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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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FIDENCIO P. ULIBARRI,  
Plaintiff,

v.

JAMES WINDER et al.,  
Defendants.

**MEMORANDUM DECISION &  
DISMISSAL ORDER**

Case No. 2:14-CV-433-RJS

District Judge Robert J. Shelby

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Plaintiff, Fidencio P. Ulibarri, has filed with the Court a prisoner pro se civil rights complaint. *See* 42 U.S.C.S. § 1983 (2015). The Court approved Plaintiff's application to proceed *in forma pauperis*. *See* 28 *id.* § 1915.

The Amended Complaint's main allegations are leveled at Defendants Salt Lake County Sheriff James M. Winder, Captain Kris Ownby, Lt. Dietrich, and "Jared T." To summarize, Plaintiff accuses Defendants of employing technologies of "infrasound" and "aerial surveillance" to harass Plaintiff "24-7 for 8 years"; sending "ALFA waves to [Plaintiff's] brain"; and "tortur[ing him] through military technology[] for information." The Court has screened Plaintiff's Amended Complaint under §§ 1915(e)(2) and 1915A and now dismisses it for being frivolous and failing to state a claim upon which relief may be granted. *See id.* §§ 1915(e)(2)(B) & 1915A.

Section 1915 grants this Court the power to "'pierce the veil of the complaint's factual allegations.'" *Denton v. Hernandez*, 504 U.S. 25, 32 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 327 (1989)). Although Plaintiff's allegations must be viewed in his favor, "a court may

dismiss a claim as factually frivolous . . . if the facts alleged are 'clearly baseless,' a category encompassing allegations that are 'fanciful,' 'fantastic,' and 'delusional.'" *Id.* at 32-33 (citations omitted). Accordingly, a determination of factual frivolousness is proper "when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Id.* at 33.

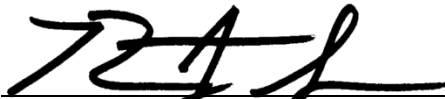
Plaintiff's assertions here fit these definitions of factual frivolousness. For instance, Plaintiff alleges that "the sheriff's and the unified police dept, acted in a conspiracy to plot secretly in setting [him] up but tried to make it look like they where [sic] on [his] side and was doing something with [him], witch [sic] brings up the 'fugitive slave act of 1850.'" He goes on to assert that certain "MGZ signals and . . . HZ power lines" were "used on [Plaintiff] at breaking points of when [he] went crazy committing unlawful acts." He also tells a story of walking around Salt Lake City, being shocked at various times along the way, and being spoken to by people "in the bushes telling [him] to stop walking around."

The fantastic claims in Plaintiff's complaint have a delusional quality and are patently unbelievable. The claims here must therefore be dismissed as factually frivolous. *See* 28 U.S.C.S. § 1915(e)(2)(B)(i) (2015).

**IT IS HEREBY ORDERED** that Plaintiff's § 1983 complaint is **DISMISSED** under §§ 1915(e)(2)(B) and 1915A because his claims are either frivolous or fail to state a claim upon which relief may be granted. *See* 28 id. §§ 1915(e)(2)(B) & 1915A.

DATED this 15<sup>th</sup> day of January, 2016.

BY THE COURT:



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ROBERT J. SHELBY  
United States District Judge