

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 18-5011**

**September Term, 2017**

**1:17-cv-02290-UNA**

**Filed On: May 29, 2018**

Clarence Otworth,

Appellant

v.

Donald J. Trump,

Appellee

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Griffith and Srinivasan, Circuit Judges, and Sentelle, Senior Circuit Judge

**JUDGMENT**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the district court's order filed December 12, 2017, be affirmed. Appellant's notice of appeal filed in district court brought the case before this court. See Fed. R. App. P. 3(a)(1) (an appeal "from a district court to a court of appeals may be taken only by filing a notice of appeal with the district clerk"). Appellant asserts that he is not proceeding in forma pauperis because he is not a prisoner, and therefore the district court applied the incorrect standard of review in dismissing his complaint. To the contrary, the statute authorizing proceedings in forma pauperis applies to all litigants who elect to proceed without prepayment of fees or costs and requires dismissal of any action that the court determines to be frivolous. See 28 U.S.C. § 1915(e)(2)(B)(i). Appellant has not demonstrated any error in the district court's dismissal of his complaint on the ground that it was frivolous, because it lacks an arguable basis in law or fact. Nietzke v. Williams, 490 U.S. 319, 325 (1989).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution

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United States Court of Appeals  
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of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Ken Meadows  
Deputy Clerk

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## APPENDIX B

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United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 18-5011**

**September Term, 2018**

**1:17-cv-02290-UNA**

**Filed On: September 7, 2018**

Clarence Otworth,

Appellant

v.

Donald J. Trump,

Appellee

**BEFORE:** Garland, Chief Judge, and Henderson, Rogers, Tatel, Griffith, Kavanaugh\*, Srinivasan, Millett, Pillard, Wilkins, and Katsas, Circuit Judges, and Sentelle, Senior Circuit Judge

**ORDER**

Upon consideration of the petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

**ORDERED** that the petition be denied.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Ken Meadows  
Deputy Clerk

\* Circuit Judge Kavanaugh did not participate in this matter.

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**FILED**

DEC 12 2017

Clarence Otworth,

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**Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia**

Plaintiff,

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Civil Action No. 17-2290 (UNA)

Donald Trump,

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Defendant.

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MEMORANDUM OPINION

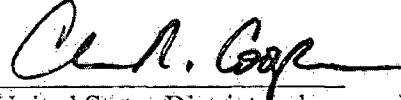
This matter is before the Court on its initial review of plaintiff's *pro se* complaint and application for leave to proceed *in forma pauperis* (IFP). Under the statute governing IFP proceedings, the Court is required to dismiss a case "at any time" it determines that the action is frivolous. 28 U.S.C. § 1915(e)(2)(B)(i).

Plaintiff is a resident of Twin Lake, Michigan. He purports to sue President Donald Trump for negligence, alleging that Mr. Trump has failed “to preserve, protect and defend the Constitution of the United States.” Compl. ¶ 80. As a result, plaintiff contends that he has “suffered the loss of his constitutional rights under the 5<sup>th</sup> and 10<sup>th</sup> Amendments, and the loss of thousands of dollars.” *Id.* Plaintiff seeks \$350,000 in damages. The few paragraphs (of the 80-paragraph complaint) pertaining to Mr. Trump are mostly general grievances about his performance as the President. See Compl. ¶¶ 74-79. Plaintiff also faults Mr. Trump for ignoring his “several letters” and for failing “to pick up the telephone and call [Attorney General] Jeff Sessions,” Michigan’s Attorney General, and the prosecutor for Muskegon County, Michigan, “and simply demand that they be lawful and do their job[s.]” *Id.* ¶ 75.

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A complaint that lacks "an arguable basis either in law or in fact" may be dismissed as frivolous. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The instant complaint satisfies this standard and thus will be dismissed. A separate order accompanies this Memorandum Opinion.

Date: December 12, 2017

  
\_\_\_\_\_  
United States District Judge

SB

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