

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 Alexandria Division

JOHN DOE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:18-cv-104-AJT-MSN
)	
BARACK OBAMA, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

ORDER

This matter is before the Court on the Report & Recommendation of the Magistrate Judge [Doc. No. 4], recommending that the Complaint [Doc. No. 1] (“Compl.”) be dismissed for failure to state a claim on which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). In response, Plaintiff John Doe filed an Motion for Leave to Amend the Complaint [Doc. No. 5] and Objection to Report & Recommendation [Doc. No. 7], in which he argues that his proposed Amended Complaint would cure the problems in the original Complaint identified by the Magistrate Judge.¹ The Court has reviewed *de novo* the contents of the Plaintiff’s Complaint and proposed Amended Complaint, [Doc. No. 5-1] (“Am. Compl.”), and concludes that neither adequately state a claim on which relief may be granted.

The Magistrate Judge recommended dismissal of the original Complaint on the grounds that it “does not contain sufficient factual allegations to permit the Court to determine whether Plaintiff has a colorable claim.” Report & Recommendation 1. To successfully state a claim, a complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim for relief that

¹ Also pending are (1) Motion for Leave to Proceed in Psuedonym [*sic*] [Doc. No. 3]; (2) Motion of Leave to Request CM/ECF Access [Doc. No. 6]; (3) Motion for Leave to Service by Publication [Doc. No. 9]; (4) Motion for Leave to Waive Notifications [Doc. No. 10]. Because the Court finds that the Complaint and proposed Amended Complaint fail to state a claim, the Court will DENY these motions as moot.

is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Plaintiff does not argue in his Objection that the Magistrate Judge was wrong to conclude that the original Complaint failed to state a claim, but only argues that he should be allowed to remedy the deficits identified in the Report & Recommendation by amending his Complaint. The Court has nonetheless reviewed the Complaint *de novo* and holds that the Magistrate Judge was correct to “find[] that the pleading is too vague and conclusory to state a claim upon which relief can be granted and appears otherwise frivolous.” Report & Recommendation 2.

The proposed Amended Complaint, although more than twice as long as the original Complaint, fails to rectify these deficits. For example, both complaints purport to allege a cause of action for electronic surveillance in violation of 50 U.S.C. § 1809. However, the allegations in the proposed Amended Complaint, though voluminous, are the same sort of conclusory allegations that plagued the original Complaint. The Amended Complaint alleges that “[t]he Plaintiff is monitored 24/7/365 days a year, as the Plaintiff’s personal and private information . . . is being shared inappropriately and illegally, including with the defendants, usually in live time, without the Plaintiff being accused of a crime” Am. Compl. ¶ 32. Similarly, Counts 22 through 43 of the Amended Complaint allege claims for intentional and negligent infliction of emotional distress based on generalized assertions that the Defendants have surveilled and verbally abused Plaintiff while following him. However, the Amended Complaint does not contain any factual allegations that make plausible these claims of surveillance or verbal abuse.

Accordingly, it is hereby

ORDERED that Plaintiff’s Motion for Leave to Amend the Complaint [Doc. No. 5] be, and the same hereby is, DENIED; and it is further

ORDERED that Plaintiff's Objection [Doc. No. 4] to the Magistrate Judge's Report and Recommendation be, and the same hereby is, OVERRULED and that the Court ADOPTS the Report & Recommendation of the Magistrate Judge [Doc. No. 4]; and it is further


ORDERED that the Complaint [Doc. No. 1] be, and the same hereby is, DISMISSED for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(ii); and it is further

ORDERED that the remaining motions [Doc. Nos. 3, 6, 9, & 10] be, and the same hereby are, DENIED as moot.

The Clerk is directed to forward copies of this Order to all counsel of record and to mail a copy to *pro se* Plaintiff John Doe and to enter judgment in favor of Defendants pursuant to Fed. R. Civ. P. 58.

This is a final order for purposes of appeal. To appeal, Plaintiff must file a written Notice of Appeal with the Clerk of the Court within thirty (30) days of the date of this Order. A Notice of Appeal is a short statement stating a desire to appeal an order and identifying the date of the order Plaintiff wishes to appeal. Failure to file a timely Notice of Appeal waives Plaintiff's right to appeal this decision.

Alexandria, Virginia
April 2, 2018



Anthony J. Trenga
United States District Judge