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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

LEE MICHAEL TOMKO,

Plaintiff,

v.

BRUNO MARTIN,

Defendant.

Case No: 6:24-cv-1063-WWB-DCI

REPORT AND RECOMMENDATION

This cause comes before the Court for consideration without oral argument on the following motions:

MOTION: Plaintiff's Motion for

Clerk's Default (Doc. 7) FILED:

August 13, 2024

MOTION: Plaintiff's Motion to Dismiss (Doc. 10)

FILED: August 16, 2024

THEREON it is **RECOMMENDED** that the Motion for Clerk's Default (Doc. 7) be **DENIED** and the Motion to Dismiss (Doc. 10) be **GRANTED in part**.

Lee Michael Tomko (Plaintiff), proceeding *pro se*, initiated this case against FBI Agent Bruno Martin (Defendant) alleging a violation of his civil rights. Doc. 1. On August 13, 2024, Plaintiff filed a Motion for Clerk's Entry of Default as Defendant has not responded to the Complaint. Doc. 7. (the Motion for Default).¹ The United States has filed a Response in opposition to the Motion for Clerk's Default. Doc. 12. On August 16, 2024, the United States

¹ Plaintiff has also filed Supplements in support of the Motion for Default. Docs. 8, 9

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also filed a Motion to Dismiss brought pursuant to the Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). Doc. 10 (the Motion to Dismiss).² Plaintiff has filed a Response in opposition to the Motion to Dismiss and a Reply to the Response. Docs. 11, 13. Both the Motion for Default and Motion to Dismiss have been referred to the undersigned for consideration.

As an initial matter, the undersigned notes

that the United States and Plaintiff dispute the timeliness of the Motion to Dismiss. *See* Docs. 11 to 13. The United States contends it timely filed the Motion to Dismiss because the United States Attorney's Office for the Middle District of Florida received the Complaint on June 17, 2024. Doc. 12 at 2, n.2. The United States makes this assertion with no citation to supporting documentation and Plaintiff's "proof of service" does not resolve the issue. *See id*; Doc. 5.³ But assuming *arguendo* the Motion to Dismiss is untimely, the undersigned recommends that the Court should still consider the request for dismissal. *See Real v. City of Fort Myers*, 2018 WL 2011322, at *1 (M.D. Fla. Apr. 30, 2018) (accepting the motion to dismiss even though untimely because courts have a longstanding policy favoring the adjudication of lawsuits on the merits.).⁴

² The United States specifies that it is not a party to this action because Defendant does not exist, and the United States is moving to dismiss pursuant to 28 U.S.C. § 517. Doc. 10 at 1, n.1.

³ Plaintiff states that he "sent" a copy by certified mail on June 13, 2024. Doc. 13 at 2.

⁴ If the Court is not inclined to consider the Motion to Dismiss, the undersigned still recommends that the Complaint is subject to dismissal because it is frivolous. "A court may dismiss an action on its own, but before doing so, must provide the plaintiff with

notice of its intent to dismiss and an opportunity to respond; however, notice and an opportunity to respond is not required if ‘amending the complaint would be futile, or when the complaint is patently frivolous.’” *Barnes v. Comcast Xfinity*, 2021 WL 7448075, at *1 (M.D. Fla. Nov. 15, 2021), *report and recommendation adopted by*, 2021 WL 7448128 (M.D. Fla. Dec. 1, 2021) (quoting *Surtain v. Hamlin Terrace Found.*, 789 F.3d 1239, 1248 (11th Cir. 2015)). “Although [28 U.S.C. § 1915(e)] only applies to *in forma pauperis* proceedings, the Eleventh Circuit has additionally recognized that a district court possess ‘the inherent authority to dismiss a patently frivolous complaint’ even if a filing fee has been paid.” *Ernest James Brown Trust v. Braniff*, 2020 WL 2084772, at *1 (M.D. Fla. Apr. 30, 2020) (quoting *Cuyler*, 2012 WL 10488184, at *2); *see also Williams v. High Springs Police*

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The undersigned agrees with the United States that the case should be dismissed. It appears that Plaintiff claims that Defendant violated his Constitutional right to be free from unreasonable search and seizure and brings this action pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Specifically, Plaintiff alleges that Defendant, identified as FBI Agent Bruno Martin, “hacks [his]

computer, tries to frame [him], defames [him] to employers and friends.” Doc. 1 at 2, 4. Plaintiff states that the FBI has investigated him, but the President of the United States and Congress closed the investigation several times. *Id.* at 7. Plaintiff alleges that Defendant “is viewing and accessing [Plaintiff’s] computer and electronics that are located inside [Plaintiff’s] house.” *Id.* Plaintiff claims that when he applies for a job, Defendant “quickly starts defaming [Plaintiff] to that employer.” *Id.* Also, Defendant allegedly “attacked” a company several times to decrease the stock price after Plaintiff invested in the public stock of the company. *Id.* Plaintiff states that “[t]he government has informed [Plaintiff] of some of [Defendant’s] activities. *Id.* Plaintiff claims that the United States Congress and the White House are involved, and Defendant has tried to “physically kill [Plaintiff] several times.” *Id.* at 4. Plaintiff claims that when he left his house, Defendant “uses accomplices to harass [Plaintiff] or to try to kill [Plaintiff] in the location that [Plaintiff] go[es] to” and “[i]n one instance a loaded pistol was pointed at [Plaintiff] as [he] drove down the road.” *Id.* Plaintiff states that government employees are communicating through his computer and other electronic devices and asserts that “[t]he context of what is being communicated tells [Plaintiff] that it is mostly FBI agents, an investigator that works for the White House, and occasionally Congress people and presidents.” *Id.* at 8. For

Dep't, 2024 WL 2451282, at *1 (N.D. Fla. Apr. 16, 2024), *report and recommendation adopted by*, 2024 WL 2393020, at (N.D. Fla. May 23, 2024) (citing *Cuyler v. Aurora Loan Servs., LLC*, 2012 WL 10488184 (11th Cir. Dec. 3, 2012) (“District courts have the inherent authority to dismiss a complaint *sua sponte* prior to service even when a plaintiff has paid the filing fee.”)).

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example, Plaintiff states that “[w]hile [he is] watching TV, the person on the TV says ‘air is on max’ just as [his] air conditioning in [his] house turns on.” *Id.* at 9. Plaintiff adds allegations regarding being seated at a restaurant with an American flag decoration, advertising or images on his YouTube app related to recent events in his life, and a “front desk person” pointing with the middle finger. *Id.* at 9-11. In part, Plaintiff seeks \$2,100,000.00 in punitive damages because Defendant “tried to kill [Plaintiff] multiple times, harasses [Plaintiff] most days.” *Id.* at 5. In total, Plaintiff requests \$3,500,000 in an “electronic payment.” *Id.*

The United States moves for dismissal because Plaintiff has named a nonexistent person as the Defendant and the suit is frivolous. Doc. 10. While the United States does not make clear which arguments relate to Rule 12(b)(1) or Rule 12(b)(6), the

undersigned agrees that dismissal is appropriate because the suit is clearly baseless. "A lawsuit is frivolous if the 'plaintiff's realistic chances of ultimate success are slight.'" *Clark v. Ga. Pardons & Paroles Bd.*, 915 F.2d 636, 639 (11th Cir. 1990) (quoting *Moreland v. Wharton*, 899 F.2d 1168, 1170 (11th Cir. 1990)). The trial court must determine whether there is a factual and legal basis, of constitutional or statutory dimension, for the asserted wrong. *Id.* (citation omitted). A complaint is frivolous where it asserts factual allegations that are "clearly baseless," which, in turn, encompass allegations that are "fanciful," "fantastic," and "delusional." *Denton v. Hernandez*, 504 U.S. 25, 32-33, 112 S. Ct. 1728, 118 L. Ed. 2d 340 (1992) (quoting *Neitzke v. Williams*, 490 U.S. at 325, 327-28 (1989)).

Here, the undersigned finds that the Complaint is entirely fanciful. Plaintiff's allegations regarding Defendant's attempts to kill, defame, and harass Plaintiff with the involvement of Congress and the White House are fantastical. Plaintiff's far-fetched scenario regarding Defendant and the government is without an arguable basis in fact and is irrational and incredible. In most cases a court will provide a *pro se* litigant at least one opportunity to amend a pleading prior to a

dismissal with prejudice and closure of the case. However, since the Complaint seems wholly insubstantial and frivolous, the undersigned recommends that the Court dismiss the Complaint without leave to amend and direct the Clerk to close the case. *See Cornelius v. Bank of America, NA*, 585 F.App'x 996, 1000 (11th Cir. 2014) (finding that a court need not allow leave to amend if amendment would be futile) (citation omitted); *see also Linge v. State of Georgia, Inc.*, 569 F.App'x 895, 896 (11th Cir. 2014) (citing *Blue Cross & Blue Shield of Ala. v. Sanders*, 138 F.3d 1347, 1352 (11th Cir. 1998) (a court may dismiss a federal claim for lack of subject matter jurisdiction if the claim is “wholly insubstantial and frivolous.”); *Garner v. CIA*, 2017 WL 11025763, at *2 (M.D. Fla. June 12, 2017), *report and recommended adopted by*, 2017 WL 11025761 (M.D. Fla. July 26, 2017) (dismissing the case with prejudice because the “[t]he allegations in the [c]omplaint are ‘clearly baseless,’ ‘fanciful,’ and ‘delusional[.]’” with “no reasonable chance of success[.]”) (quoting *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992); *Carroll v. Gross*, 984 F.2d 392, 393 (11th Cir. 1993)).

Finally, with respect to the Motion for Default, there is nothing before the Court to demonstrate that Plaintiff properly served Defendant as an officer (*See* Rule 4(i)(3)), and it appears that Plaintiff cannot do so because he does not exist. In any event, if the Court agrees with the undersigned that the Complaint is due to be dismissed as frivolous, then the undersigned

recommends that the Motion for Default should also be denied.

Accordingly, it is **RECOMMENDED** that the Court:

1. **DENY** the Motion for Default (Doc. 7);
2. **GRANT in part** the Motion to Dismiss (Doc. 10) to the extent that the Complaint be dismissed as frivolous and **DENY** the remainder of the Motion to Dismiss; and
3. close the case.

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NOTICE TO PARTIES

The party has fourteen days from the date the party is served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension of the fourteen-day deadline to file written objections. 28 U.S.C. § 636(b)(1)(C). A party's failure to serve and file written objections waives that party's right to challenge on appeal any unobjected to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1).

Recommended in Orlando, Florida on
September 6, 2024.



DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
Presiding District Judge
Counsel of Record
Unrepresented Party
Courtroom Deputy

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

LEE MICHAEL TOMKO,
Plaintiff,

v.

BRUNO MARTIN,
Defendant.

Case No.: 6:24-cv-1063-WWB-DCI

ORDER

THIS CAUSE is before the Court on Plaintiff's Motion for Entry of Default by Clerk (Doc. 7) and Defendant's Motion to Dismiss (Doc. 10). United States Magistrate Judge Daniel C. Irick issued a Report and Recommendation (Doc. 15), wherein he recommends that the Motion for Entry of Default be denied; the Motion to Dismiss be granted to the extent that the Complaint (Doc. 1) be dismissed as frivolous. (Doc. 15 at 5). Plaintiff timely filed an Objection to Report and Recommendation ("**Objection**," Doc. 16).

When a party objects to a magistrate judge's findings, the district court must "make a de novo determination of those portions of the report . . . to

which objection is made.” 28 U.S.C. § 636(b)(1). The district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* The district court must consider the record and factual issues independent of the magistrate judge’s report, as de novo review is “essential to the constitutionality of [§] 636.” *Jeffrey S. v. State Bd. of Educ.*, 896 F.2d 507, 512 (11th Cir. 1990). The objecting party must state with particularity findings with which it disagrees, along with its basis for the disagreement. *Kohser v. Protective Life Corp.*, 649 F. App’x 774, 777 (11th Cir. 2016) (citing *Heath v.*

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Jones, 863 F.2d 815, 822 (11th Cir. 1989)). The court will not consider “[f]rivolous, conclusive, or general objections.” *Marsden v. Moore*, 847 F.2d 1536, 1548 (11th Cir. 1988) (citation omitted).

Plaintiff first objects insofar as Magistrate Judge Irick recommends that the Motion for Entry of Default by Clerk be denied because Plaintiff has not properly served on Defendant, who appears to be a nonexistent individual employee of the Federal Bureau of Investigation. Plaintiff insists that he made proper service by sending a copy of the complaint by certified mail. However, as Magistrate Judge Irick properly concluded, Federal Rule of Civil Procedure 4(i)(3) requires Plaintiff to serve both the Government *and* the individual defendant according

to Rule 4(e), (f), or (g). Fed. R. Civ. P. 4(i)(3). There is no evidence that Plaintiff has done so. Accordingly, Plaintiff's objection on this point will be overruled. Next, Plaintiff objects to Magistrate Judge Irick's recommendation that the Complaint (Doc. 1) be dismissed as frivolous. In doing so, however, Plaintiff merely repeats the allegations in the Complaint, without argument or citation to authority demonstrating his basis for disagreement with the Report and Recommendation. The Court will not consider such conclusive objections. *Marsden*, 847 F.2d at 1548. Accordingly, after an independent de novo review of the record, the Court agrees entirely with the analysis in the Report and Recommendation.

It is therefore ordered and adjudged as follows:

1. The Report and Recommendation (Doc. 15) is **ADOPTED** and **CONFIRMED** and made part of this Order.
2. Plaintiff's Motion for Entry of Default by Clerk (Doc. 7) is **DENIED**.

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3. Defendant's Motion to Dismiss (Doc. 10) is **GRANTED in part** as set forth in the Report and Recommendation and **DENIED** in all other respects.
4. The Complaint (Doc. 1) is **DISMISSED with prejudice**.

5. The Clerk is directed to close this case.

DONE AND ORDERED in Orlando, Florida
on September
27, 2024.



WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party

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NOT FOR PUBLICATION

**In the United States Court of Appeals
For the Eleventh Circuit**

No. 24-13353
Non-Argument Calendar

LEE MICHAEL TOMKO,
Plaintiff-Appellant,

versus

BRUNO MARTIN,
FBI Agent,
Defendant-Appellee.

Appeal from the United States District Court for the
Middle District of Florida D.C. Docket No. 6:24-cv-
01063-WWB-DCI

Before JILL PRYOR, BRASHER, and ANDERSON,
Circuit Judges.

PER CURIAM:

Lee Michael Tomko, proceeding pro se, appeals the district court's dismissal of his Bivens v. Six Unknown Named Agents of Federal

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Bureau of Narcotics, 403 U.S. 388 (1971), action alleging that a Federal Bureau of Investigation agent named Bruno Martin violated Tomko's Fourth Amendment rights by hacking his personal electronics and interfering with his life. On appeal, Tomko argues that the district court erred by (1) incorrectly applying the standard for dismissing a pro se pleading; (2) concluding that the FBI and Martin were not in default; and (3) dismissing his complaint before discovery began. After careful review of the record, we affirm.

I.

Tomko filed a Bivens complaint against agent Martin in the Middle District of Florida. He alleged that Martin had violated his Fourth Amendment rights by interfering with his stock and other investments, hacking his personal electronics, defaming him to current and potential employers, and attempting to kill him. Tomko alleged that he had personal knowledge of these Fourth Amendment violations

because he had observed people around him and his personal electronic devices behaving strangely. Specific anomalies that Tomko observed included that his computer screen glitched when people said certain signaling words, his home air conditioning switched on just after a person on the television said, “air is on max,” and waiters often seated him at restaurant tables under an American flag. Tomko believed this strange behavior indicated that Martin, the FBI, the White House, and members of Congress were hacking his devices and interfering with his life. Tomko sought \$3.5 million in damages related to career losses, unrealized stock gains, “personal security,” and punitive damages.

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A summons was issued as to Martin, and several days later Tomko filed a notice that the summons had been returned executed on the FBI Headquarters in Washington, D.C. When sixty days had passed since this self-attested date of service, Tomko filed a motion for default. The United States opposed this motion and moved to dismiss Tomko’s complaint because it was frivolous and, alternatively, failed to state a claim. The United States also attached a declaration from FBI Special Agent Cheryl Mimura asserting that no one with the name Bruno Martin had ever worked for the FBI. Tomko

responded to the United States's motion by contending that the motion to dismiss was untimely because Martin was in default, that the FBI had changed Martin's name in a coverup attempt, and that Tomko had observed more strange occurrences that bolstered the factual allegations in his complaint.

A magistrate judge issued a report and recommendation to dismiss Tomko's complaint without leave to amend because any amendment would be futile. First, the magistrate judge reasoned that Plaintiff had not provided sufficient proof that the United States was in default. Second, the magistrate judge concluded that the complaint should be dismissed because it asserted factual allegations that were clearly baseless and therefore frivolous. Third, the magistrate judge concluded that the motion for default should be denied because even if the United States had been served on the date that Tomko asserted, Tomko could not have served Martin as an officer because no one with that name had worked for the FBI.

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Tomko objected to the report and recommendation. He argued that it was biased and wrong, attached screenshots from the United States Postal Service to

establish when the summons had been delivered by certified mail, and contended that without discovery he did not know how to amend his complaint to sue the correct FBI agent.

The district court adopted the report and recommendation. In doing so, the district court responded to Tomko's objections by writing that, even if Tomko had properly served the United States, Federal Rule of Civil Procedure 4(i)(3) required Tomko to serve both the United States and Martin, and there was no evidence that Tomko had done so. The district court also wrote that Tomko's objection that his complaint was not frivolous was conclusory and repeated allegations from his complaint. Tomko appealed.

II.

We review a district court's dismissal of a complaint for frivolity under an abuse of discretion standard. *Miller v. Donald*, 541 F.3d 1091, 1100 (11th Cir. 2008). Discretion means that the district court has "a range of choice, and that its decision will not be disturbed as long as it stays within that range and is not influenced by any mistake of law." *Guideone Elite Ins. Co. v. Old Cutler Presbyterian Church, Inc.*, 420 F.3d 1317, 1324 (11th Cir. 2005) (quoting *Ameritas Variable Life Ins. Co. v. Roach*, 411 F.3d 1328, 1330 (11th Cir. 2005)). Applying this standard, we will reverse only upon finding that the district

court made “a clear error of judgment” or “applied the

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wrong legal standard.” *Rance v. Rocksolid Granit USA, Inc.*, 583 F.3d 1284, 1286 (11th Cir. 2009) (quoting *United States v. Frazier*, 387 F.3d 1244, 1259 (11th Cir. 2004) (en banc)). We review de novo a district court’s decision that a particular amendment to a complaint would be futile. *Cockrell v. Sparks*, 510 F.3d 1307, 1310 (11th Cir. 2007).

III.

Tomko makes three arguments. First, he argues that the district court failed to properly apply the deferential standard for a motion to dismiss a pro se pleading. Second, he argues that the district court erroneously determined that the FBI and Martin were not in default. Third, he argues that the district court should not have dismissed his complaint before discovery began. We address each argument in turn.

We start with Tomko’s first argument that the district court applied the incorrect legal standard when dismissing his complaint because it failed to construe his pro se pleading broadly or accept his pleaded facts as true. We disagree. A district court

may “dismiss a case under its inherent authority, which it possesses as a means of managing its own docket so as to achieve the orderly and expeditious disposition of cases.” *McNair v. Johnson*, 143 F.4th 1301, 1306 (11th Cir. 2025) (quotation marks omitted and alterations accepted) (citations omitted).

Included in that inherent authority is the power to dismiss a claim when a suit is “patently frivolous or vexatious,” so long as “the party who brought the case has been given notice and an opportunity to respond.” *Jefferson Fourteenth Assocs. v. Wometco de Puerto Rico, Inc.*, 695 F.2d 524, 526 (11th Cir. 1983).

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Tomko had notice of the United States’s motion to dismiss and was given an opportunity to respond to the argument that his complaint was frivolous, so the district court had the inherent authority to dismiss Tomko’s complaint as frivolous.

We agree with the district court’s determination that Tomko’s claims are frivolous. “A claim is frivolous if it is without arguable merit either in law or fact.” *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001) (citations omitted). A claim is not factually frivolous for being merely improbable, but it is factually frivolous only if the facts alleged are “clearly

baseless,” that is, “fanciful,” “fantastic,” or “delusional.” *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992) (citations omitted). “As those words suggest, a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible” *Id.* at 33.

Tomko argues that his allegations are not frivolous because his complaint includes multiple pages of evidence proving why his claims are real. The United States argues that Tomko’s factual allegations are fanciful, fantastic, and delusional. We agree with the United States. For example, Tomko alleges that the FBI, the White House, and members of Congress have been accessing his electronic devices to communicate with each other and signal him. Tomko also alleges that everyday people—such as restaurant servers who sat him at tables near American flags—were involved with the FBI’s attempts to harass and kill him. And Tomko alleges that the FBI caused his computer to glitch when certain signal words were said and his air conditioning to switch on after someone on

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his television said, “air is on max.” Because Tomko’s factual allegations are fanciful and irrational, we cannot say that the district court abused its

discretion in dismissing Tomko's complaint as frivolous.

Nor is there any legal basis for concluding that the district court should have granted Tomko leave to amend his complaint. "Leave to amend a complaint is futile when the complaint as amended would still be properly dismissed . . ." Cockrell, 510 F.3d at 1310. Tomko has not explained how he would amend his complaint to cure its deficiencies.

Tomko's second argument, that the district court should have determined that the FBI and Martin were in default, also fails because he raised this issue only in his reply brief and not in his initial brief. We liberally construe pro se filings, but we do not have the license to rewrite an otherwise deficient pleading to sustain an action. In re Ellingsworth Residential Cmty. Ass'n, Inc., 125 F.4th 1365, 1377 (11th Cir. 2025) (citing Jones v. Fla. Parole Comm'n, 787 F.3d 1105, 1107 (11th Cir. 2015)). "[I]ssues not briefed on appeal by a pro se litigant are deemed abandoned." Timson v. Sampson, 518 F.3d 870, 874 (11th Cir. 2008). Moreover, if an appellant does not raise an issue in an initial brief, we consider that issue abandoned. United States v. Campbell, 26 F.4th 860, 871 (11th Cir. 2022) (en banc). We will only revive an abandoned issue sua sponte in "extraordinary circumstances." Id. at 872. Tomko did not assert this default issue in his initial brief, and there are no

extraordinary circumstances here, so we decline to address this issue.

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Tomko's third argument, that the district court should not have dismissed his complaint before discovery began, is without merit. As the Supreme Court has emphasized, the pleading standard in the Federal Rules of Civil Procedure "does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions." *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009). Because Tomko's complaint is frivolous, the district court correctly determined that it was due to be dismissed before discovery began.

IV.

For the foregoing reasons, the district court's judgment is **AFFIRMED**.

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13353

LEE MICHAEL TOMKO,
Plaintiff-Appellant,

versus

BRUNO MARTIN, FBI Agent,
Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:24-cv-01063-WWB-DCI

Before JILL PRYOR, BRASHER, and ANDERSON,
Circuit Judges.

PER CURIAM:

The Petition for Panel Rehearing filed by
Appellant Lee Tomko is DENIED.

United States District Court
For the Middle District of Florida Orlando Division

Lee Michael Tomko
Plaintiff(s)

-v-

Bruno Martin
Defendant(s)

Jury Trial: Yes

**COMPLAINT FOR VIOLATION OF CIVIL
RIGHTS**
(Non-Prisoner Complaint)

I. The Parties to This Complaint

A. The Plaintiff(s)

Name	Lee Michael Tomko
Address	4651 Caverns Drive Kissimmee FL 34758
County	Osceola
Telephone Number	689-241-9812
E-Mail Address	<u>LeeTomko@gmail.com</u>

B. The Defendant(s)

Name Bruno Martin
Job Title FBI Agent
Address 935 Pennsylvania Avenue, NW
Washington D.C. 20535

Official capacity

II. Basis for Jurisdiction

Federal officials (a Bivens claim)

C. Plaintiffs suing under Bivens may only recover for the violation of certain constitutional rights. If you are suing under Bivens, what constitutional right(s) do you claim is/are being violated by federal officials?

Fourth Amendment to the United States
Constitution, Unreasonable search

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under Bivens, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The actions of Bruno Martin are clearly unreasonable because they have continued for

approximately four years and are mostly intended to harm, harass and cause economic losses. More information is attached. The fourth amendment of the US Constitution protects citizens from unreasonable searches.

III. Statement of Claim

A. Where did the events giving rise to your claim(s) occur?

Kissimmee, Florida, Orlando, Florida Apopka, Florida Osceola County FL Orange County FL

B. What date and approximate time did the events giving rise to your claim(s) occur?

2018 to current

C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

The FBI agent hacks my computer, tries to frame me, defames me to employers and friends. This causes significant loss of job opportunities and other work related problems. The United States Congress and The White House are involved. When I request information, I almost always don't receive a direct written response. I've reported this issue several

times over the past few years and it doesn't resolve.
The FBI agent has tried to physically kill me several
times. More information is attached

V. Relief

State briefly what you want the court to do for you.
Make no legal arguments. Do not cite any cases or
statutes. If requesting money damages, include the
amounts of any actual damages and/or punitive
damages claimed for the acts alleged. Explain the
basis for these claims.

Estimated damages

Job income related damages: \$550,000

Loss of job in May 2024, extreme
difficulty getting a significant raise or
competing fairly for other jobs

Unrealized stock losses and decreased returns:
\$350,000

Fake quarterly report causing a decreased
price, secretly blocked acquisition

Needed personal security: \$500,000

Punitive: \$2,100,0000

Tried to kill me multiple times, harasses me
most days

Total: \$3,500,000 - an electronic payment

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: June 5, 2024

Signature of Plaintiff

Lee Michael Tomko

Lee Michael Tomko

More Information

The FBI's investigation of me, Lee Tomko, came under investigation by the White House. The FBI's investigation was closed by the president of the United States and Congress several times.

Bruno Martin, an FBI employee, is viewing and accessing my computer and electronics that are located inside my house.

Bruno Martin's behavior includes:

1. Whenever I apply or am considered for a job, he quickly starts defaming me to that employer. He does this by spying on what companies I'm applying for a job at.
2. After investing in the public stock of a company, he has, several times, attacked the company to try and cause decreases in the stock price. He has used several methods to do this. I've reported some of it to the SEC. The government has informed me of some of Bruno Martin's activities. This too is done by spying on what I'm doing in my house on my computer. His actions against the companies are similarly unreasonable.

3. Several times, when I have left my house, he uses accomplices to harass me or to try and kill me in the location that I go to. In one instance a loaded pistol was pointed at me as I drove down the road. This is unusual and unreasonable.

The actions of Bruno Martin are clearly unreasonable because they have continued for approximately four years and are mostly intended to harm, harass and cause economic losses.

Evidence that this is real

Government employees (and others) have been communicating through my computer and other electronic devices. This communication is obvious and easy for me to understand most of the time. It is frequently back and forth communication between two or more people in a conversation or argument-like manner.

I've worked as a software engineer and developer for a number of years. I can tell that these communications and signaling are not random. The level of access that these people have to my electronic devices indicate that it is the government. The context of what is being communicated tells me that it is mostly FBI agents, an investigator that works for the White House, and occasionally Congress people and presidents.

An employer in a job interview says the words “being investigated by the FBI” while talking about a background check.

Obvious hacking of someone's message on my computer. This was in a professional setting, the message was extremely unprofessional, several other people responded to the message as if it was a normal message. I have intentionally not included the text of this message in this document. This happened on November 9, 2023.

Eye contact or looking at me while saying “real” in a different context such as a working meeting.

Local police didn't contact me at all after I told my employer and 3 people in my family that the FBI agent tried to kill me. Same thing after I reported that he tried to kill me to a member of congress.

My employer asked me if they can contact the police on my behalf. This reveals that they were told not to contact the police. This is because of repeated defamation from the FBI agent.

The White House investigations advisor has many times signaled things through my electronics for the purpose of communicating that what I'm experiencing is real.

While I'm watching TV, the person on the TV says "air is on max" just as my air conditioning in my house turns on.

Computer screen glitches or flashes while a video is playing and a certain signaling word is said.

A unique or noticeably different pronunciation of certain signaling words on TV.

When eating at a restaurant, we are often placed at a table with an American flag decoration above the table.

Homeowners association violations - large increase in HOA violation letters during this time. On some of the violation emails and letters they were sending an image where there wasn't anything at all wrong in the image and after inspecting my front yard there wasn't anything wrong.

On June 19th, 2023 at around 7pm - I had just finished painting inside my house. I opened my phone and started scrolling through YouTube. There was a video/image of about 10 different paint rollers and a man pointing to one that looks just like the ones I have and was using (plain white).

On May 18, 2023 at around 5:30pm - On my phone in the YouTube app, there was a baseball video game - showed an ankle injury in the image/thumbnail - I

slightly injured my ankle in the exact spot that it showed.

On April 17th, 2023 at around 8pm there was an Ice cream, big new car tires signal (on my phone in the YouTube app). Within the past few hours I got new tires on my car and ate ice cream.

On May 7, 2024 - When interacting with the front desk person at a doctor's office, I asked about one of the paper's they provided to me, they pointed to it using only their middle finger. After seeing this I lean back and make a gesture that I'm about to grab the paper work and leave. The person then immediately says several pleasantries and I leave. This kind of behavior makes it extremely obvious that the issues explained here are real.

On March 27th, 2023 at around 7:11pm - I just ate some chocolate pudding - then on the YouTube mobile phone app there is a video of chocolate mousse > random video > then a video thumbnail with the text "real" in it.