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18-1751

Frizzell Carrell Woodson
2432 Cumberland Road
Farmville, VA 23901

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1751 (L), Frizzell Woodson v. US
3:18-cv-00278-HEH

NOTICE OF JUDGMENT

Judgment was entered on this date in accordance with Fed. R. App. P. 36. Please be advised of the following time periods:

PETITION FOR WRIT OF CERTIORARI: To be timely, a petition for certiorari must be filed in the United States Supreme Court within 90 days of this court's entry of judgment. The time does not run from issuance of the mandate. If a petition for panel or en banc rehearing is timely filed, the time runs from denial of that petition. Review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only for compelling reasons. (www.supremecourt.gov)

VOUCHERS FOR PAYMENT OF APPOINTED OR ASSIGNED COUNSEL:

Vouchers must be submitted within 60 days of entry of judgment or denial of rehearing, whichever is later. If counsel files a petition for certiorari, the 60-day period runs from filing the certiorari petition. (Loc. R. 46(d)). If payment is being made from CJA funds, counsel should submit the CJA 20 or CJA 30 Voucher through the CJA eVoucher system. In cases not covered by the Criminal Justice Act, counsel should submit the Assigned Counsel Voucher to the clerk's office for payment from the Attorney Admission Fund. An Assigned Counsel Voucher will be sent to counsel shortly after entry of judgment. Forms and instructions are also available on the court's web site, www.ca4.uscourts.gov, or from the clerk's office.

BILL OF COSTS: A party to whom costs are allowable, who desires taxation of costs, shall file a Bill of Costs within 14 calendar days of entry of judgment. (FRAP 39, Loc. R. 39(b)).

PETITION FOR REHEARING AND PETITION FOR REHEARING EN

BANC: A petition for rehearing must be filed within 14 calendar days after entry of judgment, except that in civil cases in which the United States or its officer or agency is a party, the petition must be filed within 45 days after entry of judgment. A petition for rehearing en banc must be filed within the same time limits and in the same document as the petition for rehearing and must be clearly identified in the title. The only grounds for an extension of time to file a petition for rehearing are the death or serious illness of counsel or a family member (or of a party or family member in pro se cases) or an extraordinary circumstance wholly beyond the control of counsel or a party proceeding without counsel.

Each case number to which the petition applies must be listed on the petition and included in the docket entry to identify the cases to which the petition applies. A timely filed petition for rehearing or petition for rehearing en banc stays the mandate and tolls the running of time for filing a petition for writ of certiorari. In consolidated criminal appeals, the filing of a petition for rehearing does not stay the mandate as to co-defendants not joining in the petition for rehearing. In consolidated civil appeals arising from the same civil action, the court's mandate will issue at the same time in all appeals.

A petition for rehearing must contain an introduction stating that, in counsel's judgment, one or more of the following situations exist: (1) a material factual or legal matter was overlooked; (2) a change in the law occurred after submission of the case and was overlooked; (3) the opinion conflicts with a decision of the U.S. Supreme Court, this court, or another court of appeals, and the conflict was not addressed; or (4) the case involves one or more questions of exceptional importance. A petition for rehearing, with or without a petition for rehearing en banc, may not exceed 3900 words if prepared by computer and may not exceed 15 pages if handwritten or prepared on a typewriter. Copies are not required unless requested by the court. (FRAP 35 & 40, Loc. R. 40(c)).

MANDATE: In original proceedings before this court, there is no mandate. Unless the court shortens or extends the time, in all other cases, the mandate issues 7 days after the expiration of the time for filing a petition for rehearing. A timely petition for rehearing, petition for rehearing en banc, or motion to stay the mandate will stay issuance of the mandate. If the petition or motion is denied, the mandate will issue 7 days later. A motion to stay the mandate will ordinarily be denied, unless the motion presents a substantial question or otherwise sets forth good or probable cause for a stay. (FRAP 41, Loc. R. 41).

FILED: November 19, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1751 (L)
(3:18-cv-00278-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1752
(3:18-cv-00279-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1753
(3:18-cv-00280-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1754
(3:18-cv-00282-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1755
(3:18-cv-00281-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed in part. The appeal is dismissed in part.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1751

FRIZZELL CARRELL WOODSON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 18-1752

FRIZZELL CARRELL WOODSON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 18-1753

FRIZZELL CARRELL WOODSON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 18-1754

FRIZZELL CARRELL WOODSON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 18-1755

FRIZZELL CARRELL WOODSON,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

Appeals from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, Senior District Judge. (3:18-cv-00278-HEH; 3:18-cv-00279-HEH; 3:18-cv-00280-HEH; 3:18-cv-00282-HEH; 3:18-cv-00281-HEH).

Submitted: November 15, 2018

Decided: November 19, 2018

Before MOTZ and HARRIS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Frizzell Carrell Woodson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frizzell Carrell Woodson appeals the district court's orders dismissing his complaints and ordering him to show cause why a prefiling injunction should not issue. With respect to the court's dismissal of Woodson's claims, we have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Woodson v. United States*, No. 3:18-cv-00278-HEH (E.D. Va., June 5, 2018); *Woodson v. United States*, No. 3:18-cv-00279-HEH (E.D. Va., June 5, 2018); *Woodson v. United States*, No. 3:18-cv-00280-HEH (E.D. Va., June 5, 2018); *Woodson v. United States*, No. 3:18-cv-00282-HEH (E.D. Va., June 5, 2018); *Woodson v. United States*, No. 3:18-cv-00281-HEH (E.D. Va., June 5, 2018).

To the extent Woodson seeks to appeal the show cause portion of the district court's orders, this court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). This portion of the orders constitutes neither a final nor an appealable interlocutory or collateral order. Accordingly, we dismiss this portion of the appeals for lack of jurisdiction.

We deny Woodson's motions for default judgment, to show cause, and to deconsolidate. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART,
DISMISSED IN PART*

Frizzell Carrell Woodson
2432 Cumberland Road
Farmville, VA 23901

FILED: January 29, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1751 (L)
(3:18-cv-00278-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1752
(3:18-cv-00279-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1753
(3:18-cv-00280-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1754
(3:18-cv-00282-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

No. 18-1755
(3:18-cv-00281-HEH)

FRIZZELL CARRELL WOODSON

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Motz, Judge Harris, and Senior Judge Hamilton.

For the Court

/s/ Patricia S. Connor, Clerk

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

FRIZZELL CARRELL WOODSON,)	
)	
Plaintiff,)	Civil Action Nos. 3:18cv00278-HEH
)	3:18cv00279-HEH
v.)	3:18cv00280-HEH
)	3:18cv00281-HEH
UNITED STATES OF AMERICA,)	3:18cv00282-HEH
)	
Defendant.)	

MEMORANDUM ORDER

(Granting Motions to Proceed *In Forma Pauperis*,
Dismissing Complaints, and Ordering Plaintiff to Show Cause)

THIS MATTER is before the Court on Plaintiff's five Applications to Proceed *In Forma Pauperis* ("Applications") (ECF No. 1 in each of Civil Action Nos. 3:18cv00278, 3:18cv00279, 3:18cv00280, 3:18cv00281, 3:18cv00282), all filed on April 26, 2018.

Upon due consideration, Plaintiff's Applications are hereby GRANTED. Plaintiff may proceed in the above named cases without paying the Court's filing fee. The Clerk is DIRECTED to file the Complaints (ECF Nos. 1-1 in each case). For the reasons set forth below, however, the Court finds that the Complaints all fail to state any claim on which relief may be granted. Accordingly, the Complaints are each DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and Rule 12(b)(6) of the Federal Rules of Civil Procedure.

The Court acknowledges that *pro se* complaints are afforded a liberal construction. *Laber v. Harvey*, 438 F.3d 404, 413 n.3 (4th Cir. 2006). That said, the requirement of liberal construction does not excuse a clear failure in the pleading to allege a federally cognizable claim. *See Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 390-91 (4th Cir.

1990). As the Fourth Circuit explained in *Beaudett v. City of Hampton*, “[t]hough [*pro se*] litigants cannot, of course, be expected to frame legal issues with the clarity and precision ideally evident in the work of those trained in law, neither can district courts be required to conjure up and decide issues never fairly presented to them.” 775 F.2d 1274, 1276 (4th Cir. 1985).

Under Federal Rule of Civil Procedure 12(b)(6), a complaint need not assert “detailed factual allegations,” but must contain “more than labels and conclusions” or a “formulaic recitation of the elements of a cause of action.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). Thus, the “[f]actual allegations must be enough to raise a right to relief above the speculative level” to one that is “plausible on its face.” *Id.* at 555, 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556). The Court assumes Plaintiff’s well-pleaded allegations to be true and views all facts in the light most favorable to him. *T.G. Slater & Son v. Donald P. & Patricia A. Brennan, LLC*, 385 F.3d 836, 841 (4th Cir. 2004) (citing *Mylan Labs, Inc. v. Matkari*, 7 F.3d 1130, 1134 (4th Cir. 1993)).

As best as the Court can discern from Plaintiff’s voluminous pleadings, Plaintiff brings this action against the United States to recover for alleged defamation that he suffered while working for the United States Postal Service and for the violation of his Due Process rights that occurred when he was allegedly unlawfully terminated. (Compl. 42, 47, 54, Civil Action No. 3:18cv278, ECF No. 1-1; *see also* Compls., ECF Nos. 1-1,

Civil Action Nos. 3:18cv00279, 3:18cv00280, 3:18cv00281, 3:18cv00282.)¹ In an attempt to buffer his position, Plaintiff additionally “claims any and all” freedoms, protections, and rights provided by the First Amendment, the Fifth Amendment, the Fourteenth Amendment, and the Constitution of Virginia, specifically Article I, § 11. (Compl. 10.) He additionally “claims any and all security under” the Civil Service Reform Act, the Privacy Act, and the Freedom of Information Act.

Although each of Plaintiff’s Complaints span sixty pages, the majority of the documents are comprised of meandering statements of law, unmoored in facts related to any cognizable claim. The few factual allegations that the Court can find, for example that Defendant imposed “heightened and or disproportionate unconstitutional discipline on Plaintiff” and “ultimately unlawfully terminat[ed] Plaintiff” without what Plaintiff deems sufficient process (*Id.* at 53–54), are at best conclusory statements lacking the specific factual underpinnings necessary to elevate them to the requisite level of facial plausibility. *See Twombly*, 550 U.S. at 555, 570. Plaintiff strings together inapplicable criminal law and congressional statutes to weave his narrative of violations and deprivations of right by the United States Postal Service, Department of Justice, and, through the principal of *respondeat superior*, the United States. In creating this mosaic

¹ The various Complaints Plaintiff filed on April 26, 2018 are all substantially identical. The only notable difference is that the Complaint in Civil Action No. 3:18cv278 is missing page 15; the contemporaneously filed Complaints all contain the missing page, however, and since the remainder of the Complaints recite the same facts and allegations as those in 3:18cv279 almost verbatim, the Court reads and analyzes them all in conjunction with one another. For the sake of brevity, the Court will only provide page-specific citations to the Complaint filed in Civil Action No. 3:18cv278 for the remainder of this opinion.

of laws, he fails to state any claim on which relief may be granted. *See Weller*, 901 F.2d at 390–91.

For the foregoing reasons, the Court GRANTS Plaintiff's Applications to Proceed *In Forma Pauperis* but DISMISSES all of Plaintiff's Complaints.

Plaintiff has demonstrated a continuing pattern of filing frivolous actions against the United States Postal Service and its employees. This latest spate of cases represents simply a reformulation of Plaintiff's old grievances, levelled this time against the United States itself. All of Plaintiff's prior actions were dismissed by this Court for lack of jurisdiction or failure to state a cause of action. Based on this most recent collection of unmeritorious filings, it is hereby ORDERED that Frizzell Carrell Woodson file by July 6, 2018, a written statement of position addressing why the Court should not issue an injunction forbidding him from filing, without prior authorization, any cases in this Court relating to the subject matter of his employment with the United States Postal Service and the previously dismissed complaints described below:

<u>Case</u>	<u>Civil Action No.</u>
<i>Woodson v. United States of America</i>	3:14CV862
<i>Woodson v. United States of America</i>	3:15CV001
<i>Woodson v. United States of America</i>	3:15CV002
<i>Woodson v. United States of America</i>	3:15CV003
<i>Woodson v. United States of America</i>	3:15CV004
<i>Woodson v. United States of America</i>	3:16CV233
<i>Woodson v. United States of America</i>	3:16CV234
<i>Woodson v. United States of America</i>	3:16CV235
<i>Woodson v. United States of America</i>	3:16CV236
<i>Woodson v. Megan J. Brennan</i>	3:17CV748

Any written statement of position filed by Plaintiff should specifically address why he should not be forbidden from filing any case in this Court pertaining to the above described matters without submitting such contemplated lawsuit to a judge of this Court for pre-filing review and authorization. Plaintiff may also wish to address the following additional issues, which will be considered by the Court before determining whether a pre-filing injunction is appropriate:

1. Plaintiff's prior history of litigation;
2. Whether Plaintiff had a good faith basis for pursuing such litigation, or simply intended to harass the defendants;
3. The burden on the Court and the parties resulting from Plaintiff's filings; and
4. The adequacy of alternative sanctions.

See Cromer v. Kraft Foods, N. Am., Inc., 390 F.3d 812, 817 (4th Cir. 2004).

Finally, in light of Plaintiff's repetitive and voluminous filings and the burden they place on the court system, Plaintiff should further address why the Court should not, in the alternative, bar Plaintiff for a period of time from proceeding *in forma pauperis* in this district in any matter except habeus corpus cases and cases over which the federal court arguable has subject matter jurisdiction involving claims or imminent danger or serious bodily injury.

Accordingly, for the reasons set forth above, the Court GRANTS Plaintiff's Applications to Proceed *In Forma Pauperis*, DISMISSES his Complaints for failure to state a claim, and ORDERS Plaintiff to show cause as to why a pre-filing injunction should not be issued or, in the alternative, his *in forma pauperis* privileges be revoked.

In recognition of Plaintiff's *pro se* status and for the sake of consolidating the remaining proceedings, Plaintiff is ORDERED to file his response to the Court's Order to Show Cause ONLY in Civil Action No. 3:18cv278. The Clerk is DIRECTED to close all of Plaintiff's related cases (Civil Action Nos. 3:18cv00279, 3:18cv00280, 3:18cv00281, 3:18cv00282), in light of the Court's dismissal of the Complaints therein.

Should Plaintiff wish to appeal this Order, written notice of appeal must be filed with the Clerk of Court within thirty (30) days of the date of entry hereof. Failure to file a notice of appeal within that period may result in the loss of the right to appeal.

The Clerk is directed to send a copy of this Order to Plaintiff, who is *pro se*.

It is so ORDERED.

 /s/

Henry E. Hudson
United States District Judge

Date: June 5, 2018
Richmond, VA

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