

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 23-2223

Clifford A. Gooden, III

Appellant

v.

United States of America and Ku Klux Klan, Organization

Appellees

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:23-cv-00103-SMR)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

September 19, 2023

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Appendix D

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 23-2223

Clifford A. Gooden, III

Plaintiff - Appellant

v.

United States of America; Ku Klux Klan, Organization

Defendants - Appellees

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:23-cv-00103-SMR)

JUDGMENT

Before COLLTON, KELLY, and STRAS, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a). The motions for leave to proceed in forma pauperis have been considered and are granted. The full \$505 appellate and docketing fees are assessed against the appellant. Appellant will be permitted to pay the fee by installment method contained in 28 U.S.C. sec. 1915(b)(2). The court remands the calculation of the installments and the collection of the fees to the district court.

August 18, 2023

Appendix A

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

Clifford A. Gooden, III

CIVIL NUMBER: 4:23-cv-00103-SMR-HCA

Plaintiff(s),

v.

CIVIL RIGHTS JUDGMENT (PRISONER)

United States et al

Defendant(s),

DECISION BY COURT. This action came before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

The complaint is dismissed. Judgment is entered in favor of defendants against plaintiff. Case closed.

Date: April 28, 2023

CLERK, U.S. DISTRICT COURT

/s/ B.German

By: Deputy Clerk

Appendix C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

CLIFFORD ARNELL GOODEN III,)
Plaintiff,) No. 4:23-cv-00103-SMR-HCA
v.)
UNITED STATES and KU KLUX KLAN)
ORGANIZATION,)
Defendants.)

INITIAL REVIEW ORDER

Plaintiff Clifford A. Gooden brings this pro se complaint and amended complaint under 42 U.S.C. §§ 1983, 1985, and 28 U.S.C. § 2403(a). ECF No. 1 at 1–2. Gooden also asks to proceed without prepayment of fees. ECF No. 2.

I. INITIAL REVIEW STANDARDS

The Prison Litigation Reform Act requires federal courts to review all prisoner complaints filed against a governmental entity, officer, or employee. 28 U.S.C. § 1915A(a). On review, the Court must identify the cognizable claims or dismiss the complaint, or any part of it, that it determines (a) is frivolous or malicious, (b) fails to state a claim upon which relief may be granted, or (c) seeks monetary relief from a defendant who is immune from such relief. *Id.* § 1915A(b).

A claim is “frivolous” if it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief may be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “The plausibility standard requires a plaintiff to show at the pleading stage that success on the merits is more than a ‘sheer possibility.’” *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585, 594 (8th Cir. 2009) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

Appendix B

A pro se complaint “must be held to ‘less stringent standards than formal pleading drafted by lawyers.’” *Rinehart v. Weitzell*, 964 F.3d 684, 687 (8th Cir. 2020) (quoting *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam)). The Court must weigh all factual allegations in favor of the plaintiff unless the facts alleged are clearly baseless. *See Denton v. Hernandez*, 504 U.S. 25, 33 (1992) (determining what is “clearly baseless” is left to discretion of court ruling on *in forma pauperis* petition). Although Federal Rule of Civil Procedure 8(a)(2) does not require detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678 (citation omitted). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 678–79 (citations omitted).

“To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.” *West v. Atkins*, 487 U.S. 42, 48 (1988) (citations omitted). A complaint states a plausible claim for relief when its “factual content . . . allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citation omitted).

II. DISCUSSION OF CLAIMS

Gooden asserts the original purpose of 42 U.S.C. § 1983 was to allow African American citizens the right to sue racists government officials, especially those infiltrated by the Ku Klux Klan. ECF No. 1 at 3. He notes no governmental immunity was incorporated into the language of § 1983. *Id.* at 5. He argues “unwarranted immunity laws have a tendency to promote the rule of absolute power” and “only serves to enforce injustice under a secretive Ku Klux Klan operation.”

Id. at 7. He alleges the Ku Klux Klan has “seized control of Scott County Courthouse” as evidenced in his other lawsuits. *Id.* at 12. Gooden argues these immunities are unconstitutional and interfere with his rights. *Id.* at 9. He asks the Court to abolish these immunities from § 1983 actions. *Id.* at 13.

“Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction, as this Court recognized when it adopted the doctrine, in *Bradley v. Fisher*, 13 Wall. 335 (1872).” *Pierson v. Ray*, 386 U.S. 547, 553–54 (1967). The immunity is not to protect a malicious or corrupt judge, but is “for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.” *Id.* (internal quotation omitted). There is nothing in the legislative history of § 1983 to indicate that Congress sought to “abolish wholesale” judicial or any other common-law immunities. *Id.* Gooden’s claims are without merit, and will be dismissed.

III. SUMMARY AND CONCLUSION

For the reasons given above,

IT IS ORDERED that Plaintiff Clifford A. Gooden III’s claims “lack[] an arguable basis either in law or in fact,” *Neitzke*, 490 U.S. at 325, and are **DISMISSED**. *See* 28 U.S.C. § 1915A(b) (court shall dismiss complaint on initial review if complaint is frivolous, malicious, fails to state claim or seeks monetary relief from defendant who is immune).

IT IS FURTHER ORDERED that Gooden’s request for certification and notification to all parties, ECF No. 3, is **DENIED**.

IT IS FURTHER ORDERED that Gooden’s request for permission to proceed without prepayment of fees, ECF No. 2, is **GRANTED**. Based on the information submitted, the Court assesses no initial partial filing fee. *See* 28 U.S.C. § 1915(a) (authorizing commencement of civil

action without prepayment of fees). "Notwithstanding subsection (a), if a prisoner brings a civil action . . . the prisoner shall be required to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(2). The Court therefore orders Gooden to pay the \$350.00 filing fee from his prison account in accordance with 28 U.S.C. § 1915(b). Because Gooden is proceeding in forma pauperis, he is not required to pay the \$52.00 administrative fee. A notice of this obligation shall be sent to the appropriate jail official.

IT IS SO ORDERED.

Dated this 26th day of April, 2023.

Stephanie M. Rose
STEPHANIE M. ROSE, Chief Judge
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA