

App.1a

**SUMMARY ORDER,
U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
(DECEMBER 26, 2024)**

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

No. 23-7415

HAROLD JEAN-BAPTISTE,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
MERRICK B. GARLAND, UNITED STATES
ATTORNEY GENERAL, FEDERAL BUREAU OF
INVESTIGATIONS, CHRISTOPHER WRAY,
DIRECTOR OF THE FEDERAL BUREAU OF
INVESTIGATIONS, CIVIL PROCESS CLERK FOR
THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK,

Defendants-Appellees.

No. 24-1299

HAROLD JEAN-BAPTISTE,

Plaintiff-Appellant,

v.

App.2a

UNITED STATES DEPARTMENT OF JUSTICE,
MERRICK B. GARLAND, UNITED STATES
ATTORNEY GENERAL, FEDERAL BUREAU
OF INVESTIGATION, CHRISTOPHER WRAY,
CIVIL PROCESS CLERK FOR THE UNITED
STATES ATTORNEYS OFFICE,

Defendants-Appellees.

No. 24-1546

IN RE: HAROLD JEAN-BAPTISTE
HAROLD JEAN-BAPTISTE,

Plaintiff-Appellant,

v.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK,

Defendants-Appellees.

Before: Debra ANN LIVINGSTON, Chief Judge.,
DENNIS JACOBS, GUIDO CALABRESI,
Circuit Judges.

SUMMARY ORDER

Appeal from a judgment and orders of the United States District Court for the Eastern District of New York (Chen, J.) and a judgment and order of the United States District Court for the Southern District of New York (Caproni, J.).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgments and orders of the district courts are AFFIRMED.

In these three appeals, which have been considered in tandem and consolidated for disposition, *pro se* plaintiff-appellant Harold Jean-Baptiste challenges the *sua sponte* dismissals of his complaints against the U.S. Department of Justice, the Federal Bureau of Investigation, and others in the Eastern and Southern Districts of New York. In two cases, the district courts dismissed Jean-Baptiste's complaints *sua sponte* and entered leave-to-file injunctions based on his pattern of frivolous filings. *See generally Jean-Baptiste v. U.S. Dep't of Justice*, No. 23-CV-6297 (PKC) (LB), 2023 WL 6587958 (E.D.N.Y. Oct. 10, 2023) (noting dismissal of the complaint and entering injunction); *Jean-Baptiste v. U.S. Dep't of Justice*, No. 24-CV-01152 (VEC), 2024 WL 1484200 (S.D.N.Y. Apr. 5, 2024) (dismissing complaint); Bar Order under 28 U.S.C. § 1651, *Jean-Baptiste v. U.S. Dep't of Justice*, No. 24-CV-01152 (VEC), ECF No. 8 (entering injunction). In the third, the district court denied Jean-Baptiste's motion to open a new case because his proposed complaint was filed after the imposition of the pre-filing injunction and deemed frivolous. Order, *In re Jean-Baptiste*, No. 23-mc-02683-PKC, ECF No. 3 (denying permission to file complaint). We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal which we refer to only as necessary to explain our decision to AFFIRM.

I. Dismissal of the Complaints

A district court has inherent authority to “dismiss a frivolous complaint *sua sponte* even when the plaintiff has paid the required filing fee.” *Fitzgerald v. First E. Seventh St. Tenants Corp.*, 221 F.3d 362, 364 (2d Cir. 2000) (per curiam). “An action is frivolous when either: (1) the factual contentions are clearly baseless, such as when allegations are the product of delusion or fantasy; or (2) the claim is based on an indisputably meritless legal theory.” *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (internal quotation marks and citations omitted). “[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.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

The district courts did not abuse their discretion by dismissing two of Jean-Baptiste’s complaints or otherwise err by denying Jean-Baptiste leave to proceed on the third complaint. The complaints allege that FBI agents surveilled Jean-Baptiste as he went about his daily life, contacted or posed as his romantic partners, and attempted to kidnap or assassinate him on multiple occasions in retaliation for his prior law-suits and complaints. As evidence of this conspiracy, Jean-Baptiste points to innocuous occurrences, such as the presence of a car alongside him, a driver’s refusal to honk at another car, and others staring at him in public. *See Gallop v. Cheney*, 642 F.3d 364, 368–69 (2d Cir. 2011) (affirming dismissal of claims as frivolous where plaintiff alleged conspiracy of government officials to commit terrorism but did not allege any facts demonstrating a “consistent” or “plausible”

theory). As for Jean-Baptiste’s allegation that the FBI cancelled his food stamps in retaliation for filing multiple lawsuits, the complaints plead no facts showing a connection between the FBI and the relevant state agency.

Jean-Baptiste argues that the district court erred by failing to allow him an opportunity to appear or respond before dismissing his complaint. Although we have said that “dismissing a case without an opportunity to be heard is, at a minimum bad practice,” *Catzin v. Thank You & Good Luck Corp.*, 899 F.3d 77, 82 (2d Cir. 2018), *sua sponte* dismissal can be permissible when it is “unmistakably clear” that “the complaint lacks merit or is otherwise defective,” *Snider v. Melindez*, 199 F.3d 108, 113 (2d Cir. 1999). Jean-Baptiste has a history of filing similar lawsuits and we have previously affirmed dismissals of his claims as factually frivolous. *See, e.g., Jean-Baptiste v. Almonte Food Stream Corp.*, No. 23-438, 2023 WL 7293777, at *1 (2d Cir. Nov. 6, 2023) (summary order) (affirming dismissal of complaint alleging FBI conspiracy to poison Jean-Baptiste); *Jean-Baptiste v. Westside Donut Huntington Ventures LLC*, No. 23-826-cv, 2023 WL 8015698, at *1 (2d Cir. Nov. 20, 2023) (summary order) (same). Jean-Baptiste was therefore constructively on notice that claims similar to those he has unsuccessfully advanced in the past would likewise be vulnerable to dismissal as frivolous. Under these circumstances, the district courts acted within their discretion by dismissing the complaints *sua sponte*.

II. Imposition of Leave-to-File Injunctions

Jean-Baptiste also challenges the imposition of the leave-to-file injunctions against him. We review for abuse of discretion. *Gollomp v. Spitzer*, 568 F.3d 355, 368 (2d Cir. 2009). As noted above, Jean-Baptiste has repeatedly filed claims that courts have dismissed as factually frivolous. He continues to do so despite multiple warnings that further frivolous litigation could result in sanctions. When asked to show cause why an injunction should not be entered, Jean-Baptiste reiterated many of the same frivolous allegations contained in his complaints. Based on this history of vexatious and duplicative litigation, the district courts did not abuse their discretion in imposing the pre-filing injunctions. See *Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986).

Indeed, counting the three appeals we address here, Jean-Baptiste has filed seven unsuccessful appeals in this Court that all relate in some way to the same factually frivolous allegations of a government conspiracy against him. Jean-Baptiste is warned that the continued filing of duplicative, vexatious, or clearly frivolous appeals may result in the imposition of a leave-to-file sanction that would likewise require him to obtain this Court's permission before filing any future appeals. See *In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993); *Sassower v. Sansverie*, 885 F.2d 9, 10–11 (2d Cir. 1989) (per curiam).

App.7a

* * *

We have considered Jean-Baptiste's remaining arguments and find them to be without merit. Accordingly, we AFFIRM the judgments and orders of the district courts.

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court

**ORDER, U.S. DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK
(APRIL 29, 2024)**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HAROLD JEAN-BAPTISTE,

Plaintiff,

- against -

UNITED STATES DEPARTMENT OF JUSTICE;
MERRICK B. GARLAND; FEDERAL BUREAU
OF INVESTIGATION; CHRISTOPHER WRAY;
CIVIL PROCESS CLERK FOR THE
U.S. ATTORNEY'S OFFICE,

Defendants.

No. 24-CV-1152 (VEC)

BAR ORDER UNDER 28 U.S.C. § 1651

Before: VALERIE CAPRONI, U.S. District Judge.

VALERIE CAPRONI, United States District Judge:

WHEREAS on February 14, 2024, Plaintiff filed this action *pro se*, Dkt. 1;

WHEREAS on April 4, 2024, the Court dismissed this action as frivolous and ordered Plaintiff to show cause why he should not be barred from filing further actions in this court without prior permission, regard-

less of whether he pays the filing fees or seeks leave to proceed *in forma pauperis* ("IFP"), Order to Show Cause, Dkt. 5;

WHEREAS on April 24, 2024, Plaintiff filed a motion to "Show Cause and Opposition for Dismissal and (Declaration for summary judgment Attached)," Dkts. 6-7;

WHEREAS in his response to the Order to Show Cause, Plaintiff continues to assert frivolous claims and states, in a conclusory manner, that the Court cannot "make an educated conclusion on a case without seeing or hearing the evidence" and that he "has not abuse[d]" his right to file new actions, Dkt. 6 at 1, 4;

WHEREAS a review of the Public Access to Court Electronic Records ("PACER") system shows that Plaintiff has filed upward of 45 cases in federal courts around the country, many of which are substantially similar to this complaint, *see, e.g., Jean-Baptiste v. United States Dep't of Just.*, No. 22-CV-22531, 2023 WL 9013864, at *6 (S.D. Fla. Nov. 30, 2023) (noting that Plaintiff "has flooded the federal courts with frivolous lawsuits" and "filed at least 47 separate lawsuits against the federal government, its agents and officers, and private parties that he believes have conspired with them"); and

WHEREAS three other jurisdictions have already imposed filing injunctions on Plaintiff, *see Jean-Baptiste v. United States Dep't of Just.*, No. 23-CV-2298 (D.D.C. Jan. 18, 2024) (issuing an order enjoining Plaintiff "from filing any *pro se* complaint in the United States District Court for the District of Columbia without first obtaining leave to file upon a showing

that the complaint raises new, non-frivolous matters that have not been previously adjudicated"); *Jean-Baptiste v. United States Dep't of Just.*, No. 22-CV-22531, 2023 WL 9013864, at *6 (S.D. Fla. Nov. 30, 2023) (deeming Plaintiff a "vexatious litigant" and enjoining him from filing any new action in that court alleging a government conspiracy "to monitor, surveil, or harm Plaintiff, physically or otherwise," without prior permission); *Jean-Baptiste v. United States Dep't of Just.*, No. 23-CV-6297, 2023 WL 6587958, at *2 (E.D.N.Y. Oct. 10, 2023) (enjoining Plaintiff from filing any further actions in that court, regardless of whether he pays the fees or seeks leave to proceed IFP, without first obtaining leave of court), *appeal pending* (2d Cir.).

IT IS HEREBY ORDERED that Plaintiff is enjoined from filing any complaints or initiating litigation in the Southern District of New York, regardless of whether he pays the filing fees or seeks leave to proceed IFP, unless he complies with the following conditions: No new complaint or petition may be filed unless Plaintiff first files a motion for leave to file the new complaint. That motion must include (1) a copy of this Order, (2) a copy of the proposed complaint, and (3) a one-page, double-spaced declaration in 12 pt font with 1-inch margins at both sides and the top and bottom, submitted under penalty of perjury, stating why the matter is non-frivolous and stating whether it has been the subject of previous litigation. The motion must be filed with the Court's Pro Se Intake Unit. If Plaintiff violates this Order and commences an action without first obtaining leave to do so, the action will be dismissed for failure to comply with this Order.

It is well settled that "courts may resort to restrictive measures that except from normally available pro-

App.11a

cedures litigants who have abused their litigation opportunities.” *In re Martin-Trigona*, 9 F.3d 226, 228 (2d Cir. 1993). The Second Circuit has noted that “[s]ome courts have responded to vexatious litigants by completely foreclosing the filing of designated categories of cases” and that others “have adopted the less drastic remedy of subjecting a vexatious litigant to a ‘leave of court’ requirement with respect to future filings.” *Id.* at 228. Although the Court will not at this time completely foreclose Plaintiff from filing any new lawsuits raising claims against the Federal Bureau of Investigation of the Department of Justice, Plaintiff is warned that if he continues to attempt to file frivolous lawsuits, the next step will be a complete filing injunction.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/ Valerie Caproni
U.S. District Judge

Dated: April 4, 2024
New York, New York

**ORDER,
U.S. DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK
(APRIL 4, 2024)**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HAROLD JEAN-BAPTISTE,

Plaintiff,

- against -

UNITED STATES DEPARTMENT OF JUSTICE;
MERRICK B. GARLAND; FEDERAL BUREAU
OF INVESTIGATION; CHRISTOPHER WRAY;
CIVIL PROCESS CLERK FOR THE
U.S. ATTORNEY'S OFFICE,

Defendants.

No. 24-CV-1152 (VEC)

ORDER OF DISMISSAL AND
TO SHOW CAUSE UNDER 28 U.S.C. § 1651

Before: VALERIE CAPRONI, U.S. District Judge.

VALERIE CAPRONI, United States District Judge:

Plaintiff paid the filing fees to bring this action *pro se*. The Court dismisses the complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court has the authority to dismiss a complaint, even when the plaintiff has paid the filing fee, if it determines that the action is frivolous, *Fitzgerald v. First E. Seventh Tenants Corp.*, 221 F.3d 362, 363-64 (2d Cir. 2000) (*per curiam*) (citing *Pillay v. INS*, 45 F.3d 14, 16-17 (2d Cir. 1995) (*per curiam*) (holding that Court of Appeals has inherent authority to dismiss frivolous appeal)), or that the Court lacks subject matter jurisdiction, *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). The Court is obliged, however, to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and 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).

BACKGROUND

Plaintiff filed this complaint against the following Defendants: (1) the United States Department of Justice (“DOJ”); (2) Merrick B. Garland; (3) the Federal Bureau of Investigation (“FBI”); (4) Christopher Wray; and (5) the “Civil Process Clerk for the U.S. Attorney’s Office.¹ Plaintiff brings claims under multiple criminal statutes, and he also invokes the Fourth and Fourteenth Amendments to the United States Constitution, the Electronic Privacy Act of 1986, and 42 U.S.C. §§ 1981, 1983, 1985, 1986. Plaintiff seeks declaratory and injunctive relief and money damages.

¹ Although the Court has not issued summonses, Plaintiff filed a “certificate of service” on February 26, 2024. (ECF 4.) Defendants are not required to answer the complaint.

(ECF 1 at 3.) Plaintiff alleges that Defendants have retaliated against him for filing “color of law lawsuits,” by engaging in “highly illegal actions to hurt the Plaintiff’s life,” due to “pure racism, white supremacy in the FBI, [and] unfiltered rage and evil.”² (ECF 1 at 5, 7.)

To prove this assertion, Plaintiff recounts events occurring in 2021 and 2022, in various locations and involving random individuals. For example, Plaintiff alleges that on August 1, 2021, he went to visit his aunt who was recovering from a broken leg in a Manhattan hospital. (*Id.* at 9.) After leaving the hospital, Plaintiff traveled by subway and the Long Island Railroad (“LIRR”) to Valley Stream. (*Id.*) At that train station, Plaintiff requested a cab; as he waited, he observed people coming and going from the station and waiting for taxis. (*Id.*) Plaintiff “noticed a white male and female *quido*’ demeanor, with a Brooklyn native accent walking away from” the LIRR station. (*Id.*) A driver was dispatched by Theresa (who was apparently the taxi dispatcher), but an “FBI Special Agent was the architect of this operation.” (*Id.*)

As a result of Covid, multi passengers would not be safe decision based on health advised by CDC, to put multiple people in a vehicle, this was the first red flag the Plaintiff notice. As a teenage[r] the Plaintiff worked at a Sizzle restaurant a dishwasher in Forest Hill Queens, the Plaintiff knew of many “*quido*”

² The Court quotes from the complaint verbatim. All spelling, grammar, and punctuation are as in the original unless noted otherwise.

Italian personality and organize crime people friends of the Plaintiff's co-workers at Sizzler, and their level of unsophistication, broken English languages, and mannerisms the white "*quido*" male and female were not FBI Agents, the Plaintiff believe they were mafia or organize crime. The "*quido*" white guy had a bag in his hand and the female passenger insisted she was going to sit behind the Plaintiff and the male sat on the back seat right passenger chair and the Plaintiff sat right behind the driver. While the Taxi driver started to drive, the cab driver asked if the Plaintiff had called the Taxi stand before the Plaintiff took the cab, the Plaintiff said no, that's when the plot was transparent to the Plaintiff, the driver of the cab wanted to see if the Plaintiff left a record of the Taxi request on the Plaintiff's phone, which met he knew of the plot. Taxi driver drove on the back street and the Plaintiff position himself to look at the passenger and his hand; the Plaintiff knew if something was going to happen, he was going to use his hand to pull a weapon or anything else to do harm to the Plaintiff. While the Taxi driver kept driving on the back streets of Valley Stream, the Plaintiff noticed a big van double parked on left side of the 93 Hungry Harbor Road, Valley Stream NY 11581 with the right-side sliding door of the big van open, but the driver was not moving anything out of it, and with a small space to drive on the right, and the car in front of the Taxi was a burgundy SUV that could not pass. The

Plaintiff told the driver he needed to honk to get the van to move, he said he did not want to do that, and it would be loud. Who in NYC don't use their horn to tell another vehicle to move out the way, and the space to pass was supper tight? The Plaintiff also noticed the uncomfortable nature of the white passenger next to the Plaintiff and then it hit the Plaintiff this was attempt kidnapping to end the Plaintiffs life. Then the burgundy SUV with TLC places in front of the Taxi honk and the van move to the right side, and as he parked the van to the right side, the Plaintiff look to see who was in it, and the Plaintiff noticed the driver quickly jump to the back of the van to hide his identity. At that moment the Plaintiff completely realized this was an attempt on his life.

(Id. at 10-11.)

Plaintiff recounts other allegedly suspicious events occurring in different locations on other dates in August and also on September 14, 2021, March 13, 2022, and June 23, 2022. *(Id. at 13-34.)* Attached to the complaint are four photographs that purportedly relate to the incident occurring on June 23, 2022, at the corner of 149th Avenue and Hook Creek Avenue in Rosedale, Queens. The photographs show: (1) a house with an open gate; (2) two individuals walking together wearing reflective vests; (3) a van; and (4) the street. According to Plaintiff the photographs show: (1) a home owner opening the gate for the FBI; (2) "surveillance FBI agents"; (3) "the FBI kidnap van pulling up"; and (4) the "kidnap team looking at trees." *(Id. at 31.)*

DISCUSSION

Even when read with the “special solicitude” due *pro se* pleadings, *Triestman*, 470 F.3d at 475, the allegations in Plaintiff’s complaint are insufficient plausibly to allege a violation of his rights. The Court must not dismiss a complaint simply because the set of facts presented by the plaintiff appears to be “unlikely.” *Denton*, 504 U.S. at 33. A finding of factual frivolousness is warranted, however, when the facts alleged are “clearly baseless,” “fanciful,” “fantastic,” “delusional” or wholly incredible, “whether or not there are judicially noticeable facts available to contradict them.” *Denton*, 504 U.S. at 32-33; *see Livingston*, 141 F.3d at 437.

Plaintiff’s claims are premised on his belief that law enforcement agents and agencies are conspiring with individuals with whom he either interacts or sees to violate his rights by, among other things, surveilling and tracking him, and attempting to kidnap and kill him. A “[p]laintiff’s beliefs — however strongly he may hold them — are not facts,” however. *Morren v. New York Univ.*, No. 20-CV-10802 (JPO) (OTW), 2022 WL 1666918, at *18 (S.D.N.Y. Apr. 29, 2022) (citation omitted), *report and recommendation adopted*, 2022 WL 1665013 (S.D.N.Y. May 25, 2022). Plaintiff provides no factual basis for his assertions that he has been the victim of a broad conspiracy perpetrated by law enforcement agencies and others. *See Lefkowitz v. John Wiley & Sons, Inc.*, No. 13-CV-6414 (KPF), 2014 WL 2619815, at *10 (S.D.N.Y. June 2, 2014) (complaint must set forth facts showing basis for information and belief).

Plaintiff has provided the court with allegations that he believes to be true — that he is a victim of a broad conspiracy perpetrated by Defendants to harm him — but that are implausible. Plaintiff has pleaded no factual predicate in support of his assertions; therefore, the allegations amount to conclusory claims and suspicions and must be dismissed as frivolous. *See Kraft v. City of New York*, 823 F. App'x 62, 64 (2d Cir. 2020) (holding that “the district court did not err in *sua sponte* dismissing the complaint as frivolous,” based on the plaintiff’s allegations that he had “been the subject of 24-hour, multi jurisdictional surveillance” by law enforcement “to collect his personal data and harass him”); *Khalil v. United States*, No. 17-CV-2652, 2018 WL 443343, at *4 (E.D.N.Y. Jan. 12, 2018) (dismissing complaint where “[p]laintiff allege[d] a broad conspiracy involving surveillance of and interference with his life by the United States and various government actors” because his allegations were “irrational and wholly incredible”).

There is no factual predicate or legal theory on which Plaintiff can rely to state a viable civil claim arising from these allegations and assertions. The Court, therefore, dismisses Plaintiff’s complaint as frivolous.

**LEAVE TO AMEND, LITIGATION HISTORY,
AND ORDER TO SHOW CAUSE**

In deference to Plaintiff’s *pro se* status, the Court would normally direct Plaintiff to amend his complaint, but the Court finds that the complaint cannot be cured with an amendment. Where an amendment would be futile, leave to amend is not required. *Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Sala-*

huddin v. Cuomo, 861 F.2d 40, 42 (2d Cir. 1988) (court may dismiss complaint *sua sponte* and without providing leave to amend “where the substance of the claim pleaded is frivolous on its face”).

Moreover, a review of the Public Access to Court Electronic Records (“PACER”) system shows that Plaintiff has filed upwards of 45 cases in federal district and circuit courts around the country, many of which are substantially similar to this complaint with respect to the named defendants and the nature of the claims.³ *See Jean-Baptiste v. United States Dep’t of Just.*, No. 22-CV-22531, 2023 WL 9013864, at *6 (S.D. Fla. Nov. 30, 2023) (noting that Plaintiff “has flooded the federal courts with frivolous lawsuits. He has filed at least 47 separate lawsuits against the federal government, its agents and officers, and private parties that he believes have conspired with them.”). In the majority of these prior complaints, Plaintiff names the DOJ and the FBI, and claims that the government is conspiring against him. *See, e.g., Jean-Baptiste v. United States Dep’t of Just.*, No. 22-CV-8318 (LTS), 2023 WL 2390875 at *1-2 (S.D.N.Y. Mar. 6, 2023); *Jean-Baptiste v. United States Dep’t of Just.*, No. 22-

³ *See Dwyer v. United Kingdom Gen. Commc’n’s Headquarters*, No. 22-3012, 2024 WL 259693, at *1 n.1 (2d Cir. Jan. 24, 2024) (“While our cases generally discourage . . . dismissing an action *sua sponte* without notice and opportunity to respond, *Catzin v. Thank You & Good Luck Corp.*, 899 F.3d 77, 82 (2d Cir. 2018), we have recognized exceptions for “unmistakably” defective pleadings, *id.*, and serial litigation that “reassert[s]” claims previously dismissed, *Fitzgerald v. First E. Seventh St. Tenants Corp.*, 221 F.3d 362, 363 (2d Cir. 2000). Based on [Plaintiff’s] litigation history . . . no-notice *sua sponte* dismissal was appropriate here because [Plaintiff] was on constructive notice that his claims were vulnerable to dismissal.”)

CV-1861, 2022 WL 3027010 at *1 (D.D.C. Aug. 1, 2022) (dismissing complaint for failure to comply with Rule 8, noting that Plaintiff: (1) “cites at least twenty or more statutes” without “explain[ing] the relevance of these citations”; (2) refers to FOIA requests without providing “any facts about the purported requests, such as when he submitted them and to whom”; and (3) provides “unsubstantiated hypotheses about what unidentified persons may have planned” as proof of his claims against FBI); *Jean-Baptiste v. United States Dep’t of Just.*, No. 23-CV-1897 (JPC), 2023 WL 5694526, at *4 (S.D.N.Y. Apr. 24, 2023) (dismissing claims under section 1985 and 1986 because “[n]othing in the facts alleged suggest that any individual engaged in a conspiracy to deprive Plaintiff of his federally protected rights.”), *appeal pending*, No. 23-1064 (2d Cir.); *Jean-Baptiste v. Montway LLC*, No. 22-CV-5579, 2022 WL 11213581, at *2 (E.D.N.Y. Oct. 19, 2022) (dismissing claims under section 1985 and 1986 for failure to state a claim and state law negligence claims for lack of subject matter jurisdiction).

Because of this extensive litigation history, three other jurisdictions have already imposed filing injunctions on Plaintiff. See *Jean-Baptiste v. United States Dep’t of Just.*, No. 23-CV-2298 (D.D.C. Jan. 18, 2024) (issuing an order enjoining Plaintiff “from filing any *pro se* complaint in the United States District Court for the District of Columbia without first obtaining leave to file upon a showing that the complaint raises new, non-frivolous matters that have not been previously adjudicated”); *Jean-Baptiste v. United States Dep’t of Just.*, No. 22-CV-22531, 2023 WL 9013864, at *6 (S.D. Fla. Nov. 30, 2023) (deeming Plaintiff a “vexatious litigant” and enjoining him from filing any

new action in that court alleging a government conspiracy “to monitor, surveil, or harm Plaintiff, physically or otherwise,” without prior permission); *Jean-Baptiste v. United States Dep’t of Just.*, No. 23-CV-6297, 2023 WL 6587958, at *2 (E.D.N.Y. Oct. 10, 2023) (enjoining Plaintiff from filing any further actions in that court, regardless of whether he pays the fees or seeks leave to proceed IFP, without first obtaining leave of court), *appeal pending* (2d Cir.).

Plaintiff has been warned repeatedly that he could face a similar injunction in this court if he continued to engage in further meritless litigation. *Jean-Baptiste v. Smith*, No. 23-CV-10466 (JGK), 2023 WL 8603044, at *3-4 (S.D.N.Y. Dec. 11, 2023); *Jean-Baptiste v. United States*, ECF 1:22-CV-8318, 11 (LTS) (S.D.N.Y. Mar. 6, 2023). The Court finds that Plaintiff was or should have been aware when he filed this action that the complaint asserts claims that are frivolous. *See Sledge v. Kooi*, 564 F.3d 105, 109-110 (2d Cir. 2009) (discussing circumstances where frequent *pro se* litigant may be charged with knowledge of particular legal requirements).

The Court cannot tolerate the abuse of its limited resources. Plaintiff is, therefore, ordered to show cause why he should not be barred from filing any further actions in this court without first obtaining permission from the court to file his complaint, regardless of whether he pays the filing fees or seeks leave to proceed IFP. *See Moates v. Barkley*, 147 F.3d 207, 208 (2d Cir. 1998) (per curiam) (“The unequivocal rule in this circuit is that the district court may not impose a filing injunction on a litigant *sua sponte* without providing the litigant with notice and an opportunity to be heard.”).

Not later than May 6, 2024, Plaintiff must submit to the court a declaration setting forth good cause why an injunction should not be imposed upon him. If Plaintiff fails to submit a declaration within the time directed, or if Plaintiff's declaration does not set forth good cause why such an injunction should not be entered, he will be barred from filing any further actions in this court unless he first obtains permission from this court to do so, regardless of whether he pays the fees or seeks leave to proceed IFP.

CONCLUSION

The complaint is dismissed as frivolous. By May 6, 2024, Plaintiff must show cause by declaration why an order should not be entered barring him from filing any future action in this Court without prior permission regardless of whether he pays the fees or seeks leave to proceed IFP. A declaration form is attached to this order. If Plaintiff does not show cause, or if he fails to respond to this order, the Court will enter the bar order, effective as of the date of this order.

The Court certifies, pursuant to 28 U.S.C. § 1915 (a)(3), that any appeal from this order would not be taken in good faith and, therefore, IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to keep this matter open until civil judgment is entered.

App.23a

SO ORDERED.

/s/ Valerie Caproni
U.S. District Judge

Dated: April 4, 2024
New York, New York

JUDGMENT, U.S. DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
(SIGNED OCTOBER 11,
FILED OCTOBER 12, 2023)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HAROLD JEAN-BAPTISTE,

Plaintiff,

- against -

UNITED STATES DEPARTMENT OF JUSTICE;
MERRICK B. GARLAND, ATTORNEY GENERAL
OF THE UNITED STATES; FEDERAL BUREAU OF
INVESTIGATIONS; CHRISTOPHER WRAY,
DIRECTOR OF THE FEDERAL BUREAU OF
INVESTIGATIONS; AND CIVIL PROCESS CLERK FOR
THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK,

Defendants.

No. 23-CV-6297 (PKC) (LB)

JUDGMENT

An Order of the Honorable Pamela K. Chen,
United States District Judge, having been filed on
October 10, 2023, enjoining Plaintiff from filing any
further actions in the Eastern district of New York
without first obtaining leave of the Court; certifying

pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith; and denying *in forma pauperis* status for purpose of an appeal. *See Coppedge v. United States*, 269 U.S. 438, 444-45 (1962); it is

ORDERED and ADJUDGED that the Plaintiff is enjoined from filing any further actions in the Eastern District of New York without first obtaining leave of the Court; to eliminate the need to write a decision every time Plaintiff makes a frivolous filing, the injunction shall be implemented as follows; the Clerk of Court is directed to open a miscellaneous case entitled "In re Harold Jean-Baptiste," and to file a copy of this order under that docket number; the matter is then to be administratively closed; any filings by Plaintiff shall be filed only under that miscellaneous docket number; the Court will review each filing to determine whether it is frivolous or fails to state a claim; that if it is frivolous or fails to state a claim, no further action will be taken; that if it states a claim, the Court will direct the Clerk of Court to open a new civil matter in which those documents will be filed, and it will proceed as a new case in the ordinary course; that nothing herein shall be construed to prohibit Plaintiff from filing an appeal of this Order; that pursuant to 28 U.S.C. § 1915(a)(3), any appeal would not be taken in good faith; and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 269 U.S. 438, 444-45 (1962).

Brenna B. Mahoney
Clerk of Court

App.26a

By: /s/Erin Espinal
Deputy Clerk

Dated: Brooklyn, NY
October 11, 2023

**ORDER, U.S. DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
(JUNE 26, 2024)**

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

In re HAROLD JEAN-BAPTISTE

No. 23-MC-2683 (PKC)

Before: Pamela K. CHEN, United States District Judge

ORDER

PAMELA K. CHEN, United States District Judge:

By Memorandum and Order dated October 10, 2023, Harold Jean-Baptiste (“Jean-Baptiste”) was enjoined from filing any further actions in the Eastern District of New York without first obtaining leave of Court. *See generally Jean-Baptiste v. U.S. Dep’t of Just.*, No. 23-CV-6297 (PKC) (LB), (E.D.N.Y. Oct. 10, 2023), ECF No. 9. The injunction states that the Court will review each new filing to determine whether it is frivolous or fails to state a claim. *Id.* at 3. If it is frivolous or fails to state a claim, no further action shall be taken. *Id.* If it states a claim, the Court will direct the Clerk of Court to open a new civil matter in

which those documents will be filed, and it will proceed as a new case in the ordinary course. *Id.*

On April 24, 2024, Jean-Baptiste filed the instant motion seeking leave to file a new complaint, along with a proposed complaint. (Dkt. 2.) Jean-Baptiste also submitted the \$405.00 filing fee by check.¹ As with his prior complaints, the *pro se* complaint Jean-Baptiste now seeks leave to file is frivolous.

Accordingly, Jean-Baptiste's motion for leave to file a new complaint as proposed is denied. Nothing herein shall be construed to prohibit Jean-Baptiste from filing an appeal of this Order. The Clerk of Court is directed to mail a copy of this Order to Jean-Baptiste and note the mailing on the docket. Jean-Baptiste may pick up his \$405.00 check from the Clerk of Court's office by June 6, 2024.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See *Coppedge v. United States*, 269 U.S. 438, 444–45 (1962).

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen
United States District Judge

Dated: May 6, 2024
Brooklyn, New York

¹ The Clerk of Court properly filed these submissions on the miscellaneous docket.

**CASE NO. 24-1299 – ORDER
DENYING PETITION FOR PANEL
REHEARING, U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
(FEBRUARY 13, 2025)**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

HAROLD JEAN-BAPTISTE,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
MERRICK B. GARLAND, UNITED STATES
ATTORNEY GENERAL, FEDERAL BUREAU
OF INVESTIGATION, CHRISTOPHER WRAY,
CIVIL PROCESS CLERK FOR THE UNITED
STATES ATTORNEYS OFFICE,

Defendants-Appellees.

No. 24-1299

ORDER

Appellant, Harold Jean-Baptiste, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

App.30a

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court

**CASE NO. 24-1546 – ORDER
DENYING PETITION FOR PANEL
REHEARING, U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
(FEBRUARY 13, 2025)**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

HAROLD JEAN-BAPTISTE,

Plaintiff-Appellant,

v.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK,

Defendant-Appellee.

Docket No: 24-1546

ORDER

Appellant, Harold Jean-Baptiste, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

App.32a

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court

**CASE NO. 23-7415 – ORDER
DENYING PETITION FOR PANEL
REHEARING, U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
(JANUARY 24, 2025)**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

HAROLD JEAN-BAPTISTE,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF JUSTICE,
MERRICK B. GARLAND, United States Attorney
General, FEDERAL BUREAU OF INVESTIGATIONS,
CHRISTOPHER WRAY, Director of the Federal
Bureau of Investigations, CIVIL PROCESS CLERK
FOR THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK,

Defendants-Appellees.

Docket No: 23-7415

ORDER

Appellant, Harold Jean-Baptiste, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the

App.34a

active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court

