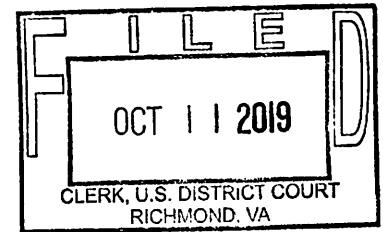


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



STEVIE CLAUDE VAUGHN,

Petitioner,

v.

Civil Action No. 3:19CV215

MELISSA D. PELFREY, et al.,

Respondents.

MEMORANDUM OPINION

Stevie Claude Vaughn, a Virginia prisoner proceeding pro se and in forma pauperis, filed this petition for a writ of mandamus. The matter is before the Court for evaluation pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A. As discussed below, the action will be dismissed as legally frivolous and for failure to state a claim upon which relief may be granted.

I. PRELIMINARY REVIEW

Pursuant to the Prison Litigation Reform Act ("PLRA") this Court must dismiss any action filed by a prisoner if the Court determines the action (1) "is frivolous" or (2) "fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2); see 28 U.S.C. § 1915A. The first standard includes claims based upon "'an indisputably meritless legal theory,'" or claims where the "'factual contentions are clearly baseless.'" Clay v. Yates, 809 F. Supp. 417, 427 (E.D. Va. 1992) (quoting Neitzke v. Williams,

490 U.S. 319, 327 (1989)). The second standard is the familiar standard for a motion to dismiss under Fed. R. Civ. P. 12(b)(6).

II. ANALYSIS

Vaughn filed this petition for a writ of mandamus to compel officials in North Carolina to return money to him that they seized. This Court lacks jurisdiction to grant mandamus relief against state officials or state agencies. See Davis v. Lansing, 851 F.2d 72, 74 (2d Cir. 1988); Gurley v. Superior Court of Mecklenburg Cty., 411 F.2d 586, 587 (4th Cir. 1969); Islam v. Va. Supreme Court, No. 3:07CV418, 2007 WL 3377884, at *1 (E.D. Va. Nov. 13, 2007) (citation omitted). Accordingly, the action will be dismissed as legally frivolous. The Clerk will be directed to note the disposition of the action for the purposes of 28 U.S.C. § 1915(g).

An appropriate Order will accompany this Memorandum Opinion.

Date: *October 11, 2019*
Richmond, Virginia

/s/ REP

Robert E. Payne
Senior United States District Judge