E.D.N.Y. – C. Islip
21-cv-4718
Seybert, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 13th day of July, two thousand twenty-two.

Present:

Debra Ann Livingston,
Chief Judge,
José A. Cabranes,
Raymond J. Lohier, Jr.,
Circuit Judges.

Albert Coppedge,

Plaintiff-Appellant,

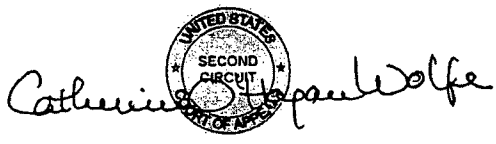
v. 22-173

New York State, et al.,

Defendants-Appellees.

Appellant, pro se, moves for in forma pauperis status and other relief, construed as a motion for summary reversal. Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because it "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see* 28 U.S.C. § 1915(e).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court



MANDATE

E.D.N.Y. – C. Islip
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Seybert, J.

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FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

A True Copy
Catherine O'Hagan Wolfe, Clerk
United States Court of Appeals, Second Circuit

MANDATE ISSUED ON 08/17/2022

General Docket

Court of Appeals, 2nd Circuit

Court of Appeals Docket #: 22-173 **Docketed:** 01/28/2022
Nature of Suit: 3550 PRISONER PET-Civil Rights **Termed:** 07/13/2022
Coppedge v. New York State
Appeal From: EDNY (CENTRAL ISLIP)
Fee Status: IFP Pending in USCA

Case Type Information:
1) Civil
2) Private
3) -

Originating Court Information:
District: 0207-2 : 21-cv-4718
Trial Judge: Joanna Seybert, U.S. District Judge
Trial Judge: Arlene R. Lindsay, U.S. Magistrate Judge
Date Filed: 08/19/2021

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
01/10/2022	01/10/2022	01/26/2022	01/28/2022

Prior Cases:
None

Current Cases:
None

Panel Assignment: Not available

Albert Coppedge,

Plaintiff – Appellant,

v.

New York State, New York State Department of Social Services, Hon. Andrew Cuomo, The Department of Social Services,

Defendants – Appellees.

01/28/2022	1	NOTICE OF CIVIL APPEAL, with district court docket, on behalf of Appellant Albert Coppedge, FILED. [3251710] [22−173] [Entered: 01/28/2022 12:23 PM]
01/28/2022	2	DISTRICT COURT JUDGMENT, dated 01/10/2022, RECEIVED.[3251719] [22−173] [Entered: 01/28/2022 12:29 PM]
01/28/2022	3	ELECTRONIC INDEX, in lieu of record, FILED.[3251722] [22−173] [Entered: 01/28/2022 12:33 PM]
01/28/2022	4	INSTRUCTIONAL FORMS, to Pro Se litigant, SENT.[3251734] [22−173] [Entered: 01/28/2022 12:55 PM]
02/11/2022	5	PAPERS, Appellant's documents raising the question of Denationalization, RECEIVED.[3261283] [22−173] [Entered: 02/15/2022 11:22 AM]
02/15/2022	7	ACKNOWLEDGMENT AND NOTICE OF APPEARANCE FORM, on behalf of Party Albert Coppedge, FILED. No Service.[3263147] [22−173] [Entered: 02/17/2022 10:31 AM]
02/15/2022	10	MOTION, to extend time, for request for writ of error, on behalf of Appellant Albert Coppedge, FILED. No Service.[3263165] [22−173] [Entered: 02/17/2022 10:44 AM]
02/16/2022	11	MOTION, for appeal of civil rights, for request for writ of error, to extend time, to proceed in forma pauperis, on behalf of Appellant Albert Coppedge, FILED. No Service.[3263178] [22−173] [Entered: 02/17/2022 10:49 AM]
02/16/2022	13	FORM D−P, on behalf of Appellant Albert Coppedge, FILED. No Service.[3263208] [22−173] [Entered: 02/17/2022 11:03 AM]
02/17/2022	8	DEFECTIVE DOCUMENT, Acknowledgment and Notice of Appearance form, [7], on behalf of Appellant Albert Coppedge, copy to pro se appellant, FILED.[3263148] [22−173] [Entered: 02/17/2022 10:32 AM]
02/17/2022	9	ORDER, dated 02/17/2022, dismissing appeal by 03/10/2022, unless Appellant Albert Coppedge , submits fee or moves for in forma pauperis,copy to pro se appellant, FILED.[3263153] [22−173] [Entered: 02/17/2022 10:35 AM]
02/17/2022	12	DEFECTIVE DOCUMENT, Motion, to extend time, for request for writ of error, [10],[10], on behalf of Appellant Albert Coppedge, copy to pro se appellant, FILED.[3263186] [22−173] [Entered: 02/17/2022 10:51 AM]
02/17/2022	14	DEFECTIVE DOCUMENT, Motion, for appeal of civil rights, for request for writ of error, to extend time, to proceed in forma pauperis, [11],[11],[11], on behalf of Appellant Albert Coppedge, copy to pro se appellant, FILED.[3263214] [22−173] [Entered: 02/17/2022 11:05 AM]
02/17/2022	15	DEFECTIVE DOCUMENT, Form D−P, [13], on behalf of Appellant Albert Coppedge, copy to pro se appellant, FILED.[3263220] [22−173] [Entered: 02/17/2022 11:10 AM]
02/25/2022	16	LETTER, on behalf of Appellee Andrew Cuomo, New York State and New York State Department of Social Services, respectfully requesting that the Court remove the New York State Office of the Attorney General as counsel and designate each defendant−appellee only as a defendant. RECEIVED. Service date 02/24/2022 by US mail.[3268045] [22−173] [Entered: 02/25/2022 04:53 PM]
02/28/2022	17	ATTORNEY, Barbara D. Underwood, for Appellee Andrew Cuomo, New York State and New York State Department of Social Services, TERMINATED.[3268232] [22−173] [Entered: 02/28/2022 09:25 AM]
03/02/2022	18	FORM D−P, on behalf of Appellant Albert Coppedge, FILED. Service date 02/24/2022 by US mail.[3270718] [22−173] [Entered: 03/03/2022 08:39 AM]

03/02/2022	19	LR 31.2 SCHEDULING NOTIFICATION, on behalf of Appellant Albert Coppedge, informing Court of proposed due date 03/29/2022, RECEIVED. Service date 02/24/2022 by US mail.[3270726] [22-173] [Entered: 03/03/2022 08:43 AM]
03/03/2022	20	CURED DEFECTIVE FORM D-P [15], [18], on behalf of Appellant Albert Coppedge, FILED.[3270728] [22-173] [Entered: 03/03/2022 08:44 AM]
03/04/2022	21	MOTION, for appeal of civil rights, for request for writ of error, to extend time, to proceed in forma pauperis, on behalf of Appellant Albert Coppedge, FILED. No Service.[3271731] [22-173] [Entered: 03/04/2022 11:13 AM]
03/04/2022	22	CURED DEFECTIVE MOTION, for appeal of civil rights, for request for writ of error, to extend time, to proceed in forma pauperis [12], [14], [21],[21],[21],[21], on behalf of Appellant Albert Coppedge, FILED.[3271734] [22-173] [Entered: 03/04/2022 11:14 AM]
03/04/2022	25	AUTHORIZATION FORM, REQUESTED.[3271897] [22-173] [Entered: 03/04/2022 12:51 PM]
03/15/2022	26	PRISON LITIGATION REFORM ACT AUTHORIZATION FORM, FILED. Service date 03/04/2022 by US mail.[3281012] [22-173] [Entered: 03/21/2022 09:02 AM]
03/21/2022	27	CERTIFIED PRISON LITIGATION REFORM ACT AUTHORIZATION FORM, dated 03/21/2022, to Suffolk County Correctional Facility, in care of warden, ISSUED.[3281024] [22-173] [Entered: 03/21/2022 09:08 AM]
03/24/2022	34	STRIKE ORDER, striking Appellant Albert Coppedge Acknowledgment and Notice of Appearance [7] from the docket, copy to pro se appellant, FILED.[3283783] [22-173] [Entered: 03/24/2022 08:53 AM]
03/24/2022	35	ORDER, dated 03/24/2022, dismissing appeal by 04/14/2022, unless Appellant Albert Coppedge , submits Acknowledgment and Notice of Appearance form,copy to pro se appellant, FILED.[3283823] [22-173] [Entered: 03/24/2022 09:14 AM]
03/28/2022	38	FIRST SUPPLEMENTAL ELECTRONIC INDEX, in lieu of record, FILED.[3286412] [22-173] [Entered: 03/28/2022 04:17 PM]
04/05/2022	39	ACKNOWLEDGMENT AND NOTICE OF APPEARANCE FORM, on behalf of Party Albert Coppedge, FILED. Service date 03/30/2022 by US mail.[3291707] [22-173] [Entered: 04/05/2022 04:11 PM]
07/13/2022	44	MOTION ORDER, denying motion to proceed in forma pauperis and other relief [21] filed by Appellant Albert Coppedge, and the appeal is dismissed, by DAL, JAC, RJL, copy to pro se Appellant, FILED. [3346867][44] [22-173] [Entered: 07/13/2022 09:28 AM]
07/13/2022	45	APPEAL, pursuant to court order, dated 07/13/2022, DISMISSED.[3346870] [22-173] [Entered: 07/13/2022 09:30 AM]
07/13/2022	46	NEW CASE MANAGER, Yenni Liu, ASSIGNED.[3346873] [22-173] [Entered: 07/13/2022 09:31 AM]
08/17/2022	48	CERTIFIED COPY OF ORDER, dated 07/13/2022, determining the appeal to EDNY, copy to pro se Appellant, ISSUED.[Mandate][3366918] [22-173] [Entered: 08/17/2022 03:08 PM]

APPEAL,IFP,PROSE

U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:21-cv-04718-JS-ARL

Coppedge v. New York State et al
Assigned to: Judge Joanna Seybert
Referred to: Magistrate Judge Arlene R. Lindsay
related Cases: 2:11-cv-00455-JS
2:21-cv-07220-JS-ARL
Cause: 28:1983 Civil Rights

Date Filed: 08/19/2021
Date Terminated: 01/10/2022
Jury Demand: Plaintiff
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Albert Coppedge

represented by **Albert Coppedge**
215953
SCC Facility
110 Center Drive
Riverhead, NY 11901
PRO SE

V.

Defendant

New York State

Defendant

New York State Department of Social Services

Defendant

Hon. Andrew Cuomo

Defendant

The Department of Social Services
Supervising/Administrator

Date Filed	#	Docket Text
08/19/2021	1	COMPLAINT against All Defendants Was the Disclosure Statement on Civil Cover Sheet completed -No,, filed by Albert Coppedge. (Attachments: # 1 Civil Cover Sheet) (Cox, Dwayne) (Main Document 1 replaced on 8/25/2021) (Cox, Dwayne). (Entered: 08/20/2021)
08/20/2021	2	NOTICE OF DEFICIENT FILING, litigant notified of deficiency(s) that **must be corrected within fourteen (14) days**. re: 1 Complaint. The papers are deficient as a filing fee of $402 is required in order to commence a civil

		action. Alternatively, you may request to waive the filing fee by completing an in forma pauperis (IFP) application. Lastly, you must also complete the Prisoner Authorization (PLRA) form. Copy mailed on 8/20/2021 (Cox, Dwayne) (Entered: 08/20/2021)
08/20/2021	3	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that ***if*** all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically **only if all** parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf. **You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent.** (Cox, Dwayne) (Entered: 08/20/2021)
08/20/2021	4	Notice of Related Case: 11-cv-455-JS **The Civil Cover Sheet filed in this civil action indicates a related case.** (Cox, Dwayne) (Entered: 08/20/2021)
08/25/2021	5	Letter from Pro Se Office to Pro Se Plaintiff Albert Coppedge providing the case number and Judge(s) assigned. All appropriate case opening documents included in mailing. CM 8/25/21. (Grady, Jessica) (Entered: 08/25/2021)
08/30/2021	6	MOTION for Leave to Proceed in forma pauperis by Albert Coppedge. (Valle, Christine) (Entered: 08/31/2021)
08/31/2021	7	Prisoner Authorization filed by Albert Coppedge. (Valle, Christine) (Entered: 08/31/2021)
09/17/2021	8	Letter from Pro Se Office to Pro Se Litigant dated 9/17/2021 Re: In response to Plaintiff's undated letter received by the Court on September 14; and to enclose a copy of the docket sheet. (Valle, Christine) (Entered: 09/17/2021)
10/13/2021	9	Letter from Pro Se Dept to Albert Coppedge returning letter dated October 7, 2021, in which it appears you are attempting to supplement your complaint. (Florio, Lisa) (Additional attachment(s) added on 10/13/2021: # 1 Pro Se letter dated October 7, 2021,) (Florio, Lisa). (Entered: 10/13/2021)
01/06/2022	10	MEMORANDUM & ORDER granting 6 Motion for Leave to Proceed in forma pauperis; ORDERED that Plaintiff's IFP application (ECF No. 6) is GRANTED; ORDERED that Plaintiff's claims are DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A and that this case is CLOSED; ORDERED that the Clerk of Court shall open a new case under a separate docket number and docket the Letter (ECF No. 1 at 6) as the complaint for Plaintiff's claims against Ruthie Elis and Judge Saladino, which is to be deemed filed as of July 6, 2021; ORDERED that, pursuant to 28 U.S.C. § 1915(a)(3), any appeal from this Order would not be taken in good faith. Therefore, in forma pauperis status is DENIED for the purpose of any appeal. ORDERED that the Clerk of the Court shall mail a copy of this Memorandum & Order to the pro se Plaintiff at his address of record and include the notation "Legal Mail" on the envelope. So Ordered by Judge Joanna Seybert on 1/6/2022. C/M (Valle, Christine) (Entered: 01/06/2022)

01/10/2022	11	CLERK'S JUDGMENT: ORDERED AND ADJUDGED that Plaintiff Albert Coppedge take nothing of Defendants New York State, New York State Department of Social Services, Honorable Andrew Cuomo, and New York State Department of Social Services Supervisor/Administrator; that Plaintiff's claims are dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A; that in forma pauperis status for the purpose of any appeal is denied; and that this case is closedOrdered by Clerk of Court on 1/10/2022 (CM to pro se plaintiff with an appeal packet). (Toritto, Jim) (Entered: 01/10/2022)
01/10/2022	12	Letter from Clerk of Court to Warden dtd 1/10/2022: Requesting copy of plaintiffs prison trust fund acct; SEE ATTACHED LETTER. (Cubano, Jazmin) (Entered: 01/10/2022)
01/11/2022	13	Notice of Related Case: 21-cv-7220-JS-ARL **The Case was directly assigned as a related Pro Se/Habeas Case.** (Cox, Dwayne) (Entered: 01/11/2022)
01/21/2022	14	Letter to Pro Se Litigant from Pro Se Office dated 1/21/2022 Re: Enclosed document is being returned without docketing or consideration for the reason (s) set forth herein. (Valle, Christine) (Entered: 01/21/2022)
01/26/2022	15	NOTICE OF APPEAL as to 11 Clerk's Judgment by Albert Coppedge. (Landow, Concetta) (Entered: 01/27/2022)
01/27/2022		IFP HAS BEEN DENIED FOR ANY APPEAL PURPOSE. APPEAL FILING FEE DUE re 15 Notice of Appeal Payment in the amount of $505.00, can be made in person to the clerks office or mailed in (Landow, Concetta) (Entered: 01/27/2022)
01/27/2022		Electronic Index to Record on Appeal sent to US Court of Appeals. 15 Notice of Appeal; Documents are available via Pacer. For docket entries without a hyperlink or for documents under seal, contact the court and we'll arrange for the document(s) to be made available to you. (Landow, Concetta) (Entered: 01/27/2022)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------X

ALBERT COPPEDGE,

Plaintiff,

- against -

NEW YORK STATE, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES, HON. ANDREW CUOMO, and THE DEPARTMENT OF SOCIAL SERVICES Supervising /Administrator,

Defendants.

----------X

JUDGMENT
CV 21-4718 (JS) (ARL)

A Memorandum and Order of Honorable Joanna Seybert, United States District Judge, having been filed on January 6, 2022, dismissing Plaintiff's claims pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A, denying *in forma pauperis* status for the purpose of any appeal, and directing the Clerk of the Court to enter judgment and mark this case closed, it is

ORDERED AND ADJUDGED that Plaintiff Albert Coppedge take nothing of Defendants New York State, New York State Department of Social Services, Honorable Andrew Cuomo, and New York State Department of Social Services Supervisor/Administrator; that Plaintiff's claims are dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A; that *in forma pauperis* status for the purpose of any appeal is denied; and that this case is closed.

Dated: January 10, 2022
Central Islip, New York

DOUGLAS C. PALMER
CLERK OF THE COURT
BY: /S/ JAMES J. TORITTO
DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X
ALBERT COPPEDGE,

Plaintiff,

-against-

MEMORANDUM & ORDER
21-CV-4718(JS)(ARL)

NEW YORK STATE, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES, HON. ANDREW CUOMO, and THE DEPARTMENT OF SOCIAL SERVICES Supervising/Administrator,

Defendants.
----------X

APPEARANCES
For Plaintiff: Albert Coppedge, pro se
215953
Suffolk County Correctional Facility
110 Center Drive
Riverhead, New York 11901

For Defendants: No appearances.

SEYBERT, District Judge:

On or around August 19, 2021, incarcerated pro se plaintiff Albert Coppedge ("Plaintiff") commenced this action by filing a complaint pursuant to 42 U.S.C. § 1983 ("Section 1983") against New York State, the New York State Department of Social Services, then-Governor Andrew Cuomo, and an unidentified supervisor or administrator at the Department of Social Services (collectively, "Defendants"). (Compl., ECF No. 1.) Plaintiff did not file an application to proceed in forma pauperis ("IFP") nor remit the filing fee with his Complaint. By Notice of Deficiency dated August 20, 2021, Plaintiff was instructed to complete an IFP

application and a Prisoner Authorization form pursuant to the Prison Litigation Reform Act ("PLRA") within fourteen (14) days. (Notice of Deficiency, ECF No. 2.) Plaintiff timely filed an IFP application and PLRA form. (IFP App., ECF No. 6; PLRA Form, ECF No. 7.) For the reasons that follow, Plaintiff's IFP application is GRANTED; however, the Complaint is DISMISSED without prejudice.

BACKGROUND

Despite the brevity of Plaintiff's Complaint, which was submitted on the Court's form complaint for civil rights actions pursuant to Section 1983, it is incomprehensible and non-sensical. (See generally Compl.) In its entirety, Plaintiff alleges:[1]

> First claim is against Governor Andrew Cuomo of New York State. By which the certificate of live birth proves unlawful and assumable jurisdiction, under seal of New York State, this document forges denaturalization a federal crime. Pursuant the 13th amendment which abolished slavery and its names (Negro, black, colored etc.) Plaintiff is Moorish-American non-14th Amendment person (commercial property). Date 4/17/74.
>
> Second claim/complaint, is against the Department of Social Services, for allowing Mr. Celus Coppedge via the Suffolk County Family courts to adopt I the plaintiff Albert R. Gordon - El Ex rel, without having any proof of Birth, of consanguinity. C. 4/17/84.

(Id. ¶ IV.) In the space on the form Complaint that calls for a description of any injuries suffered and/or any medical treatment needed and/or received, Plaintiff responded:

[1] Excerpts from the Complaint are reproduced here exactly as they appear in the original. Errors in spelling, punctuation, and grammar have not been corrected or noted.

> Mental anguish, was treated and diagnosed as needing psychiatric treatment via the Department of Social Service Records. Thus determined to have antisocial disorder, and exempt to work.

(Id. ¶ IV.A.) For relief, Plaintiff seeks "to be compensated $90,000,000 U.S.D. and the correction of my proper status via nationality of my forefathers. Relief et al. by the crime of human trafficking." (Id. ¶ V.)

DISCUSSION

I. Plaintiff's *In Forma Pauperis* Application is Granted

The Court finds that Plaintiff is qualified by his financial status to commence this action without prepayment of the filing fees. See 28 U.S.C. § 1915(a)(1). Therefore, Plaintiff's IFP application is GRANTED.

II. Relevant Legal Standards

A. Consideration of the Complaint Under 28 U.S.C. §§ 1915, 1915A

Section 1915 requires a district court to dismiss an in forma pauperis complaint if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(B)(i)-(iii); 1915A(b). An action is frivolous as a matter of law when, inter alia, it is based on an "indisputably meritless legal theory" or when it "lacks an arguable basis in law . . . or [when] a dispositive defense clearly exists on the face of the complaint." Livingston v. Adirondack Beverage

Co., 141 F.3d 434, 437 (2d Cir. 1998). The Court is required to dismiss the action as soon as it makes such a determination. See 28 U.S.C. § 1915A; Avant v. Miranda, No. 21-CV-0974, 2021 WL 1979077, at *2 (E.D.N.Y. May 18, 2021).

Courts are obliged to construe the pleadings of a pro se plaintiff liberally and to interpret them to raise the "strongest [claims] that they suggest." Triestman v. Fed. Bureau of Prisons, 470 F.3d 471, 474 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original); Harris v. Mills, 572 F.3d 66, 72 (2d Cir. 2009). "But the 'special solicitude' in pro se cases has its limits -- to state a claim, pro se pleadings still must comply with Rule 8 of the Federal Rules of Civil Procedure, which requires a complaint to make a short and plain statement showing that the pleader is entitled to relief." Wynn v. Regus Mgmt. Grp. LLC, No. 21-CV-3503, 2021 WL 2018967, at *1 (S.D.N.Y. May 17, 2021) (quoting Triestman, 470 F.3d at 475).

B. Federal Rule of Civil Procedure 8

Rule 8 of the Federal Rules of Civil Procedure also requires that "[e]ach allegation must be simple, concise, and direct." FED. R. CIV. P. 8(d)(1). Indeed, pleadings must give "'fair notice of what the plaintiff's claim is and the grounds upon which it rests'" in order to enable the opposing party to answer and prepare for trial, and to identify the nature of the case. Dura Pharms., Inc. v. Broudo, 544 U.S. 336, 346 (2005)

(quoting Conley v. Gibson, 335 U.S. 41, 47 (1957), overruled in part on other grounds by Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)).

Under Rule 8, a complaint must plead sufficient facts to "state a claim to relief that is plausible on its face." Twombly, 550 U.S. at 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) (citations omitted). The plausibility standard requires "more than a sheer possibility that a defendant has acted unlawfully." Id. While "detailed factual allegations" are not required, "[a] pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.'" Id. (quoting Twombly, 550 U.S. at 557). Further, a pleading that only "tenders naked assertion[s] devoid of further factual enhancement" will not suffice. Iqbal, 556 U.S. at 678 (internal quotation marks and citation omitted). And a court may dismiss a complaint that is "so confused, ambiguous, vague or otherwise unintelligible that its true substance, if any, is well disguised." Salahuddin v. Cuomo, 861 F.2d 40, 42 (2d Cir. 1988); Tawfik v. Georgatos, No. 20-CV-5832, 2021 WL 2953227, at *2 (E.D.N.Y. July 14, 2021)(Seybert, J.).

C. Section 1983

Section 1983 provides that:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured. . . .

42 U.S.C. § 1983. To state a claim under Section 1983, a plaintiff must "allege that (1) the challenged conduct was attributable at least in part to a person who was acting under color of state law and (2) the conduct deprived the plaintiff of a right guaranteed under the Constitution of the United States." Rodriguez v. Shoprite Supermarket, No. 19-CV-6565, 2020 WL 1875291, at *2 (E.D.N.Y. Apr. 15, 2020) (internal quotation marks and citation omitted). In addition, "personal involvement of defendants in alleged constitutional deprivations is a prerequisite to an award of damages under § 1983." Brandon v. Kinter, 938 F.3d 21, 36 (2d Cir. 2019) (citation and quotations omitted). To establish personal involvement under Section 1983, the plaintiff must "plead and prove 'that each Government-official defendant, through the official's own individual actions, has violated the Constitution,'" that is, personally participated in the alleged constitutional deprivation. Tangreti v. Bachmann, 983 F.3d 609, 618 (2d Cir. 2020) (quoting Iqbal, 556 U.S. at 675).

III. Application of 28 U.S.C. §§ 1915, 1915A

Applying these standards to Plaintiff's Complaint, even with the special solicitude afforded to pro se pleadings, it is readily apparent that Plaintiff's claims must be dismissed.

First, to the extent Plaintiff asserts any claims against the State of New York, "[i]t is well established that 'New York State has not waived its sovereign immunity from Section 1983 claims.'" Harrison v. New York, 95 F. Supp. 3d 293, 314 (E.D.N.Y. 2015)(quoting Nolan v. Cuomo, No. 11-CV-5827, 2013 WL 168674, at *7 (E.D.N.Y. Jan. 16, 2013)); see also KM Enters., Inc. v. McDonald, 518 F. App'x 12, 13 (2d Cir. 2013) ("As a general matter, states enjoy sovereign immunity from suit in federal court, even if the claim arises under federal law." (citing U.S. Const. amend. XI)). As such, Plaintiff's claims against New York State are barred by the Eleventh Amendment.

Second, Plaintiff's claims are untimely. Pursuant to New York Law, Section 1983 claims are governed by a three-year statute of limitations. See Wheeler v. Slanovec, No. 16-CV-9065, 2019 WL 2994193, at *5 (S.D.N.Y. July 9, 2019) (instructing that federal claims pursuant to Section 1983 are governed by the applicable state's statute of limitations for persona injury torts and "federal courts in New York apply a three-year statute of limitations for personal injury actions to [Section] 1983 claims" (citations omitted)). Plaintiff indicated his first claim accrued

on April 17, 1974 and that his second claim accrued on April 17, 1984. (See Compl. at 4.) As such, the conduct giving rise to Plaintiff's claims occurred decades outside of the applicable three-year statute of limitations. In other words, Plaintiff is barred from bringing his two claims; therefore, they must be dismissed.

Third, the Court finds Plaintiff's allegations to be fanciful and delusional to the point which renders his claims baseless and frivolous. See Neitzke v. Williams, 490 U.S. 319, 327-28 (1989); see also Denton v. Hernandez, 504 U.S. 25, 33 (1992) ("[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them."); Mecca v. U.S. Gov't, 232 F. App'x 66, 67 (2d Cir. 2007) (affirming district court dismissal of complaint that was "replete with fantastic and delusional scenarios"); Samuel v. Bloomberg, No. 13-CV-6027, 2013 WL 5887545, at *1 (E.D.N.Y. Oct. 31, 2013) ("Plaintiff's allegations--even under the very liberal reading we accord pro se pleadings (and even if plaintiff himself believes them to be true)--can only be described as delusional and fantastic." (citing Denton, 504 U.S. at 33)).

Although difficult to decipher, the Court distills Plaintiff's two claims as follows: (1) that Plaintiff's birth

certificate issued by New York State is unlawful and illegally subjects him to the jurisdiction of this State, which, consequently, is a form of slavery and violates the Thirteenth Amendment of the U.S. Constitution; and (2) that the Department of Social Services committed human trafficking by facilitating the adoption of Plaintiff. "Since the complaint is devoid of any basis in law or fact, defects which cannot be cured by amendment, this frivolous action is dismissed." Samuel, 2013 WL 5887545, at *1 (citing Livingston, 141 F.3d at 437).

IV. Plaintiff's Lawsuit against Ruthie Elis and Judge Saladino

In his Complaint, Plaintiff indicates that he has another pending case in the Eastern District of New York against "Ruthie Elis and Judge Saladino" that was filed on July 6, 2021. (See Compl. at 1.) Although Plaintiff attached a letter to his Complaint in the instant action which appears to refer to the purported separate action against Ruthie Elis and Judge Saladino (hereafter, the "Letter") (see id. at 6), a search of the Court's filing system did not yield any evidence of this alleged separate action. However, in light of Plaintiff's pro se status, the Court will construe the Letter as Plaintiff's Complaint for a separate action against Ruthie Elis and Judge Saladino and directs the Clerk of Court to assign it a separate docket number. Thereafter, the Court will address it separately.

CONCLUSION

For the reasons stated, **IT IS HEREBY ORDERED** that Plaintiff's IFP application (ECF No. 6) is GRANTED; and

IT IS FURTHER ORDERED that Plaintiff's claims are DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A and that this case is CLOSED; and

IT IS FURTHER ORDERED that the Clerk of Court shall open a new case under a separate docket number and docket the Letter (ECF No. 1 at 6) as the complaint for Plaintiff's claims against Ruthie Elis and Judge Saladino, which is to be deemed filed as of July 6, 2021;

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 1915(a)(3), any appeal from this Order would not be taken in good faith. Therefore, in forma pauperis status is DENIED for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962); and

IT IS FURTHER ORDERED that the Clerk of the Court shall mail a copy of this Memorandum & Order to the pro se Plaintiff at his address of record and include the notation "Legal Mail" on the envelope.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: January 6, 2022
Central Islip, New York

22-173

Appendex B

Albert Coppedge
#215953
Suffolk County Correctional Facility
110 Center Drive
Riverhead, NY 11901

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