IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
December 3, 2019
Lyle W. Cayce
Clerk

No. 19-10709
Summary Calendar

PIPER LAKAY ELLIS SNOWTON,

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA, doing business as United States Department of Health and Human Services; ALEX M. AZAR, II, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Defendants - Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:19-CV-981

Before HIGGINBOTHAM, HO, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Plaintiff-appellant Piper Lakay Ellis Snowton, appeals the district court's dismissal of her claims against the defendants. Because Snowton's complaint is frivolous, we AFFIRM.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Appendix B

Snowton, proceeding *pro se* and *in forma pauperis*, filed a complaint against the United States, the Department of Health and Human Services (DHHS), and DHHS Secretary Alex Azar, II, alleging that the Department of Health and Human Services and various healthcare agencies are wrongfully withholding her medical information and providing her with misleading or inaccurate medical information. Snowton alleges that she is HIV positive, but defendants have conspired with various medical labs across a number of states to withhold that information. Further, she asserts that defendants are "deliberately refusing to investigate and enforce laws" because "there is unlawful experimentation of implants, disease and false claims involved."

The district court found that "even under the most liberal construction, Plaintiff's allegations describe irrational or wholly incredible claims against Defendants." The district court dismissed the complaint as frivolous pursuant to 28 U.S.C. § 1915(e). Snowton appealed.

An *in forma pauperis* claim may properly be dismissed when the "facts alleged are 'clearly baseless,'" encompassing allegations that "rise to the level of the irrational or the wholly incredible." *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 327–28 (1989)); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). We find no error in the district court's decision to dismiss Snowton's claims as frivolous, which we review for abuse of discretion. *Denton*, 504 U.S. at 33.

AFFIRMED.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PIPER LAKAY ELLIS SNOWTON, Plaintiff, VS. UNITED STATES OF AMERICA, ET AL., Defendants.	)	CIVIL ACTION NO. 3:19-CV-0981-G (BT)

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

The court has under consideration the findings, conclusions and recommendation of United States Magistrate Judge Rebecca Rutherford dated May 30, 2019. Plaintiff filed objections, and the district court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made. The objections are overruled, and the court **ACCEPTS** the findings, conclusions, and recommendation of the United States Magistrate Judge.

SO ORDERED.

June 13, 2019.

A. JOE FISH
Senior United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PIPER LAKAY ELLIS SNOWTON, Plaintiff,	§ §	
v.	§	No. 3:19-cv-981-G (BT)
UNITED STATES OF AMERICA, ET AL., Defendants.	§ § §	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Piper Lakay Ellis Snowton, proceeding *pro se* and *in forma pauperis*, filed a complaint alleging violations of her civil rights under 42 U.S.C. § 1983 and of the Federal Tort Claim Act, 28 U.S.C. § 2671, *et seq*, ("FTCA"). The Court has not issued process pending judicial screening. Having screened the complaint, the Court finds Plaintiff's civil action is frivolous and should be DISMISSED pursuant to 28 U.S.C. § 1915(e)(2).

A district court may summarily dismiss a complaint filed *in forma pauperis* if it concludes the action is: (1) frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous when it "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A court may dismiss a complaint as frivolous when it is based on an indisputably meritless legal theory or when the factual contentions are

"clearly baseless." *Denton v. Hernandez*, 504 U.S. 25, 32 (1992). The latter category encompasses allegations that describe "fanciful, fantastic, and delusional" scenarios, or that "rise to the level of the irrational or wholly incredible." *Id.* at 33.

Here, Plaintiff claims Defendants the United States, the Department of Health and Human Services, and Health and Human Services Secretary Alex Azar have deliberately failed to enforce laws and are withholding her medical information from her. She alleges that she is HIV positive, but Defendants have conspired with various medical labs to withhold that information. She attached medical reports from labs in Texas, California, Georgia, and Oklahoma showing that she is not HIV positive, but she claims these medical reports are inaccurate. She further claims Defendants are refusing to enforce a law of accurate health reports because "[t]here is unlawful experimentation of implants, disease, and false claims involved[.]" (ECF No. 3 at 1.) Plaintiff seeks $2 million in damages.

Courts must liberally construe pleadings filed by *pro se* litigants. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). But even under the most liberal construction, Plaintiff's allegations describe irrational or wholly incredible claims against Defendants. Therefore, Plaintiff's complaint is frivolous, and the Court should DISMISS this case with prejudice pursuant to 28 U.S.C. § 1915(e)(2).

Signed May 30, 2019.

REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT

The United States District Clerk is directed to serve a true copy of these findings, conclusions, and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must serve and file written objections within 14 days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these proposed findings, conclusions, and recommendation will bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the findings, conclusions, and recommendation within 14 days after being served with a copy will bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).

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v.

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Defendants - Appellees

Appeal from the United States District Court
for the Northern District of Texas

ON PETITION FOR REHEARING

Before HIGGINBOTHAM, HO, and ENGELHARDT, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

ENTERED FOR THE COURT:

UNITED STATES CIRCUIT JUDGE

Appendix B