DLD-178

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 19-1267

JONATHAN BROWNLEE,
Appellant

v.

KEITH HEARNS; ROBERT COMINE;
UNITED STATES OF AMERICA; KAREN HUNT

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civ. No. 18-cv-01425)
District Judge: Honorable Malachy E. Mannion

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
May 2, 2019
Before: JORDAN, GREENAWAY, JR. and NYGAARD, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted for possible dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B) and for possible summary action pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6 on May 2, 2019. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the appeal is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

DATED: August 19, 2019

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT
CLERK

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790
Website: www.ca3.uscourts.gov

TELEPHONE
215-597-2995

August 19, 2019

Jonathan Brownlee
Hazelton FCI
P.O. Box 5000
Bruceton Mills, WV 26525

Michael J. Butler
Office of United States Attorney
228 Walnut Street, P.O. Box 11754
220 Federal Building and Courthouse
Harrisburg, PA 17108

RE: Jonathan Brownlee v. Keith Hearns, et al
Case Number: 19-1267
District Court Case Number: 3-18-cv-01425

ENTRY OF JUDGMENT

Today, **August 19, 2019** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:
14 days after entry of judgment.
45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:
3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App.

P. 32(g).
15 pages if hand or type written.

Attachments:
A copy of the panel's opinion and judgment only.
Certificate of service.
Certificate of compliance if petition is produced by a computer.
No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

s/ Patricia S. Dodzuweit
Clerk

By: s/ Shannon, Case Manager
267-299-4959

DLD-178 **NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-1267

JONATHAN BROWNLEE,
Appellant

v.

KEITH HEARNS; ROBERT COMINE;
UNITED STATES OF AMERICA; KAREN HUNT

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civ. No. 18-cv-01425)
District Judge: Honorable Malachy E. Mannion

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
May 2, 2019
Before: JORDAN, GREENAWAY, JR. and NYGAARD, Circuit Judges

(Opinion filed: August 19, 2019)

OPINION*

PER CURIAM

---

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Jonathan A. Brownlee III appeals from orders of the District Court dismissing his complaint with prejudice pursuant to § 1915A and denying reconsideration. For the reasons that follow, we will dismiss the appeal as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i).

Brownlee, an inmate, filed a civil rights complaint against the United States and several U.S. Probation Officers, along with an in forma pauperis application, in the United States District Court for the Middle District of Pennsylvania. The complaint consisted only of pages one and two of an eleven-page form complaint, and quite literally did not set forth a short and plain statement, Fed. R. Civ. P. 8(a), of a violation of some right guaranteed by the Constitution or laws of the United States.[1] In a letter attached to the complaint, Brownlee stated that "PART 2" of his complaint would be mailed separately, and that he also was mailing a "total of 4 separate Civil Rights Violation Complaints." The Magistrate Judge granted Brownlee leave to proceed in forma pauperis but recommended that the complaint be dismissed without further leave to amend pursuant to § 1915A, which directs the court to screen in forma pauperis complaints for cognizable claims.

Brownlee filed Objections to the Report and Recommendation, along with several other items, explaining that pages three through eleven of his complaint and certain

[1] Page one of the form complaint concerned the case caption and page two concerned the parties to the case. Neither page provided space for stating the allegations or factual basis for the proposed claims.

additional supporting documents had been returned to him for insufficient postage. In view of this assertion of an incomplete complaint, the District Court dismissed Brownlee's complaint without prejudice and granted him leave to file an amended complaint within fourteen days. The District Court advised Brownlee that failure to file an amended complaint within this time period would result in dismissal of his complaint without prejudice. See Docket Entry No. 15.

When Brownlee failed to file an amended complaint, the District Court dismissed his original complaint with prejudice pursuant to § 1915A. See Docket Entry No. 16. Brownlee then timely filed a motion for reconsideration, Fed. R. Civ. P. 59(e), asserting that he was unable to receive mail while in transit from a county correctional facility to a federal correctional facility, and seeking another opportunity to amend his complaint. Because the District Court's prior order had in fact been returned to the District Court Clerk's Office as undeliverable, the District Court granted Brownlee's motion for reconsideration, reopened the civil action, and granted Brownlee another fourteen days in which to file his amended complaint. See Docket Entry No. 22.

When Brownlee failed to file an amended complaint, the District Court, in an order entered on November 15, 2018, dismissed his complaint with prejudice pursuant to § 1915A. Brownlee timely filed a motion for reconsideration, arguing, in pertinent part, that he should be given additional time to file an amended complaint because he had received no direction with respect to how his complaint should be amended. In an order

entered on November 28, 2018, the District Court denied reconsideration, rejecting Brownlee's arguments as meritless. After filing more motions for reconsideration, all of which were denied, Brownlee filed a timely notice of appeal on January 28, 2019, see Fed. R. App. P. 4(a)(1)(B) (providing for 60 days to appeal where United States is party); Fed. R. App. P. 26(a)(1)(C).

We have jurisdiction pursuant to 28 U.S.C. § 1291. Our Clerk granted Brownlee leave to appeal in forma pauperis and advised him that the appeal would be submitted to this Court for a determination under 28 U.S.C. § 1915(e)(2)(B)(i) as to whether the appeal is frivolous. The parties were invited to submit argument. Brownlee has filed a "Motion Requesting Exemption from Supervised Release Pending Disposition of Lawsuit." He has also filed a brief in support of this motion, which contains an additional "Motion Requesting Court to Obtain House Deed Pending Final Disposition of Lawsuit."

Section 1915(e)(2)(B)(i) requires dismissal of an appeal if the appeal is frivolous. An appeal is frivolous if it has no arguable basis in law or fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989). By his own admission, Brownlee's original complaint was incomplete. The District Court gave Brownlee ample opportunity to amend his complaint and he failed to do so. Moreover, the Magistrate Judge's Report and Recommendation carefully explains the pleading standards set forth in Rule 8(a), Fowler v. UPMC Shadyside, 578 F.3d 203, 210 (3d Cir. 2009), Jordan v. Fox, Rothschild,

O'Brien & Frankel, Inc., 20 F.3d 1250, 1261 (3d Cir. 1994), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-56 (2007). Brownlee thus had direction from the court with respect to how to state a claim upon which relief may be granted, see Fed. R. Civ. P. 12(b)(6). In sum, Brownlee had an adequate opportunity to either provide the Court with the missing pages of his original complaint, or provide the Court with an amendment which set forth a short and plain statement of a violation of a right guaranteed by the Constitution or laws of the United States.

For the foregoing reasons, we will dismiss the appeal as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i). Brownlee's motions are denied.

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JONATHAN BROWNLEE, III,	:
	:CIVIL ACTION NO. 3:18-CV-1425
Plaintiff,	:
	:(JUDGE CONABOY)
v.	:(Magistrate Judge Carlson)
	:
UNITED STATES OF AMERICA, et al.,	:
	:
	:
Defendant.	:
	:

FILED
SCRANTON

OCT 1 3 2018

Per _____ DEPUTY CLERK

ORDER

BACKGROUND OF THIS ORDER:

On August 22, 2018, the Court adopted Magistrate Judge Martin C. Carlson's Report and Recommendation (Doc. 4) in part and dismissed Plaintiff's Complaint but allowed him fourteen days to file an amended Complaint. (Doc. 15 at 3.) The Order advised Plaintiff that failure to timely file an amended complaint would result in dismissal of the action with prejudice. (*Id.*) Because Plaintiff did not timely file an amended Complaint, the Court dismissed his Complaint with prejudice and directed the Clerk of Court to close his case by Order of September 13, 2018. (Doc. 16.)

On October 15, 2018, Plaintiff filed a document titled "Motion for Reconsideration of Order for Complaint to be Dismissed and Request for Issuance of an Order for the Withdrawal of the Order for Complaint to be Dismissed." (Doc. 20.) With this motion, Plaintiff asserts he was unable to receive mail from the time the August 22, 2018, Order was entered to September 17, 2018, but he can now send and receive correspondence. (Doc. 20 at 2, 3.) He,

therefore, asks for additional time to file an amended complaint. (*Id.* at 3.)

Because docket entries subsequent to September 13, 2018, can be construed as supportive of Plaintiff's assertions regarding problems receiving mail (Docs. 17-19), the Court concludes his motion is properly granted.

NOW, THEREFORE, THIS 9th DAY OF OCTOBER 2018, IT IS HEREBY ORDERED THAT:

1. Plaintiff's "Motion for Reconsideration of Order for Complaint to be Dismissed and Request for Issuance of an Order for the Withdrawal of the Order for Complaint to be Dismissed" (Doc. 20) is GRANTED;
2. The Clerk of Court is directed to reopen this case;
3. Plaintiff is granted fourteen (14) days from the date of this Order to file an amended complaint;[1]
4. Failure to timely file an amended complaint will result in dismissal of this action with prejudice.

RICHARD P. CONABOY
United States District Judge

[1] An amended complaint is to comport with the requirements of the Federal Rules of Civil Procedure as explained in the Report and Recommendation. (*See* Doc. 4 at 3-7.) Plaintiff is further advised that the piecemeal filings previously submitted (*see, e.g.*, Docs. 1, 6) are not considered an acceptable method of pleading--the requirements reviewed by Magistrate Judge Carlson (Doc. 4 at 3-7) must be satisfied in the complaint itself.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JONATHAN BROWNLEE, III	:	**Civil No. 3:18-CV-1425**
	:	
Plaintiff	:	
	:	
v.	:	
	:	
UNITED STATES OF AMERICA, et al.,	:	**(Magistrate Judge Carlson)**
	:	
Defendants	:	

REPORT AND RECOMMENDATION

I. Factual Background

This is a *pro se* prisoner complaint filed by Jonathan Brownlee, III, who reportedly is currently housed in the Lackawanna County Prison. (Doc. 1.)[1] Brownlee's complaint names the United States and several U.S. Probation officers as defendants but contains no well-pleaded facts or any intelligible prayer for relief.

Along with his complaint Brownlee has filed a motion which seeks leave to proceed *in forma pauperis*. (Doc. 2.) We will GRANT this request to proceed *in*

[1] Brownlee's complaint does not explain why he is housed in the Lackawanna County Prison, but it appears that Brownlee may be awaiting sentencing on supervision revocation violations following his conviction on federal child sexual exploitation charges. United States v. Brownlee, 3:CR-10-176.

forma pauperis, but for the reasons set forth below, we recommend that the complaint be dismissed.

II. Discussion

A. Screening of *Pro Se* Complaints–Standard of Review

This Court has an on-going statutory obligation to conduct a preliminary review of *pro se* complaints brought by plaintiffs given leave to proceed *in forma pauperis* in cases which seek redress against government officials. See 28 U.S.C. § 1915(e)(2)(B)(ii). Likewise we are legally required to screen and review *pro se* prisoner complaints pursuant to 28 U.S.C. § 1915A which provides, in pertinent part:

> **(a) Screening**. - The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.
>
> **(b) Grounds for dismissal**. - On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint-
>
> (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
>
> (2) seeks monetary relief from a defendant who is immune from such relief.

Specifically, we are obliged to review the complaint to determine whether any claims are frivolous, malicious, or fail to state a claim upon which relief may be

granted. This statutory text mirrors the language of Rule 12(b)(6) of the Federal Rules of Civil Procedure, which provides that a complaint should be dismissed for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6).

With respect to this benchmark standard for legal sufficiency of a complaint, the United States Court of Appeals for the Third Circuit has aptly noted the evolving standards governing pleading practice in federal court, stating that:

> Standards of pleading have been in the forefront of jurisprudence in recent years. Beginning with the Supreme Court's opinion in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) continuing with our opinion in Phillips [v. County of Allegheny, 515 F.3d 224, 230 (3d Cir. 2008)]and culminating recently with the Supreme Court's decision in Ashcroft v. Iqbal –U.S.–, 129 S.Ct. 1937 (2009) pleading standards have seemingly shifted from simple notice pleading to a more heightened form of pleading, requiring a plaintiff to plead more than the possibility of relief to survive a motion to dismiss.

Fowler v. UPMC Shadyside, 578 F.3d 203, 209-10 (3d Cir. 2009).

In considering whether a complaint fails to state a claim upon which relief may be granted, the Court must accept as true all allegations in the complaint and all reasonable inferences that can be drawn therefrom are to be construed in the light most favorable to the plaintiff. Jordan v. Fox Rothschild, O'Brien & Frankel, Inc., 20 F.3d 1250, 1261 (3d Cir. 1994). However, a court "need not credit a complaint's bald assertions or legal conclusions when deciding a motion to

dismiss." Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997). Additionally a court need not "assume that a ... plaintiff can prove facts that the ... plaintiff has not alleged." Associated Gen. Contractors of Cal. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983). As the Supreme Court held in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), in order to state a valid cause of action a plaintiff must provide some factual grounds for relief which "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of actions will not do." Id. at 555. "Factual allegations must be enough to raise a right to relief above the speculative level." Id.

In keeping with the principles of Twombly, the Supreme Court has underscored that a trial court must assess whether a complaint states facts upon which relief can be granted when ruling on a motion to dismiss. In Ashcroft v. Iqbal, 556 U.S. 662 (2009), the Supreme Court held that, when considering a motion to dismiss, "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. at 678. Rather, in conducting a review of the adequacy of complaint, the Supreme Court has advised trial courts that they must:

> [B]egin by identifying pleadings that because they are no more than conclusions are not entitled to the assumption of truth. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual

> allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.

Id. at 679.

Thus, following Twombly and Iqbal a well-pleaded complaint must contain more than mere legal labels and conclusions. Rather, a complaint must recite factual allegations sufficient to raise the plaintiff's claimed right to relief beyond the level of mere speculation. As the United States Court of Appeals for the Third Circuit has stated:

> [A]fter Iqbal, when presented with a motion to dismiss for failure to state a claim, district courts should conduct a two-part analysis. First, the factual and legal elements of a claim should be separated. The District Court must accept all of the complaint's well-pleaded facts as true, but may disregard any legal conclusions. Second, a District Court must then determine whether the facts alleged in the complaint are sufficient to show that the plaintiff has a "plausible claim for relief." In other words, a complaint must do more than allege the plaintiff's entitlement to relief. A complaint has to "show" such an entitlement with its facts.

Fowler, 578 F.3d at 210-11.

As the court of appeals has observed: "The Supreme Court in Twombly set forth the 'plausibility' standard for overcoming a motion to dismiss and refined this approach in Iqbal. The plausibility standard requires the complaint to allege 'enough facts to state a claim to relief that is plausible on its face.' Twombly, 550 U.S. at 570, 127 S.Ct. 1955. A complaint satisfies the plausibility standard when

the factual pleadings 'allow[ ] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' Iqbal, 129 S.Ct. at 1949 (citing Twombly, 550 U.S. at 556, 127 S.Ct. 1955). This standard requires showing 'more than a sheer possibility that a defendant has acted unlawfully.' Id. A complaint which pleads facts 'merely consistent with' a defendant's liability, [ ] 'stops short of the line between possibility and plausibility of "entitlement of relief." ' " Burtch v. Milberg Factors, Inc., 662 F.3d 212, 220-21 (3d Cir. 2011) cert. denied, 132 S. Ct. 1861, 182 L. Ed. 2d 644 (U.S. 2012).

In practice, consideration of the legal sufficiency of a complaint entails a three-step analysis: "First, the court must 'tak[e] note of the elements a plaintiff must plead to state a claim.' Iqbal, 129 S.Ct. at 1947. Second, the court should identify allegations that, 'because they are no more than conclusions, are not entitled to the assumption of truth.' Id. at 1950. Finally, 'where there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement for relief.' Id." Santiago v. Warminster Tp., 629 F.3d 121, 130 (3d Cir. 2010).

In addition to these pleading rules, a civil complaint must comply with the requirements of Rule 8(a) of the Federal Rule of Civil Procedure which defines what a complaint should say and provides that:

> (a) A pleading that states a claim for relief must contain (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

Thus, a well-pleaded complaint must contain more than mere legal labels and conclusions. Rather, a *pro se* plaintiff's complaint must recite factual allegations which are sufficient to raise the plaintiff's claimed right to relief beyond the level of mere speculation, set forth in a "short and plain" statement of a cause of action.

Judged against these legal guideposts, for the reasons set forth below it is recommended that this complaint be dismissed.

B. This Complaint Fails to State A Claim Upon Which Relief Can Be Granted

In this case, dismissal of this complaint is warranted because the complaint fails on multiple scores to meet the substantive standards required by law, in that it does not set forth a "short and plain" statement of a cognizable violation of some right guaranteed by the Constitution or laws of the United States. Indeed, as discussed separately below, this complaint is fatally flawed in numerous respects.

At the outset, dismissal of this complaint is warranted because the complaint fails to comply with Rule 8's basic injunction that "A pleading that states a claim

for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." It is well-settled that: "[t]he Federal Rules of Civil Procedure require that a complaint contain 'a short and plain statement of the claim showing that the pleader is entitled to relief,' Fed.R.Civ.P. 8(a)(2), and that each averment be 'concise, and direct,' Fed.R.Civ.P. 8(e)(1)." Scibelli v. Lebanon County, 219 F.App'x 221, 222 (3d Cir. 2007). Thus, when a complaint is "illegible or incomprehensible", id., or when a complaint "is not only of an unwieldy length, but it is also largely unintelligible", Stephanatos v. Cohen, 236 F.App'x 785, 787 (3d Cir. 2007), an order dismissing a complaint under Rule 8 is clearly appropriate. See, e.g., Mincy v. Klem, 303 F.App'x 106 (3d Cir. 2008); Rhett v. New Jersey State Superior Court, 260 F.App'x 513 (3d Cir. 2008); Stephanatos v. Cohen. supra; Scibelli v. Lebanon County, supra; Bennett-Nelson v. La. Bd. of Regents, 431 F.3d 448, 450 n. 1 (5th Cir.2005).

Dismissal under Rule 8 is also proper when a complaint "left the defendants having to guess what of the many things discussed constituted [a cause of action];" Binsack v. Lackawanna County Prison, 438 F. App'x 158 (3d Cir. 2011), or when the complaint is so "rambling and unclear" as to defy response. Tillio v. Spiess, 441 F.App'x 109 (3d Cir. 2011). Similarly, dismissal is appropriate in " 'those cases in which the complaint is so confused, ambiguous, vague, or otherwise

unintelligible that its true substance, if any, is well disguised.' Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir.1995) (quotations omitted)." Tillio v. Spiess, 441 F. App'x 109, 110 (3d Cir. 2011); Tillio v. Northland Grp. Inc., 456 F. App'x 78, 79 (3d Cir. 2012). Further, a complaint may be dismissed under Rule 8 when the pleading is simply illegible and cannot be understood. See, e.g., Moss v. United States, 329 F. App'x 335 (3d Cir. 2009)(dismissing illegible complaint); Radin v. Jersey City Medical Center, 375 F. App'x 205 (3d Cir. 2010); Earnest v. Ling, 140 F. App'x 431 (3d Cir. 2005)(dismissing complaint where "complaint fails to clearly identify which parties [the plaintiff] seeks to sue"); Oneal v. U.S. Fed. Prob., CIV.A. 05-5509 (MLC), 2006 WL 758301 (D.N.J. Mar. 22, 2006)(dismissing complaint consisting of approximately 50 pages of mostly-illegible handwriting); Gearhart v. City of Philadelphia Police, CIV.A.06-0130, 2006 WL 446071 (E.D. Pa. Feb. 21, 2006) (dismissing illegible complaint).

These principles are applicable here, and compel the dismissal of this complaint. The complaint recites no well-pleaded facts to support any legitimate legal claims. The complete failure of the complaint to contain any well-pleaded facts leaves "defendants having to guess what of the many things discussed constituted [a cause of action]." Binsack v. Lackawanna County Prison, 438 F.

App'x 158 (3d Cir. 2011). In these circumstances, Rule 8 compels dismissal of the complaint in its entirety.

In addition, to the extent that the complaint seeks to sue the United States for damages, it runs afoul of basic principles of sovereign immunity. On this score, "to the extent that [the plaintiff] seeks damages directly from the United States it is a 'well settled principle that the federal government is immune from suit save as it consents to be sued.' Antol v. Perry, 82 F.3d 1291, 1296 (3d Cir. 1996) (citing FMC Corp. v. United States Department of Commerce, 29 F.3d 833, 839 (3d Cir. 1994)). The federal government must consent to be sued and this consent must be narrowly construed in favor of the government. Id. Without a waiver of this immunity, sovereign immunity shields the federal government and its agencies from suit. Matsko v. United States, 372 F.3d 556 (3d. Cir. 2004) (citing F.D.I.C. v. Meyer, 510 U.S. 471, 475, 114 S.Ct. 996, 127 L.Ed.2d 308 (1994))." Bullock v. I.R.S., No. 1:12-CV-02266, 2014 WL 1876132, at *8 (M.D. Pa. Jan. 3, 2014), report and recommendation adopted, No. 1:12-CV-02266, 2014 WL 1514000 (M.D. Pa. Apr. 16, 2014), aff'd sub nom. Bullock v. I.R.S, 602 Fed.Appx. 58 (3d Cir. 2015). Furthermore, "a waiver of the traditional sovereign immunity 'cannot be implied but must be unequivocally expressed.' United States v. King, 395 U.S., at 4, 89 S.Ct., at 1503; Soriano v. United States, 352 U.S. 270, 276, 77 S.Ct. 269,

273, 1 L.Ed.2d 306 (1957)." United States v. Testan, 424 U.S. 392, 399 (1976). Here this cryptic complaint is completely devoid of well—pleaded allegations which would cite any legal basis for overcoming sovereign immunity. Therefore any claim for damages from the United States is barred by sovereign immunity. Goldstein v. Berman, No. 3:17-CV-1510, 2017 WL 5078065, at *5–6 (M.D. Pa. Oct. 2, 2017), report and recommendation adopted, No. CV 3:17-1510, 2017 WL 5070225 (M.D. Pa. Nov. 3, 2017).

Furthermore, while Brownlee has pleaded no facts in support of this complaint, we note that it appears that Brownlee may be awaiting sentencing on supervision revocation violations following his conviction on federal child sexual exploitation charges. United States v. Brownlee, 3:CR-10-176. Brownlee's complaint names various federal probation officers as defendants. To the extent that Brownlee hopes to premise claims against these probation officers based upon actions taken at the court's direction in these revocation proceedings, these claims also likely fail as a matter of law. These probation officers would be cloaked in immunity from civil liability for their roles in these judicial proceedings since they are serving as quasi-judicial officers when acting pursuant to the court's instructions. Stankowski v. Farley, 251 F. App'x 743, 746 (3d Cir. 2007).

We recognize that in civil rights cases *pro se* plaintiffs often should be afforded an opportunity to amend a complaint before the complaint is dismissed in its entirety, See Fletcher-Hardee Corp. v. Pote Concrete Contractors, 482 F.3d 247, 253 (3d Cir. 2007), unless granting further leave to amend would be futile or result in undue delay. Alston v. Parker, 363 F.3d 229, 235 (3d Cir. 2004). In this case, the plaintiff's complaint is, on its face, fundamentally flawed in multiple and profound ways which cannot be fully remedied. Since these *pro se* pleadings do not contain sufficient factual recitals to state a claim upon which relief may be granted, these allegations should be dismissed under 28 U.S.C. § 1915, and Rule 12(b)(6) of the Federal Rules of Civil Procedure. Moreover, since the factual and legal grounds proffered in support of the complaint make it clear that the plaintiffs have no right to relief, granting further leave to amend would be futile or result in undue delay. Alston v. Parker, 363 F.3d 229, 235 (3d Cir. 2004). Therefore it is recommended that this action be dismissed without further leave to amend.

III. Recommendation

Accordingly, for the foregoing reasons, the plaintiff is GRANTED leave to proceed *in forma pauperis*, but IT IS RECOMMENDED that the plaintiffs' complaint be dismissed.

The plaintiff is further placed on notice that pursuant to Local Rule 72.3:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

Submitted this 19th day of July, 2018.

S/Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge

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