

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Ernest C. Harris,</b>	)	<b>CASE NO. 1:21 CV 768</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE PAMELA A. BARKER</b>
	)	
<b>v.</b>	)	
	)	<b>MEMORANDUM OF OPINION</b>
<b>Officer Ryan McMahon, et al.,</b>	)	<b>AND ORDER</b>
	)	
<b>Defendants.</b>	)	

*Pro se* Plaintiff Ernest C. Harris filed this action against Cleveland Police Officers Ryan McMahon and Officer Pollack, Cleveland Mayor Frank Jackson, and Cleveland Police Chief Calvin D. Williams. In the Complaint, Plaintiff states that during his arrest, he heard officers commenting about his LeBron James high school basketball jersey and asking each other if they thought it was real and whether they thought Plaintiff stole it. He does not assert any legal causes of action. He seeks monetary damages.

**STANDARD OF REVIEW**

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the Court is required to dismiss an *in forma pauperis* action under 28 U.S.C. §1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of Strongsville*,

99 F.3d 194, 197 (6th Cir. 1996). A claim lacks an arguable basis in law or fact when it is premised on an indisputably meritless legal theory or when the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327.

A cause of action fails to state a claim upon which relief may be granted when it lacks “plausibility in the Complaint.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 564 (2007). A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). The factual allegations in the pleading must be sufficient to raise the right to relief above the speculative level on the assumption that all the allegations in the Complaint are true. *Bell Atl. Corp.*, 550 U.S. at 555. The Plaintiff is not required to include detailed factual allegations, but must provide more than “an unadorned, the-Defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. A pleading that offers legal conclusions or a simple recitation of the elements of a cause of action will not meet this pleading standard. *Id.* In reviewing a Complaint, the Court must construe the pleading in the light most favorable to the Plaintiff. *Bibbo v. Dean Witter Reynolds, Inc.*, 151 F.3d 559, 561 (6th Cir.1998).

## **DISCUSSION**

Plaintiff’s Complaint fails to state a claim upon which relief may be granted. To meet minimum notice pleading requirements, the Complaint must give the Defendants fair notice of what the Plaintiff’s legal claims are and the factual grounds upon which they rest. *Bassett v. National Collegiate Athletic Ass’n*, 528 F.3d 426, 437 (6th Cir. 2008). Plaintiff’s Complaint contains very few facts and no indication of a legal cause of action he intends to assert. It does not meet these minimum criteria.

**CONCLUSION**

Accordingly, Plaintiff's Application to Proceed *In Forma Pauperis* is granted and this action is dismissed pursuant to 28 U.S.C. §1915(e). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

**IT IS SO ORDERED.**

Date: July 23, 2021

s/Pamela A. Barker  
PAMELA A. BARKER  
U. S. DISTRICT JUDGE