

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 17-3060

James E. Whitney

Plaintiff - Appellant

v.

Donald Trump, President of the United States

Defendant - Appellee

Appeal from U.S. District Court for the Eastern District of Arkansas - Pine Bluff
(5:17-cv-00199-JLH)

JUDGMENT

Before COLLTON, BOWMAN and SHEPHERD, Circuit Judges.

The court has reviewed the original file of the United States District Court. Appellant's application to proceed in forma pauperis is granted. The full \$505 appellate filing and docketing fees are assessed against the appellant. Appellant may pay the filing fee in installments in accordance with 28 U.S.C. § 1915(b). The court remands the assessment and collection of those fees to the district court.

It is ordered by the court that the judgment of the district court is summarily affirmed.

See Eighth Circuit Rule 47A(a).

February 01, 2018

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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ORDER

The petition for rehearing by the panel is denied.

April 10, 2018

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JAMES E. WHITNEY, ADC #163817

PLAINTIFF

v.

NO. 5:17CV00199 JLH

DONALD TRUMP, PRESIDENT
OF THE UNITED STATES

DEFENDANT

ORDER

James E. Whitney, a prisoner in the Arkansas Department of Correction, has filed a *pro se* complaint in which he names Donald Trump, President of the United States, as the defendant. Along with his complaint, he filed a motion for leave to proceed *in forma pauperis*, which the Court has granted. The Court now must determine if the complaint should be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A. Whitney's complaint must be dismissed if it is frivolous, malicious, fails to state a claim, or seeks monetary relief from a party immune to suit. *See* 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b). Any of these grounds provide a sufficient basis for a court to dismiss the complaint before service of process and without leave to amend. *See, e.g., Christiansen v. Clarke*, 147 F.3d 655, 658 (8th Cir. 1998), *cert. denied*, 525 U.S. 1023 (1998); *Higgins v. Carpenter*, 258 F.3d 797, 800 (8th Cir. 2001). A claim is frivolous if it "describ[es] fantastic or delusional scenarios," its "factual contentions are clearly baseless," or "lacks even an arguable basis in law." *See Neitzke v. Williams*, 490 U.S. 319, 327-28, 109 S. Ct. 1827, 1833, 104 L. Ed. 2d 338 (1989).

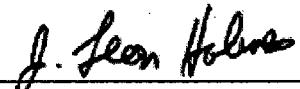
Whitney alleges that on March 31, 2017, he served an affidavit of sovereignty upon President Trump by first class mail and that the President has not responded, which (Whitney says) means that the President has defaulted. Whitney requests that the Court issue a writ of mandamus to the

President directing him to provide an affirmative recognition in writing as to Whitney's sovereignty, granting him all of the rights of an ambassador or head of state retroactive to the date of his birth, directing the expungement and purging of any and all information about him in any national, federal, state or local database, and directing his immediate release from confinement. He also requests a fine of \$1,562,011.20 per day commencing on May 6, 2017.

Whitney's complaint fails to state a claim upon which relief may be granted and lacks an even arguable basis in law. It is frivolous.

Therefore, pursuant to 28 U.S.C. § 1915(e)(2)(B) and §1915A(a) and (b), this action is dismissed with prejudice. Pursuant to 28 U.S.C. § 1915(g), this dismissal counts as a "strike." The Court certifies that an appeal from the order of dismissal and accompanying judgment would not be taken in good faith.

IT IS SO ORDERED this 1st day of August, 2017.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JAMES E. WHITNEY, ADC #163817

PLAINTIFF

v.

NO. 5:17CV00199 JLH

DONALD TRUMP, PRESIDENT
OF THE UNITED STATES

DEFENDANT

JUDGMENT

Pursuant to the Order entered separately today, this action is dismissed with prejudice. This dismissal counts as a "strike" under 28 U.S.C. § 1915(g). The Court certifies that an *in forma pauperis* appeal from this dismissal would not be taken in good faith.

IT IS SO ORDERED this 1st day of August, 2017.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**