF No. 4) (same); *Heriveaux v. Pentagon*, No. 17 MC 218 (ENV) (E.D.N.Y. Jan. 30, 2017) (ECF No. 4) (denying plaintiff's motion for leave to file a complaint because the proposed complaint was nonsensical and frivolous); *Heriveaux v. Fed. Bureau of Investigation*, No. 17 MC 1221 (ENV) (LB) (E.D.N.Y. Apr. 30, 2017) (ECF No. 3) (same); *Heriveaux v. Fed. Gov't*, No. 17 MC 1766 (ENV) (LB) (E.D.N.Y. July 4, 2017) (ECF No. 4) (same); *Heriveaux v. Fed. Gov't*, No. 17 MC 2322 (ENV) (LB) (E.D.N.Y. Sept. 9, 2017) (ECF No. 9) (same); *Heriveaux v. U.S. Armed Forces*, 17 MC 2887 (ENV) (LB) (E.D.N.Y. Nov. 11, 2017) (ECF No. 5) (same); *Heriveaux v. Nat'l Sec. Agency*, 18 MC 00548 (ENV) (LB) (E.D.N.Y. Apr. 22, 2018) (ECF No. 5) (same); *Heriveaux v. Pentagon*, No. 18 MC 00622 (ENV) (LB) (E.D.N.Y. May 25, 2018) (ECF No. 7) (same); *Heriveaux v. Fed. Gov't*, No. 18 MC 01435 (ENV) (LB) (E.D.N.Y. Aug. 3, 2018) (ECF No. 4) (same).

provides pre-payment of the filing fee in accordance with 28 U.S.C. § 1914, or (2) first obtains judicial permission for her proposed filing and otherwise meets the standards for IFP status, remains in full force and effect.

Nothing in this Order shall be construed to prohibit Heriveaux from filing an appeal. Nevertheless, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any such appeal from this Order would not be taken in good faith, and, therefore, IFP status is denied for purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 920-21, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to mail a copy of this Order to Plaintiff and to close this docket for administrative purposes.

So Ordered.

Dated: Brooklyn, New York
August 8, 2018

/s/ Hon. Eric N. Vitaliano
ERIC N. VITALIANO
United States District Judge