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Appendix A Page 1

United States Court of Appeals
for the Fifth Circuit

No. 24-10614
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 11, 2024

Lyle W. Cayce
Clerk

DENNIS SHELDON BREWER,

Plaintiff—Appellant,

versus

WILLIAM BURNS, *Director, Central Intelligence Agency,*

Defendant—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:24-CV-123

Before SMITH, CLEMENT, and WILSON, *Circuit Judges.*

PER CURIAM:*

After reviewing the appellant's brief and the record, we find no reversible error. We AFFIRM. *See* 5TH CIR. R. 47.6.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

**United States Court of Appeals
for the Fifth Circuit**

No. 24-10614

United States Court of Appeals
Fifth Circuit

FILED

December 30, 2024

Lyle W. Cayce
Clerk

DENNIS SHELDON BREWER,

Plaintiff—Appellant,

versus

WILLIAM BURNS, *Director, Central Intelligence Agency,*

Defendant—Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:24-CV-123

ON PETITION FOR REHEARING EN BANC

Before SMITH, CLEMENT, and WILSON, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R. 40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 40 and 5TH CIR. R. 40), the petition for rehearing en banc is DENIED.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

DENNIS SHELDON BREWER,

Plaintiff,

v.

2:24-CV-123-Z

WILLIAM BURNS *et al.*,

Defendants.

ORDER

Before the Court are Plaintiff's *pro se* Complaint (ECF No. 3), and Motions for Leave to Proceed *In Forma Pauperis* (ECF No. 4), Motion for Permission for Electronic Case Filing (ECF No. 5), Motion to Appoint Counsel (ECF No. 6), and Motion to Certify Class (ECF No. 7) (collectively, "Motions"), all filed on June 5, 2024. Plaintiff, a resident of Edgewater, New Jersey, sues many federal officials, the New York City Police Department and several of its officials, various domestic and international entities, various individuals in their individual capacities, and an unknown number of John Does. ECF No. 3 at 1–9.

"A 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 Atl. Corp. v. Twombly*, 550 U.S. 544, 570) (2007)). A complaint that lacks "an arguable basis either in law or in fact" is frivolous. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

This Court cannot exercise subject matter jurisdiction over a frivolous complaint. 28 U.S.C. § 1915(e)(2)(B)(i); see *Hagans v. Lavine*, 415 U.S. 528, 536–37 (1974) ("Over the years this Court has repeatedly held that the federal courts are without power to entertain claims otherwise within their jurisdiction if they are 'so attenuated and unsubstantial as to be absolutely devoid of merit'")

(quoting *Newburyport Water Co. v. Newburyport*, 193 U.S. 561, 579 (1904)); see also *Tooley v. Napolitano*, 586 F.3d 1006, 1010 (D.C. Cir. 2009) (examining cases dismissed “for patent insubstantiality,” including where the plaintiff allegedly “was subjected to a campaign of surveillance and harassment deriving from uncertain origins . . .”). Courts must dismiss a complaint as frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

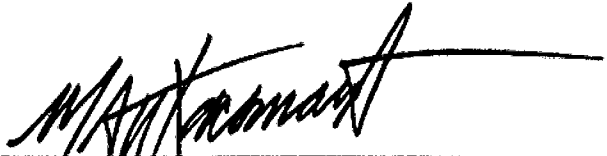
Plaintiff’s Complaint is frivolous. First, *inter alia*, it is a staggering and prolix 595 pages *without attachments*. Second, Plaintiff makes incredible accusations of an “ultrasecret government ‘mind control’ program [that] ran from 1953 until its public disclosure in 1973” promulgated by an “ultra-secret and illegal bioweapon and bioweapon delivery system.” ECF No. 3 at 40. Neither the Court nor Defendants can reasonably be expected to identify Plaintiff’s claims, and Defendants cannot be expected to prepare an answer or dispositive motion for such wide-ranging allegations.

For these reasons, and for those addressed in similar actions filed (and dismissed) in the D.C. Circuit, it is **ORDERED** that the Complaint is **DISMISSED WITHOUT PREJUDICE**. See, e.g., *Brewer v. Wray*, No. 1:22-cv-00996, 2022 WL 1597610 (D.D.C. May 16, 2022), *aff’d*, No. 22-5158, 2022 WL 4349776 (D.C. Cir. Sept. 20, 2022); see also *Brewer v. Wray*, No. 23-00415, 2023 WL 3608179 (D.D.C. Feb. 28, 2023), *aff’d*, No. 23-5062, 2023 WL 3596439 (D.C. Cir. May 23, 2023).

It is further **ORDERED** that Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 4) is **GRANTED**, while the remaining Motions are **DENIED**.

SO ORDERED.

June 6, 2024


MATTHEW J. KACSMARK
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

DENNIS SHELDON BREWER,

Plaintiff,

v.

2:24-CV-123-Z

WILLIAM BURNS *et al.*,


Defendants.

JUDGMENT

Before action came on for consideration by the Court, and the issues having been duly considered and a decision duly rendered, it is **ORDERED**, **ADJUDGED**, and **DECREED** that this lawsuit is **DISMISSED WITHOUT PREJUDICE**.

The Court renders judgment accordingly.

June 6, 2024.


MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE

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