In The

Supreme Court Of The United States

Krishna Mote
Petitioner

vs

Captain James Murtin,
et. al., Respondent

Petition For Writ Of Certiorari

Appendix-A

I Krishna Mote, state that the following is enclosed, the judgment of The Middle District Court, and The Third Circuit Court of Appeals Judgment.

Respectfully Submited

Krishna Mote

Krishna Mote-683-77-067
Federal Prison Camp Schuylkill
P.O. Box 670
Minersville, Pa. 17954

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-1466

KRISHNA MOTE,
Appellant

v.

CAPTAIN JAMES W. MURTIN; DETECTIVE JACK GILL;
TROOPER BARRY BRINSER; TROOPER PETER SALERNO;
TROOPER CRAIG RODRIGUES; TROOPER MATTHEW TREDOR;
TROOPER GREGORY DALEY; TROOPER POWELL; TROOPER YOWN

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. No. 3:20-cv-00092)
District Judge: Honorable Robert D. Mariani

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Pursuant to Third Circuit L.A.R. 27.4 and I.O.P. 10.6
on August 6, 2020

Before: AMBRO, GREENAWAY, JR., and BIBAS, 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) or summary action pursuant to Third Circuit L.A.R. 27.4 and I.O.P. 10.6 on August 6, 2020.

On consideration whereof, it is now hereby **ORDERED** and **ADJUDGED** by this Court that the judgment of the District Court entered February 20, 2020, be and the same

hereby is **AFFIRMED**. No costs will be taxed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/Patricia S. Dodszuweit
Clerk

Dated: August 25, 2020

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-1466

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v.

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on August 6, 2020

Before: AMBRO, GREENAWAY, JR., and BIBAS, Circuit Judges

(Opinion filed: August 25, 2020)

OPINION*

PER CURIAM

Appellant Krishna Mote, proceeding pro se and in forma pauperis, appeals from the District Court's order dismissing his complaint. Because the appeal presents no substantial question, we will summarily affirm the judgment of the District Court. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

On January 17, 2020, Mote, a Pennsylvania prisoner, filed a civil rights lawsuit claiming that on January 23, 2007, the defendants used excessive force against him, leaving him with permanent physical and mental injuries. The District Court screened the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Approving and adopting a magistrate judge's report and recommendation, the District Court dismissed Mote's complaint for failure to state a claim. Mote timely appealed.

We have jurisdiction pursuant to 28 U.S.C. § 1291, and we exercise plenary review over the District Court's dismissal of Mote's complaint. See Allah v. Seiverling, 229 F.3d 220, 223 (3d Cir. 2000). We conclude that the District Court was correct to dismiss the complaint because Mote's claims are time barred.[1] Ordinarily, the statute of limitations is an affirmative defense that must be pleaded and is subject to waiver, see Chainey v. Street,

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

[1] We therefore do not need to reach the District Court's alternative rationale, based on issue preclusion, for dismissing Mote's complaint.

523 F.3d 200, 209 (3d Cir. 2008), but untimeliness may justify sua sponte dismissal where "it is clear from the face of the complaint that there are no meritorious tolling issues, or the court has provided the plaintiff notice and an opportunity to be heard on the issue." Vasquez Arroyo v. Starks, 589 F.3d 1091, 1097 (10th Cir. 2009) (citing Abbas v. Dixon, 480 F.3d 636, 640 (2d Cir. 2007)); see also Jones v. Bock, 549 U.S. 199, 214–15 (2007) (explaining that a district court may sua sponte dismiss a prisoner complaint that is time barred).

Upon review of Mote's complaint, we are satisfied that it presents no meritorious tolling issues. The statute of limitations for a 42 U.S.C. § 1983 claim arising in Pennsylvania is two years. Kach v. Hose, 589 F.3d 626, 634 (3d Cir. 2009). The limitations period begins to run "when the plaintiff knew or should have known of the injury upon which its action is based." Sameric Corp. of Del. v. City of Philadelphia, 142 F.3d 582, 599 (3d Cir. 1998). Mote does not disagree that the limitations period began on January 23, 2007, which is the date of the underlying incident. Rather, he argues that the limitations period was somehow tolled when his previous lawsuit, which raised the same claims, was dismissed. But such an event is not a basis for tolling the limitations period. While under Pennsylvania law, filing a complaint tolls the statute of limitations, see Kach, 589 F.3d at 639 (explaining that where it would not frustrate the federal interest underpinning § 1983, we borrow the forum state's tolling principles); Zoller v. Highland Country Club, 156 A.2d 599, 600–01 (Pa. Super. Ct. 1959), it does not extend the limitations period past the entry of a valid order or judgment, see Rufo v. Bastian-Blessing Co., 218 A.2d 333, 335 (Pa. 1966).

To the extent Mote argues that his mental illness is a basis for equitable tolling, that argument is unavailing. See Seto v. Willits, 638 A.2d 258, 262 (Pa. Super. Ct. 1994)

(noting that Pennsylvania law does not allow for the tolling of a statute of limitations due to mental incapacity); see also Lake v. Arnold, 232 F.3d 360, 371 (3d Cir. 2000) (explaining that we have permitted federal equitable tolling for mental disability only where "the plaintiff's mental incompetence motivated, to some degree, the injury that he sought to remedy"). As is clear from the face of Mote's complaint, there are no other discernible grounds for excusing his untimeliness. See Vasquez Arroyo, 589 F.3d at 1097.[2]

Finally, the District Court did not err when it declined to grant Mote leave to amend his complaint. Because Mote cannot change the fact that his claims are time barred, any amendment would be futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).

For the above reasons, will affirm the judgment of the District Court.

[2] Additionally, Mote was provided with notice and an opportunity to respond by way of the Magistrate Judge's report and recommendation, which raised the statute of limitations issue, and to which Mote filed objections. See Report & Recommendation 10–13, D.C. Dkt. No. 8; Brunig v. Clark, 560 F.3d 292, 298 (5th Cir. 2009) (concluding that a magistrate judge's report and recommendation satisfied a district court's obligation to provide notice prior to the sua sponte imposition of sanctions); United States v. Bendolph, 409 F.3d 155, 168 (3d Cir. 2005) (en banc) (determining that a district court gave adequate notice prior to sua sponte dismissal when it entered an order that allowed both parties several weeks to brief the issue of untimeliness).

Exhibit (F)

KRISHNA MOTE, Plaintiff, v. CAPTAIN JAMES W. MURTIN, et al., Defendants.
UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
2008 U.S. Dist. LEXIS 52997
CIVIL NO. 4:07-CV-1571
July 11, 2008, Decided
July 11, 2008, Filed

Counsel Mr. Krishna Mote, Plaintiff, Pro se, Philadelphia, PA.

For Captain James W. Murtin, of the Pennsylvania State Police, Troop N, in his individual capacity, Defendant: Lisa W. Basial, Office of the Attorney General of Pennsylvania, Harrisburg, PA.

For Borough of Lehighton, PA, Richard Roe # I through Richard Roe # 10, who are unknown Lehighton police officers, Defendants: Robin B. Snyder, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Scranton, PA.

Judges: Judge Jones. Magistrate Judge Blewitt.

Opinion

MEMORANDUM

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

Pending before this Court is a Report (doc. 36), issued by Magistrate Judge Thomas M. Blewitt ("Magistrate Judge" or "Magistrate Judge Blewitt") on April 3, 2008, which recommends that Defendants' Motions to Dismiss (docs. 18, 23) be granted. Also pending before this Court is Plaintiff's Motion to Appoint Counsel (doc. 39), which was filed on April 21, 2008. For the reasons to follow, we will adopt the Report (doc. 36) to the extent it is consistent herewith, grant both pending Motions to Dismiss (docs. 18, 23), and deny as moot Plaintiff's Motion to Appoint Counsel (doc. 39).

PROCEDURAL HISTORY:

On August 27, 2007, Plaintiff Krishna Mote, **{2008 U.S. Dist. LEXIS 2}**through counsel, instituted the instant civil rights action pursuant to 42 U.S.C. § 1983. (*See* Rec. Doc. 1). As will be discussed more fully below, Plaintiff's action, which also includes pendent state law claims, allegedly arose out of state law enforcement officials' raid on a residence in which Plaintiff was located on January 23, 2007.

Prior to the filing of any responsive motions or pleadings, Plaintiff terminated his counsel via a letter dated November 30, 2007 (*see* doc. 14-2), and, thus, on January 7, 2008, Magistrate Judge Blewitt granted (doc. 16) a Motion for Leave to Withdraw as Counsel (doc. 14) that had been filed. Although Plaintiff sought and received several extensions of time in which to find a new attorney (*see* docs. 22, 31, 33), Plaintiff's efforts were apparently unproductive as, to date, no other attorney has entered an appearance on the docket on Plaintiff's behalf. Accordingly, since January 7, 2008, Plaintiff has been proceeding *pro se* in this action.

On January 14, 2008, Defendant Captain James W. Murtin ("Captain Murtin") filed one of the pending Motions to Dismiss (doc. 18), and on January 22, 2008, several other Defendants, the Borough of Lehighton ("the **{2008 U.S. Dist. LEXIS 3}**Borough") and Richard Roes # 1-10 ("Roe

Defendants"), filed their Motion to Dismiss (doc. 23). The Magistrate Judge's April 3, 2008 Report (doc. 36) recommends that these Motions be granted.

On April 21, 2008, Plaintiff simultaneously filed Objections to the Report (*see* doc. 38) and a Motion (*see* doc. 39) requesting the appointment of counsel.

As the periods in which further briefing as to any of these matters have now passed, all pending submissions are ripe for our disposition.

STANDARD OF REVIEW:

When objections are filed to a report of a magistrate judge, we make a *de novo* determination of those portions of the report or specified proposed findings or recommendations made by the magistrate judge to which there are objections. *See United States v. Raddatz,* 447 U.S. 667, 100 S. Ct. 2406, 65 L. Ed. 2d 424 (1980). *See also* 28 U.S.C. § 636(b)(1); Local Rule 72.3. Furthermore, district judges have wide discretion as to how they treat recommendations of a magistrate judge. *See id.* Indeed, in providing for a *de novo* review determination rather than a *de novo* hearing, Congress intended to permit whatever reliance a district judge, in the exercise of sound discretion, chooses to place on a magistrate judge's proposed findings **{2008 U.S. Dist. LEXIS 4}**and recommendations. *See id. See also Mathews v. Weber,* 423 U.S. 261, 275, 96 S. Ct. 549, 46 L. Ed. 2d 483 (1976); *Goney v. Clark,* 749 F.2d 5, 7 (3d Cir. 1984).

FACTUAL BACKGROUND: 1

In his Report and Recommendation ("Report"), Magistrate Judge Blewitt summarizes the relevant factual background of the instant action based on his reading of the parties' submissions. (Rec. Doc. 36). Although we agree with the Magistrate Judge's summary, we review briefly the most pertinent portions thereof. *See id.* at 5-7 (discussing the Complaint's averments in detail). Unless otherwise noted, the recitation herein is derived from the Report.

On January 23, 2007, while Plaintiff was visiting a residence at 178 South First Street, in Lehighton, Pennsylvania, certain members of the Special Emergency Response Team ("SERT"), named as the John Doe ("Doe Defendants") and Roe Defendants herein, allegedly **{2008 U.S. Dist. LEXIS 5}**abruptly entered the residence with weapons drawn. Plaintiff alleges that despite his compliance with all orders from the SERT, he was then forced to the ground, handcuffed behind his back, and beaten. Plaintiff also alleges that he was dragged down a flight of stairs. 2

Allegedly while still in the SERT's custody, Plaintiff was taken to two (2) different hospitals for treatment for his physical injuries. Plaintiff alleges that he remained in the second hospital for several days, and that the cost of his medical care for the injuries arising out of the above incident totals more than $ 75,000. Plaintiff further avers that he is likely to need further medical treatment in the future.

Finally, Plaintiff alleges that he was never charged with any crime with respect to the January 23, 2007 incident; however, on April 4, 2007, a thirteen (13) Count Indictment was filed in the Middle District of Pennsylvania against Plaintiff and ten (10) alleged co-conspirators. 3 *See United States v. Simelani,* No. 3:07-CR144, **{2008 U.S. Dist. LEXIS 6}**Doc. 1. In the case before the Honorable James M. Munley, Plaintiff is charged with conspiracy to distribute and possess with intent to distribute in excess of fifty (50) grams of cocaine base, in violation of 21 U.S.C. § 846; and distribution and possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1). Id. at 1-2, 4. Notably, the time period relevant to the conspiracy charge against our Plaintiff is alleged to have begun in or about January 2006, and the distribution charge allegedly arose out of an incident on January 10, 2007, just days before the incident of which Plaintiff

complains herein. *Id.*

Significantly, our careful review of the *United States v. Simelani,* No. 3:07- CR-144, docket reveals that to date, Mote has not yet had an initial appearance before Judge Munley. 4 Thus, we take judicial notice that Mote remains a fugitive with respect to said criminal action.

DISCUSSION:

In the Report, Magistrate Judge Blewitt recommends, *inter alia,* that we grant Defendants' Motions to Dismiss Plaintiff's Complaint (docs. 18, 23). In support of said recommendation, the Magistrate Judge reasons that the ground relied upon in the Motions, the fugitive disentitlement doctrine, bars the instant action. The Magistrate Judge also recommends that pursuant to Rule 4(m), we dismiss without prejudice the claims against the unidentified and unserved Doe Defendants, and that we decline to exercise jurisdiction over the pendent state claims.

In his post-Report submissions (*see* **{2008 U.S. Dist. LEXIS 8}**docs. 38-40), Plaintiff appears to both object to the Report and request the appointment of counsel. However, none of the arguments raised, authorities cited, or appended documents raise a legitimate ground upon which to reject the Report or the Magistrate Judge's considered analysis therein. Recognizing that we must liberally construe this Plaintiff's *pro se* filings, we, nevertheless, find that his arguments and authorities amount to no more than collateral attacks on the pending criminal action. (*See, e.g.,* Rec. Docs. 38 at 4; 39 at 4; 40 at 4 (citing Federal Rule of Criminal Procedure 4(c)(4)'s provision regarding return of executed arrest warrants and inaccurately asserting that the criminal docket indicates that he has been arrested on the pending criminal charges)). Further, Attachments 1 through 7 to Defendant's latest submission (*see* doc. 40 at 9-17), which include , *e.g.,* several items of correspondence from Plaintiff's original counsel in this action, Plaintiff's complaint to the Pennsylvania State Police, and a responsive letter from the Pennsylvania State Police, are immaterial to the legal issue currently before us.

Rather, as the Magistrate Judge's Report reflects, the **{2008 U.S. Dist. LEXIS 9}**Third Circuit has acknowledged that the fugitive disentitlement doctrine, originally utilized to dismiss fugitives' criminal appeals, *see Molinaro v. New Jersey,* 396 U.S. 365, 366, 90 S. Ct. 498, 24 L. Ed. 2d 586 (1970), may be appropriately applied to fugitives' civil actions in certain circumstances. *See Marran v. Marran,* 376 F.3d 143, 149 (3d Cir. 2004) (deciding that because a party's assumed fugitive status in state proceedings had no effect on the pending appeal, the fugitive's actions were an affront to Pennsylvania state courts rather than the District Court in which the civil action was pending, and the nature of the state proceedings resulted in the fugitive also representing a child's interest, the fugitive disentitlement doctrine would not be applied in order to dismiss the assumed fugitive's appeal). In fact, subsequent to its decision in *Marran,* the Third Circuit affirmed a District Court's dismissal, with prejudice, of a fugitive's Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, action. *Maydak v. United States Dep't of Educ.,* 150 Fed. Appx. 136, 137 (3d Cir. 2005) (stating that "*Degen [v. United States,* 517 U.S. 820, 116 S. Ct. 1777, 135 L. Ed. 2d 102 (1996)], does not operate as an absolute bar to applying the fugitive disentitlement **{2008 U.S. Dist. LEXIS 10}**doctrine in a civil case on the ground that the criminal fugitive's flight operates as an affront to the dignity of the court.").

Although we recognize that the Third Circuit's opinion in *Maynak* is not precedential, our reading of the same in light of *Marran,* leads us to conclude that in this Circuit, given "the District Court's inherent authority to control the proceedings before it," *Maydak,* 150 Fed. Appx. at 138, a fugitive's civil action may be dismissed pursuant to the fugitive disentitlement doctrine if: 1) the party is a fugitive at the time of the case's dismissal; 2) "there [is] enough of a connection between [the party's] fugitive status and [the civil case] to justify application of the doctrine, *Ortega-Rodriguez [v. United States,* 507 U.S. 234, 246, 113 S. Ct. 1199, 122 L. Ed. 2d 581 (1993)]," *Maydak,* 150 Fed. Appx. at

138; 3) the party's fugitive status is an "affront to the dignity" of the same court as that in which the civil action is pending, id.; and 4) "the sanction was not excessively harsh or extreme." 5 *Id.*

Our review of the Report and relevant legal authorities lead us to agree wholeheartedly with the Magistrate Judge's recommendation that the circumstances of this action warrant dismissal based upon the fugitive disentitlement doctrine. 6 Indeed, our thorough review of the docket in *United States v. Simelani,* No. 3:07-CR-144, leads us to conclude that our Plaintiff remains a fugitive in a criminal action in this Court and that given the dates involved, the events of January 23, 2007, which are at issue in this action, certainly appear to be connected to said criminal action. Moreover, dismissal of Plaintiff's federal 7 causes of action with prejudice is not excessively harsh or extreme given that Plaintiff could, at least theoretically, see *Maydak,* 150 Fed. Appx. at 138, raise the same in the Eastern District of Pennsylvania, wherein his address on our docket places him, or whatever United States jurisdiction in which he may be now residing. In short, the circumstances before us lead **{2008 U.S. Dist. LEXIS 12}**us to conclude that our Plaintiff's fugitive status as to criminal charges pending before our Court "disentitles the [plaintiff] to call upon the resources of the Court for determination of his claims." *Molinaro,* 396 U.S. at 366.

CONCLUSION:

For all of the aforestated reasons, we will overrule Plaintiff's Objections to the Report, adopt the learned Magistrate Judge's Report to the extent it is consistent herewith, grant the Motions to Dismiss, and deny as moot Plaintiff's Motion to Appoint Counsel.

An appropriate Order closing this action shall issue on today's date.

Footnotes

1

As is required by the standard of review applicable to motions to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, *see, e.g., Phillips v. County of Allegheny,* 515 F.3d 224, 231 (3d Cir. 2008), for the purposes of our disposition herein only, we have accepted as true the averments contained within Plaintiff's Complaint.

2

Plaintiff also alleges that during this time, the Doe and Roe Defendants were shouting racial epithets at him, and that none of the Caucasians in the residence were harmed during the raid.

3

We note that in disposing of a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), courts may consider the allegations in the Complaint, exhibits attached thereto, and matters of public record. *See Pension Benefit Guar. Corp. v. White Consol. Indus.,* 998 F.2d 1192, 1196 (3d Cir. 1993). As the criminal proceedings in the above criminal case against our Plaintiff are a matter of public record, we take judicial notice of the same, rendering them appropriately considered in our determination herein. We note also that although Defendant Murtin **{2008 U.S. Dist. LEXIS 7}**has attached to his Motion a Declaration from FBI Special Agent Kevin Wevodau, we see no reason to rely upon the same as our review of the criminal docket cited above has provided all of the information needed for our disposition.

4

Accordingly, no attorney has yet entered an appearance on behalf of Mote in the criminal action.

5

Notably, in Maynak, the Third Circuit found that dismissal of the FOIA action *with prejudice* was not excessively harsh or extreme because the District Court for the District of Columbia, "having **{2008 U.S. Dist. LEXIS 11}**not been flouted, might well determine that dismissal in the Western District of Pennsylvania . . . does not operate as a bar to suit in the District of Columbia (an issue we leave to that able court)." *Id.*

6

We note that in light of our decision to dismiss this action, we will deny as moot Plaintiff's Motion to Appoint Counsel. (*See* Rec. Doc. 39). We further note that assuming *arguendo* said Motion was not mooted by our disposition herein, we would, nevertheless, conclude that in light of the relevant *Tabron* and *Gonzalez* factors and Plaintiff's *own decision* to terminate his original counsel prior to obtaining other counsel would have led us to deny the Motion on the merits. *See Tabron v. Grace,* 6 F.3d 147, 153 (3d Cir. 1993); *Gordon v. Gonzalez,* 232 Fed. Appx. 153, 2007 WL 1241583, at * 2 n.4 (3d Cir. 2007).

7

We will accept the Magistrate Judge's recommendation to decline to issue jurisdiction over Plaintiff's pendent claims, *see, e.g., United Mine Workers v. Gibbs,* 383 U.S. 715, 86 S. Ct. 1130, 16 L. Ed. 2d 218 (1966), as we are unclear as to whether the same may be dismissed with prejudice pursuant to the fugitive disentitlement doctrine. However, we will not accept the Magistrate Judge's recommendation **{2008 U.S. Dist. LEXIS 13}**to dismiss Plaintiff's claims against the Doe Defendants without prejudice pursuant to Rule 4(m) because we are confident that the fugitive disentitlement doctrine is equally applicable to the same in spite of Plaintiff's inability to identify and serve said Defendants.

Exhibit c-d

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

KRISHNA MOTE,	:	**Civil No. 3:20-CV-92**
	:	
Plaintiff	:	
	:	
v.	:	**(Judge Mariani)**
	:	
CAPTAIN JAMES MURTIN, et al.,	:	**(Magistrate Judge Carlson)**
	:	
Defendants	:	

REPORT AND RECOMMENDATION

I. Factual Background

This *pro se* complaint, which comes before us for a legally-mandated screening review, presents an unusual constellation of events. The plaintiff, Krishna Mote, is currently a federal prisoner. Mote is suing various state police officials, alleging that they used excessive force against him 13 years ago, on January 23, 2007, when they took him into custody. Mote alleges that this decade-old incident both violated his constitutional rights and rose to the level of tortious conduct in violation of state law. (Doc. 1). While Mote levels these accusations some 13 years after the events which form the gravamen of his lawsuit, he also acknowledges that he filed a lawsuit challenging this use of force in August of 2007. Mote v. Murtin, Civil No. 4:07-CV-1571. This case was dismissed in July of 2008, nearly 12 years ago. Mote then lodged an untimely appeal, which was dismissed by the court of

appeals in February of 2009, almost 11 years ago. Eight years then passed without any action on Mote's part to further litigate these claims. On September 25, 2017, Mote attempted to belatedly resurrect these long dormant legal claims by filing a self-styled motion for relief from judgment pursuant to Rule 60(b)(6). The district court rebuffed this effort on October 10, 2017, and Mote took no further action for another 15 months until he filed the instant complaint.

Along with this complaint, Mote has filed a motion for leave to proceed *in forma pauperis*. (Doc. 2). We will provisionally grant Mote leave to proceed *in forma pauperis*, but for the reasons set forth below recommend that this 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). Thus, in this case 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