

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 21 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JIMMY D. WOODS,

Plaintiff-Appellant,
and

DEPARTMENT OF VETERANS
AFFAIRS; et al.,

Plaintiffs,

v.

STATE OF ARIZONA; et al.,

Defendants-Appellees.

No. 23-15787

D.C. No. 2:23-cv-00681-DLR-DMF
District of Arizona,
Phoenix

ORDER

Before: SILVERMAN, WARDLAW, and TALLMAN, Circuit Judges.

The district court certified that this appeal is not taken in good faith and revoked appellant's in forma pauperis status. *See* 28 U.S.C. § 1915(a). On May 31, 2023, this court ordered appellant to explain in writing why this appeal should not be dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Upon a review of the record and the response to the court's May 31, 2023 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 3) and dismiss this appeal as

frivolous, pursuant to 28 U.S.C. §1915(e)(2).

All other pending motions are denied as moot.

No further filings will be entertained in this closed case.

DISMISSED.

e.g. Appendix D

1

2

3

4

5

6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

ASH

Jimmy D. Woods,

Plaintiff,

v.

United States Department of Veterans
Affairs, et al.,

Defendants.

No. CV 23-00681-PHX-DLR (DMF)

ORDER

Plaintiff Jimmy D. Woods, who is not in custody, has filed a pro se document styled as a "Motion For A Collateral Attack To Set Aside The Void Arizona Superior Court Judgment" (Doc. 1). In order to facilitate consideration of the document, the Clerk of Court has docketed it as a civil rights Complaint. Plaintiff has also filed an Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 3). The Court will dismiss this action.

I. Application to Proceed Without Prepayment of Filing Fees

Plaintiff's Application to Proceed indicates that he lacks funds to pay for this action. Accordingly, the Court will grant the Application to Proceed. 28 U.S.C. § 1915(e). Plaintiff is not required to pay the filing fees for this action.

II. Statutory Screening of In Forma Pauperis Actions

Pursuant to 28 U.S.C. § 1915(e)(2), in a case in which a plaintiff has been granted in forma pauperis status, the Court

1 shall dismiss the case at any time if the court determines that— (A) the
 2 allegation of poverty is untrue; or (B) the action or appeal— (i) is frivolous or
 3 malicious; (ii) fails to state a claim on which relief may be granted; or
 4 (iii) seeks monetary relief against a defendant who is immune from such
 5 relief.

6 28 U.S.C. § 1915(e)(2).

7 A pleading must contain a “short and plain statement of the claim *showing* that the
 8 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does
 9 not demand detailed factual allegations, “it demands more than an unadorned, the-
 10 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
 11 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
 12 conclusory statements, do not suffice.” *Id.*

13 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
 14 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
 15 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content
 16 that allows the court to draw the reasonable inference that the defendant is liable for the
 17 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for
 18 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
 19 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual
 20 allegations may be consistent with a constitutional claim, a court must assess whether there
 21 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

22 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
 23 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342
 24 (9th Cir. 2010). A “complaint [filed by a *pro se* litigant] ‘must be held to less stringent
 25 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551
 26 U.S. 89, 94 (2007) (per curiam)).

27 If the Court determines that a pleading could be cured by the allegation of other
 28 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
 29 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).
 Plaintiff’s Complaint will be dismissed for failure to state a claim, without leave to amend,

1 because the defects cannot be corrected.

2 **III. Complaint**

3 Plaintiff has on multiple prior occasions brought this same action in this court, most
4 recently in 2020. *Woods v. Arizona*, CV 20-2375-PHX-DLR; *see also Woods v. Arizona*,
5 No. CV-17-3046-PHX-DLR; *Woods v. Arizona*, No. CV-15-1341-PHX-SRB, 2015 WL
6 1293892 (D. Ariz. Oct. 15, 2015) (referencing *Woods v. State of Arizona, et al.*, CV-13-
7 02247-PHX-SRB; *Woods v. Brnovich*, CV-15-01094-PHX-DLR-MHB). Plaintiff now
8 seeks, improperly and for the sixth time, appellate relief from his state court conviction in
9 federal court.

10 As Plaintiff has been repeatedly informed, under the *Rooker-Feldman* doctrine, a
11 federal district court does not have subject matter jurisdiction to hear a direct appeal from
12 the final judgment of a state court. *Noel v. Hall*, 341 F.3d 1148, 1154-55 (9th Cir. 2003).
13 Absent subject matter jurisdiction, federal district courts lack the power to consider
14 Plaintiff's claims. *Seismic Reservoir 2020, Inc. v. Paulsson*, 785 F.3d 330, 333-34 (9th Cir.
15 2015). In 2006, Plaintiff was convicted of several counts of fraud in connection with his
16 receipt of disability benefits from the Department of Veterans Affairs in Maricopa County
17 Superior Court. (Doc. 1 at 13-15.) In 2008, Plaintiff appealed his criminal convictions to
18 the Arizona Court of Appeals and lost. Appearing pro se, Plaintiff now again alleges that
19 the State of Arizona violated his constitutional rights by prosecuting him. Plaintiff seems
20 to allege that the Court should overturn his convictions because the State of Arizona did
21 not have authority to prosecute him and the state court lacked subject matter jurisdiction.
22 The *Rooker-Feldman* doctrine, however, still applies where a plaintiff in federal court
23 claims that the state court did not have jurisdiction to render a judgment. *Doe v. Mann*,
24 415 F.3d 1038, 1043 n.6 (9th Cir. 2005); *see also Hall*, 341 F.3d at 1164 (“If a federal
25 plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks
26 relief from a state court judgment based on that decision, *Rooker-Feldman* bars subject
27 matter jurisdiction in federal district court.”). As such, the Court lacks subject matter
28 jurisdiction over the claim, and therefore is unable to provide Plaintiff any relief.

1 When dismissing a complaint under § 1915(e)(2), the court “should grant leave to
2 amend even if no request to amend the pleading was made, unless it determines that the
3 pleading could not possibly be cured by the allegation of other facts.” *Lopez*, 203 F.3d at
4 1127 (citations omitted). Here, no additional facts could cure the jurisdictional defect in
5 Plaintiff’s complaint. Dismissal therefore will be without leave to amend.

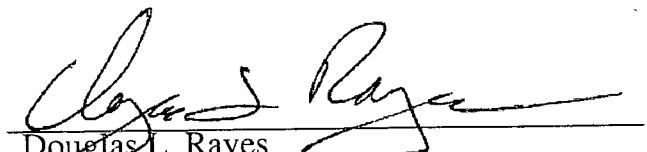
6 **IT IS ORDERED:**

7 (1) Plaintiff’s Application to Proceed in District Court Without Prepaying Fees
8 or Costs (Doc. 3) is **granted**. Plaintiff is not required to pay the fees for this action.

9 (2) The Complaint (Doc. 1) and this action are **dismissed**, and the Clerk of Court
10 must enter judgment accordingly.

11 (3) The docket shall reflect that the Court, pursuant to 28 U.S.C. § 1915(a)(3)
12 and Federal Rules of Appellate Procedure 24(a)(3)(A), has considered whether an appeal
13 of this decision would be taken in good faith and certifies that an appeal would not be taken
14 in good faith for the reasons stated in the Order and because there is no arguable factual or
15 legal basis for an appeal.

16 Dated this 9th day of May, 2023.

17
18
19
20 
21 Douglas L. Rayes
22 United States District Judge
23
24
25
26
27
28

1
2
3
4
5
IN THE UNITED STATES DISTRICT COURT
6
FOR THE DISTRICT OF ARIZONA
7

8
9 Jimmy D Woods, et al.,

NO. CV-23-00681-PHX-DLR (DMF)

10 Plaintiffs,

JUDGMENT OF DISMISSAL IN A
11 v.
12 State of Arizona, et al.,
13 Defendants.
14

15 **Decision by Court.** This action came for consideration before the Court. The
16 issues have been considered and a decision has been rendered.

17 IT IS ORDERED AND ADJUDGED that pursuant to the Court's Order filed May
18 10, 2023, judgment of dismissal is entered. Plaintiff to take nothing, and the complaint
19 and action are dismissed .

20 Debra D. Lucas

21 District Court Executive/Clerk of Court

22 May 10, 2023

23 By s/ W. Poth
24 Deputy Clerk

25

26

27

28

e.g., Appendix E.

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