UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

David Lee Buess, Plaintiff, v. Social Security Administration, et al., Defendants.	)	CASE NO. 3:14cv1416 Judge Jeffrey J. Helmick MEMORANDUM OPINION & ORDER

Pro se plaintiff David Lee Buess filed the above-captioned action against the Social Security Administration, Department of Treasury, Judge David A. Katz, and Clerk of Court Geri Smith. He seeks $1,000,000.00 in damages for "Obstruction of Justice." Plaintiff also seeks $250,000.00 for each of the fourteen criminal statutes he claims the Defendants have violated. He has not paid the filing fee, nor has he requested pauper status.

Plaintiff claims the Defendants violated his civil rights. All of the federal statutes he cites in support of his claims are contained in the criminal code. His assertions are premised on Plaintiff's belief that income taxes were "ruled unconstitutional" by the United States Supreme Court. As such, he argues that any attempts to tax his "so-called income" amounts to theft, fraud, and false pretenses. In sum, the pleading fails to state any cognizable claim over which a federal court has jurisdiction.

I. INITIAL 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), a "district court may, at any time,

sua sponte dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit or no longer open to discussion." *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999); *see Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974) (citing numerous Supreme Court cases for the proposition that patently frivolous claims divest the district court of jurisdiction); *In re Bendectin Litig.*, 857 F.2d 290, 300 (6th Cir. 1988) (recognizing that federal question jurisdiction is divested by obviously frivolous and unsubstantial claims).

II. FAILURE TO STATE A CLAIM

A complaint must contain either direct or inferential allegations respecting all the material elements of some viable legal theory to satisfy federal notice pleading requirements. *See Schied v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 437 (6th Cir. 1988). District courts are not required to conjure up questions never squarely presented to them or to construct full blown claims from sentence fragments. *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985). To do so would "require ...[the courts] to explore exhaustively all potential claims of a *pro se* plaintiff, ... [and] would...transform the district court from its legitimate advisory role to the improper role of an advocate seeking out the strongest arguments and most successful strategies for a party." *Id.* at 1278.

Legal conclusions alone are not sufficient to present a valid claim, and this Court is not required to accept unwarranted factual inferences. *See Morgan v. Church's Fried Chicken*, 829 F.2d 10, 12 (6th Cir. 1987); *see also, Place v. Shepherd*, 446 F.2d 1239 (6th Cir. 1971) (conclusory section 1983 claim dismissed). Even liberally construed, the Complaint does not contain allegations reasonably suggesting Plaintiff might have a valid federal claim. *See Lillard v. Shelby County Bd. of Educ.*, 76 F.3d 716 (6th Cir. 1996) (court not required to accept summary allegations or unwarranted legal conclusions in determining whether complaint states a claim for relief).

III. CONCLUSION

Accordingly, Plaintiff's complaint is dismissed for failing to state any federal claim for relief. 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[1]

So Ordered.

s/Jeffrey J. Helmick
United States District Judge

[1] 28 U.S.C. § 1915(a)(3) provides: "An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith."