

NO. _____

SUPREME COURT OF THE UNITED STATES

Vincent L. Hepburn,

Petitioner,

v.

The United States of America,

Respondent.

**On Petition for a Writ of Certiorari to
the United States Court of Appeals for the Tenth Circuit**

APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

SUBMITTED BY:

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Petitioner

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

VINCENT L. HEPBURN,

Plaintiff,

VS.

UNITED STATES OF AMERICA,

Defendant.

NO. CIV-24-0026-HE

ORDER

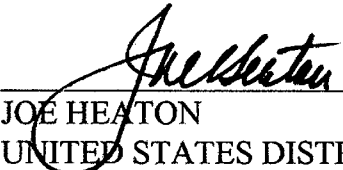
Plaintiff has filed an 885-page *pro se* complaint asserting claims against the United States under the Federal Tort Claims Act and under Oklahoma law. The purported claims appear to be based principally on alleged actions of the National Aeronautics and Space Administration. The complaint alleges plaintiff has been harmed by being subjected to false information from NASA about the Earth and its workings. It contends, among other things, that the earth is actually flat, that it is stationary rather than rotating, that theories of evolution and gravity are false, and that being exposed to false information on these and other matters have harmed the plaintiff. The allegations substantially track the allegations made in a separate case in this district asserting claims under the *qui tam* provisions of the False Claims Act. United States of America ex rel. Vincent L. Hepburn v. NASA et al., CIV-23-586-J. That case was dismissed by the court as frivolous.

As the court noted in the referenced case, district courts have the inherent power to manage their dockets and that power includes, in a proper case, the power to dismiss a case that is plainly frivolous. *Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S.

296, 307-08 (1989). That is the case here. This is a free country and plaintiff is free to believe whatever he chooses to believe about things like those referenced in his complaint. But that does not translate his alleged concerns or beliefs into serious claims against others cognizable in a court of law. As the complaint lacks any basis for an arguable, plausible claim and is clearly frivolous, the complaint and this case are **DISMISSED.**

IT IS SO ORDERED.

Dated this 17th day of January, 2024.



JOE HEATON
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

VINCENT L. HEPBURN,

Plaintiff,

VS.

UNITED STATES OF AMERICA,

Defendant.

NO. CIV-24-0026-HE

JUDGMENT

In accordance with the order entered this date, this case is **DISMISSED**.

IT IS SO ORDERED.

Dated this 17th day of January, 2024.

JOE HEATON
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

| | | |
|---------------------------|---|--------------------|
| VINCENT L. HEPBURN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | NO. CIV-24-0026-HE |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |

ORDER

On January 17, 2024, the court dismissed this case as frivolous. Plaintiff has now moved, pursuant to Federal Rule of Civil Procedure 60(b)(1),(4),(6), for relief from the court's dismissal. Rule 60(b) provides:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

* * *

(4) the judgment is void;

* * *

(6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b)(1),(4),(6).


As noted in this court's prior order, district courts have the inherent power to manage their dockets and that power includes, in a proper case, the power to dismiss a case that is plainly frivolous. Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa, 490 U.S. 296, 307-08 (1989). The court did not err when it previously found that plaintiff's complaint lacked any basis for an arguable, plausible claim, was clearly frivolous, and

should be dismissed. Contrary to plaintiff's current contention, prior to dismissing this case, the court reviewed the entirety of the complaint and considered the facts set forth therein.

Accordingly, plaintiff's Rule 60(b) Motion [Doc. #7] is **DENIED**.

IT IS SO ORDERED.

Dated this 15th day of February, 2024.



JOE HEATON
UNITED STATES DISTRICT JUDGE

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 3, 2024

**Christopher M. Wolpert
Clerk of Court**

VINCENT L. HEPBURN,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 24-6045
(D.C. No. 5:24-CV-00026-HE)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **PHILLIPS, BRISCOE, and CARSON**, Circuit Judges.

Plaintiff Vincent Hepburn, appearing pro se, appeals the district court's order dismissing his complaint as legally frivolous. Exercising jurisdiction pursuant to 28 U.S.C. § 1291, we affirm the judgment of the district court.

I

Mr. Hepburn initiated these proceedings by filing an 882-page pro se complaint against the United States. Mr. Hepburn alleged in his complaint that he

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

was proceeding under the Federal Tort Claims Act (FTCA) and “seek[ing] compensatory damages arising from the negligent and wrongful acts and omissions of employees of the United States acting” in their official capacities. R. at 7. More specifically, Mr. Hepburn alleged that employees of the National Aeronautics and Space Administration (NASA) have, since the agency’s inception, “been the spreaders of error and extremely harmful, destructive, poisonous misinformation about Earth and the workings thereof.” *Id.* at 33–34. For example, Mr. Hepburn alleged that NASA employees released “inaccurate information” about “events that never happened” such as “the Big Bang, evolution, moon landings, ISS spacewalks, [and] space exploration,” and that they “[e]stablish[ed],” “promot[ed],” “advance[ed],” and “favor[ed] the religion of heliocentrism.” *Id.* at 39. Mr. Hepburn in turn alleged that the misinformation spread by NASA employees was directly refuted by the King James version of the Bible.

Mr. Hepburn’s complaint alleged claims of negligence, “Wrongful Acts,” and “Negligent Omissions.” *Id.* at 873, 879. In his prayer for relief, Mr. Hepburn asked for injunctive relief (i.e., an order directing NASA to “cease and desist from harming” him and infringing upon his constitutional rights), declaratory relief, and an award of “economic and non-economic damages in the amount of \$29,200,000,000.00.” *Id.* at 884–85.

Shortly after Mr. Hepburn filed his complaint, the district court issued an order dismissing the complaint as frivolous. The district court noted in its order that “district courts have the inherent power to manage their dockets and that power

includes, in a proper case, the power to dismiss a case that is plainly frivolous.” *Id.* at 897 (citing *Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 307–08 (1989)). The district court stated in its order that Mr. Hepburn was “free to believe whatever he” wanted “to believe about things like those referenced in his complaint,” but that his beliefs did “not translate . . . into serious claims against others cognizable in a court of law.” *Id.* at 898. The district court also noted that the allegations in Mr. Hepburn’s complaint “substantially track[ed] the allegations made in a separate case” filed by Mr. Hepburn that asserted “claims under the qui tam provisions of the False Claims Act.” *Id.* at 897. Ultimately, the district court concluded the complaint “lack[ed] any basis for an arguable, plausible claim and [wa]s clearly frivolous.” *Id.* at 898.

After the district court entered final judgment, Mr. Hepburn filed a motion for relief from the judgment pursuant to Fed. R. Civ. P. 60(b). The district court denied that motion.

Mr. Hepburn now appeals.

II

In *Mallard*, the Supreme Court recognized that district courts have inherent authority to dismiss actions that are frivolous or malicious. *Mallard*, 490 U.S. at 307–08. The district court exercised that authority in this case. We review the district court’s dismissal for abuse of discretion. *See Fogle v. Pierson*, 435 F.3d 1252, 1259 (10th Cir. 2006). To the extent the frivolousness determination turns on

Circuit Judge
Marily Beck Buzsac

Entered for the Court

The judgment of the district court is **AFFIRMED**.

III

against the federal government.

and we are aware of none, that supports that type of legal theory in an FTCA action for legal relief against the federal government. Mr. Herburn cites to no authority, words, Mr. Herburn seeks to convert his privately held religious beliefs into claims Herburn believes is contained in the King James version of the Bible. In other employees have for years been spreading information that is contrary to what Mr. 322 (1989). Here, Mr. Herburn's claims are based on the theory that NASA "lacks an arguable basis either in law or in fact." *Meitzke v. Williams*, 490 U.S. 319, district court did not err in dismissing the complaint as frivolous. A frivolous case

After examining the entirety of Mr. Herburn's complaint, we conclude the (10th Cir. 2003).

an issue of law, our review is de novo. *Conkle v. Potter*, 322 F.3d 1333, 1332 n.4