

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:22-CT-3165-FL

OFFIE CURTIS BROWN, JR.,

Plaintiff,

v.

NC DEPARTMENT OF PUBLIC
SAFETY, JOE BIDEN, UNITED
STATES DEPARTMENT OF DEFENSE,
NASA, FEDERAL BUREAU OF
INVESTIGATIONS, CRAVEN COUNTY
SHERIFF'S DEPARTMENT, CENTRAL
PRISON, MAURY CORRECTIONAL
INSTITUTION, CHERRY HOSPITAL,
NEW BERN POLICE DEPARTMENT,
STATE OF NORTH CAROLINA,
DORTHEA DIX HOSPITAL, and
CRAVEN COUNTY JAIL,

Defendants.¹

ORDER

Plaintiff, a civil committee proceeding pro se, commenced the instant civil rights action by filing a complaint asserting claims for violations of his civil rights pursuant to 42 U.S.C. § 1983. The matter is before the court for initial review of plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). Also before the court are plaintiff's motions to amend (DE 6, 8, 10, 12, 13, 14), proceed without prepayment of fees (DE 5), and appoint counsel (DE 9, 11).

¹ Plaintiff's numerous motions to amend the complaint names additional defendants and seek to dismiss defendant "United States State Department." Thus, the court has constructively amended case caption. The court will direct the clerk to amend the docket to reflect the addition of these defendants.

granted. 28 U.S.C. § 1915(e)(2)(B). A complaint may be found frivolous because of either legal or factual deficiencies. First, a complaint is frivolous where “it lacks an arguable basis . . . in law.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). Legally frivolous claims are based on an “indisputably meritless legal theory” and include “claims of infringement of a legal interest which clearly does not exist.” Adams v. Rice, 40 F.3d 72, 75 (4th Cir. 1994) (quoting Neitzke, 490 U.S. at 327). Under this standard, complaints may be dismissed for failure to state a claim cognizable in law, although frivolity is a more lenient standard than that for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Neitzke, 490 U.S. at 328. Second, a complaint may be frivolous where it “lacks an arguable basis . . . in fact.” Id. at 325. Section 1915 permits federal courts “to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” See Denton v. Hernandez, 504 U.S. 25, 32 (1992) (citing Neitzke, 490 U.S. at 327).

To state a claim on which relief may be granted, the complaint must contain “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “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.” Id. In evaluating whether a claim is stated, “[the] court accepts all well-pled facts as true and construes these facts in the light most favorable to the plaintiff,” but does not consider “legal conclusions, elements of a cause of action, . . . bare assertions devoid of further factual enhancement[,] . . . unwarranted inferences, unreasonable conclusions, or arguments.” Nemet Chevrolet, Ltd. v. ConsumerAffairs.com, Inc., 591 F.3d 250, 255 (4th Cir. 2009) (citations

Plaintiff's remaining allegations are conclusory and devoid of factual support. The court finds these allegations fanciful, delusional, and wholly conclusory, and therefore, dismisses them pursuant to § 1915(e)(2)(B)(i). See Denton, 504 U.S. at 32-33; Neitzke, 490 U.S. at 327-28.

CONCLUSION

Based on the foregoing, plaintiff's motions to amend (DE 6, -8, 10, 12, 13, 14) and to proceed without prepayment of fees (DE 5) are GRANTED. Plaintiff's motions to appoint counsel (DE 9, 11) are DENIED. Plaintiff's action is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim. The clerk is DIRECTED to close this case and amend the caption as noted in footnote one.

SO ORDERED, this the 30th day of November, 2022.


LOUISE W. FLANAGAN
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

OFFIE CURTIS BROWN, JR.,
Plaintiff,

v.

NC DEPARTMENT OF PUBLIC SAFETY,
JOE BIDEN, UNITED STATES
DEPARTMENT OF DEFENSE, NASA,
FEDERAL BUREAU OF
INVESTIGATIONS, CRAVEN COUNTY
SHERIFF'S DEPARTMENT, CENTRAL
PRISON, MAURY CORRECTIONAL
INSTITUTION, CHERRY HOSPITAL,
NEW BERN POLICE DEPARTMENT,
STATE OF NORTH CAROLINA,
DORTHEA DIX HOSPITAL, and
CRAVEN COUNTY JAIL,
Defendants.

Judgment in a Civil Case

Case Number: 5:22-CT-3165-FL

Decision by Court.

This action came before the Honorable Louise Wood Flanagan, United States District Judge, for frivolity review pursuant to 28 U.S.C. § 1915.

IT IS ORDERED AND ADJUDGED that this action is hereby dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim.

This Judgment Filed and Entered on November 30, 2022, with service on:

Offie Curtis Brown, Jr. (via U.S. Mail)

Cherry Hospital

1401 West Ash Street

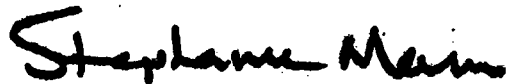
Goldsboro, NC 27530

November 30, 2022

Peter A. Moore, Jr.

Clerk of Court

By:



Deputy Clerk

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 23-6048

OFFIE CURTIS BROWN, JR.,

Plaintiff - Appellant,

v.

**NC DEPARTMENT OF PUBLIC SAFETY; JOE BIDEN; UNITED STATES
DEPARTMENT OF DEFENSE; NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION; FEDERAL BUREAU OF INVESTIGATION; CRAVEN
COUNTY SHERIFF'S DEPARTMENT; CENTRAL PRISON; MAURY
CORRECTIONAL INSTITUTION; CHERRY HOSPITAL; NEW BERN POLICE
DEPARTMENT; STATE OF NORTH CAROLINA; DORTHEA DIX HOSPITAL;
CRAVEN COUNTY JAIL,**

Defendants - Appellees.

**Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. Louise W. Flanagan, District Judge. (5:22-ct-03165-FL)**

Submitted: June 15, 2023

Decided: June 21, 2023

Before DIAZ, RICHARDSON, and HEYTENS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Offie Curtis Brown, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Offie Curtis Brown, Jr., appeals the district court's order dismissing his 42 U.S.C. § 1983 complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Brown v. N.C. Dep't of Pub. Safety*, No. 5:22-ct-03165-FL (E.D.N.C. Nov. 30, 2022). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

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