

Rule 12(b)(6) of the Federal Rules of Civil Procedure. *Banks v. County of Allegheny*, 568 F.Supp.2d 579, 587-89 (W.D. Pa. 2008).

III. Discussion and Review of Plaintiff's Filings

Plaintiff, a pro se litigant, filed this action on January 11, 2022.¹ To the extent any allegations were provided, they were largely incoherent. Plaintiff's statement of claim reads as follows:

During a hearing with Paul Urbaniak stenography it seemed he was concerned to tell me due to my schizophrenia hearing voices disease I may not know I break the law too much and get arrested. This arrest gave me court leave before Trial. April 9th 2018. Attorney General No Mistrial Civil Rights.

ECF No. 1-1, page 2. As relief, Plaintiff seeks fantastical sum of money.

Because he is seeking monetary damages for an alleged violation of his constitutional rights, Plaintiff's claims arise pursuant to 42 U.S.C. § 1983. To state such a claim, Plaintiff must allege: "(1) that the conduct complained of was committed by a person acting under color of state law; and (2) that the conduct deprived the plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States." *Schneyder v. Smith*, 653 F.3d 313, 319 (3d Cir. 2011) (internal citation omitted).

This case fails to state a claim upon which relief can be granted. Plaintiff has failed to identify a viable Defendant. Here, the only Defendant identified by Plaintiff is the Attorney

¹ Plaintiff is a frequent filer in this Court having filed more than twenty cases in the last seven months. All of the filings in Plaintiff's other cases suffer from deficiencies similar to those detailed herein. Mr. Lilley is the subject of a Vexatious Litigant Order in Civil Action Number 1:22-cv-1. This case was filed prior to the entry of the Vexatious Litigant Order.

General of Pennsylvania². See ECF No. 1-1, page 1. Under no circumstances is this a viable defendant under the law.

The Eleventh Amendment of the United States Constitution provides that states are immune from suit by private parties in federal courts.³ *Lavia v. Pennsylvania Department of Corrections*, 224 F.3d 190, 195 (3d Cir. 2000). “Suits against a state agency or a state department thus are considered to be suits against a state which administrative remedies barred by the Eleventh Amendment.” *Addlespurger v. Corbett*, 2011 WL 3418975, at *5 (W.D. Pa. Aug. 1, 2011).

Generally, if a civil rights complaint is vulnerable to dismissal for failure to state a claim, the Court should permit a curative amendment. See *Grayson v. Mayview State Hosp.*, 293 F.3d 103 (32d Cir. 2002). However, the court “need not provide endless opportunities for amendment, especially where such opportunity already has been enjoyed.” *Baker v. Moon Area Sch. Dist.*, 2018 WL 40571719, at *8 (W.D. Pa. Aug. 27, 2018) quoting *Taylor v. Pilewski*, 2008 WL 4861446, at *3 (W.D. Pa. Nov. 7, 2008). Because the undersigned concludes, as a matter of law, that Plaintiff cannot establish a constitutional or statutory violation based on the facts alleged in his proposed complaint, leave to amend is futile.

An appropriate Order follows this Memorandum Opinion.

² Additionally, Plaintiff does not make any factual allegation as to the personal involvement of the Attorney General. This omission provides an alternative basis for dismissal. See *Rode v. Dellarciprete*, 845 F.2d 1195, 1207 (3d Cir. 1988).

³ Besides being protected by the Eleventh Amendment, a state is not a person and cannot be sued under § 1983. See, e.g., *Patterson v. Pa. Liquor Control Bd.*, 915 F.3d 945, 956 n.2 (3d Cir. 2019) (“[A] State, including an entity that is an arm of the state, is not a ‘person’ under 42 U.S.C. § 1983, and therefore cannot be sued for damages under the statute.”).