No. 22-_____

In the
Supreme Court of the United States

MAJOR MIKE WEBB, DOING BUSINESS AS FRIENDS FOR MIKE WEBB, ALSO KNOWN AS MAJOR MIKE WEBB FOR CONGRESS
PETITIONER-APPELLEE, *PRO SE*

V.
DEPARTMENT OF THE ARMY, *ET AL.*
RESPONDENT-APPELLEES

WEBB V. DEPARTMENT OF THE ARMY, CIVIL ACTION NO. 1:22-CV-02236-UNA, ON APPEAL, RECORD NO. 22-5292 (4TH CIRCUIT 2023)

Appendix: Table of Authorities

MAJOR MIKE WEBB, *PRO SE*
Counsel of Record
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Arlington, Virginia
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EXHIBITS

Exhibit A

U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the Clerk of the Board
1615 M Street, NW
Washington, DC [illegible]

Phone (202) 653-7200, Fax (202) 653-7130, E-Mail [illegible]

Clerk of the Board

August 16, 2022

Mike Webb
1210 S. Glebe Rd.
#40391
Arlington, VA 22204

Dear Mr. Webb:

This letter constitutes the response of the U.S. Merit Systems Protection Board ("MSPB" or "Board") to your Petition for Rulemaking, pursuant to 5 C.F.R. § 1200.4. Your petition requested that the MSPB repeal its policy authorizing the Clerk of the Board to grant a voluntary request to withdraw a petition for review (PFR Withdrawal Policy). The Board recently reevaluated this policy Although the Board considered your comments, the Board decided not to repeal the policy but instead to maintain it with minor modifications. The current policy can be found on the Board's website.*

The Administrative Procedure Act (APA) provides that "[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." 5 U.S.C. § 553(e). In interpreting this provision, the Board has defined "rule" to mean [illegible] regulation contained in 5 C.F.R. parts 1200 through 1216. 5 C.F.R. § 1200.4(a). [illegible] Withdrawal Policy, whether in its current or prior form, does not meet this definition [illegible] promulgated [illegible] a regulation in parts 1200 through 1216.

[illegible] PFR Withdrawal Policy [illegible] why it should be repealed. [illegible] The policy, however, simply allows the Clerk of the Board [illegible] from appellants who seek to *voluntarily* withdraw their petitions [illegible] appellant decides to withdraw a pending petition for review, the [illegible] *final* and the appellant can seek judicial review. If an appellant decides [illegible] a *pending petition for review*, the appellant may seek judicial review [illegible] a *final decision from the Board*. Either way, the appellant [illegible] *review rights*.

[illegible] also contend that the PFR Withdrawal Policy should have been promulgated [illegible] making or adjudication. The APA provides that [illegible] procedures

Exhibit B

See attached.

Webb v. Dep't of the Army

Decided Oct 7, 2022

Civil Action 1:22-cv-02236 (UNA)

10-07-2022

MIKE WEBB, Plaintiff, v. DEPARTMENT OF THE ARMY, et al., Defendants.

COLLEEN KOLLAR-KOTELLY UNITED STATES DISTRICT JUDGE

MEMORANDUM OPINION

COLLEEN KOLLAR-KOTELLY UNITED STATES DISTRICT JUDGE

This matter is before the Court on its initial review of plaintiff's *pro se* complaint, ECF No. 1, and application for leave to proceed *in forma pauperis* ("IFP"), ECF No. 2. The Court will grant petitioner's IFP application and dismiss the case for the reasons stated herein.

Plaintiff, a resident of Arlington, Virginia, sues the Department of the Army, the Defense Intelligence Agency, the Merit Systems Protection Board, and Axiom Corporation of Atlanta. The prolix complaint, totaling 90-pages, is difficult to follow. Plaintiff seemingly attempts to raise a variety of allegations, though how they connect to one another, or what connection they bear to the named defendants, is unclear. Plaintiff seemingly intends to bring suit for mandamus, a declaratory judgment, and compensatory and punitive damages, and he alleges intentional infliction of emotional distress, violations of the FOIA and Privacy Act, 42 U.S.C. §§ 1983, 1985, 1988, the Racketeer Influenced and Corrupt Organizations Act, the Virginia Code, the Federal Criminal Code, "the Citizenship Clause and Due Process Clause," the Establishment Clause, the Hatch Act, and he alleges other widespread conspiracies between the defendants and others. The complaint also consists of numerous vague and mostly unintelligible discussions, regarding a range of unrelated topics, including, but not limited to: COVID-19, quotes from the bible, biological *2 warfare planning, economic market analysis, "army values," and state and federal elections. Plaintiff also seemingly intends to bring this action as a whistleblower.

First, in federal courts such as this, a plaintiff "may plead and conduct their own cases personally or by counsel[.]" 28 U.S.C. § 1654. A "*pro se* plaintiff may not file a *qui tam* action." *Jones v. Jindal*, 409 Fed. App'x. 356 (D.C. Cir. 2011) (per curiam); *see also Gunn v. Credit Suisse Grp. AG*, 610 Fed. App'x 155, 157 (3d Cir. 2015) (noting that "every circuit that has [addressed the issue] is in agreement that a *pro se* litigant may not pursue a *qui tam* action on behalf of the Government.") (citing cases)); *U.S. ex rel. Szymczak v. Covenant Healthcare Sys., Inc.*, 207 Fed. App'x 731, 732 (7th Cir. 2006) ("[A] *qui tam* relator-even one with a personal bone to pick with the defendant-sues on behalf of the government and not himself. He therefore must comply with the general rule prohibiting nonlawyers from representing other litigants."). Indeed, it is well established that "*pro se* parties may not pursue [*qui tam*] actions on behalf of the United States." *Walker v. Nationstar Mortg. LLC*, 142 F.Supp.3d 63, 65 (D.D.C. 2015) (quoting *U.S. ex rel. Fisher v. Network Software Assocs.*, 377 F.Supp.2d 195, 196-97 (D.D.C. 2005)); *see Canen v. Wells Fargo Bank, N.A.*, 118 F.Supp.3d 164, 170 (D.D.C. 2015)

(noting that "courts in this jurisdiction consistently have held that *pro se* plaintiffs . . . are not adequately able to represent the interests of the United States") (citing cases).

Second, the complaint is mostly incomprehensible. Rule 8(a) of the Federal Rules of Civil Procedure requires a petition to contain "(1) a short and plain statement of the grounds for the court's jurisdiction [and] (2) a short and plain statement of the claim showing that the pleader is entitled to relief." Fed.R.Civ.P. 8(a); *see Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009); *Ciralsky v. CIA*, 355 F.3d 661, 668-71 (D.C. Cir. 2004). The
3 Rule 8 standard ensures that respondents *3 adequate defense and determine whether the doctrine of *res judicata* applies. *Brown v. Califano*, 75 F.R.D. 497, 498 (D.D.C. 1977). When a pleading "contains an untidy assortment of claims that are neither plainly nor concisely stated, nor meaningfully distinguished from bold conclusions, sharp harangues and personal comments [,]" it does not fulfill the requirements of Rule 8. *Jiggetts v. D.C.*, 319 F.R.D. 408, 413 (D.D.C. 2017), *aff'd sub nom. Cooper v. D.C.*, No. 17-7021, 2017 WL 5664737 (D.C. Cir. Nov. 1, 2017). "A confused and rambling narrative of charges and conclusions . . . does not comply with the requirements of Rule 8." *Cheeks v. Fort Myer Constr. Corp.*, 71 F.Supp.3d 163, 169 (D.D.C. 2014) (citation and internal quotation marks omitted). The complaint falls within this category. As presented, neither the Court nor defendants can reasonably be expected to identify plaintiff's claims, and the complaint also fails to set forth allegations with respect to this Court's jurisdiction over his entitlement to relief, if any.

For all of these reasons, the case is dismissed without prejudice. A separate order accompanies this memorandum opinion.

Exhibit C

See attached.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-5292 **September Term, 2022**

1:22-cv-02236-UNA

Filed On: March 20, 2023

Mike Webb, Major, doing business as Friends for Mike Webb, also known as Major Mike Webb for Congress,

Appellant

v.

Department of the Army, et al.,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Wilkins and Rao, Circuit Judges, and Sentelle, Senior Circuit Judge

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's October 7, 2022 order be affirmed. Appellant has not shown that the district court abused its discretion in dismissing the complaint and case without prejudice for failure to comply with the pleading standard of Federal Rule of Civil Procedure 8(a), which requires "a short and plain statement of the of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a); see Ciralsky v. CIA, 355 F.3d 661, 668-71 (D.C. Cir. 2004).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

No. 22-5292 **September Term, 2022**

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk