

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

JERMEL ARCILICIA TAYLOR,

Plaintiff - Appellant,

v.

OREGON DEMOCRATIC PARTY,

Defendant - Appellee.

No. 24-2551

D.C. No.
2:24-cv-00452-IM
District of Oregon,
Pendleton

ORDER

Before: TASHIMA, OWENS, and DESAI, Circuit Judges.

After considering the responses to the court's April 29, 2024 order, we deny the motion to proceed in forma pauperis (Docket Entry No. 5) and dismiss this appeal as frivolous. *See* 28 U.S.C. § 1915(a), (e)(2).

Any other pending motions are denied as moot.

No further filings will be entertained in this closed case.

DISMISSED.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**JERMEL ARCILICIA TAYLOR, doing
business as New Muslim Party, Corp,**

Plaintiff,

v.

OREGON DEMOCRATIC PARTY,

Defendant.

Case No. 2:24-cv-00452-IM

ORDER OF DISMISSAL

IMMERGUT, District Judge.

Plaintiff Jermel Arcilicia Taylor (“Plaintiff”), an individual in custody at Eastern Oregon Correctional Institution (“EOCI”), brings this civil rights action pursuant to 42 U.S.C. § 1983 (“Section 1983”) against the Oregon Democratic Party. The Court previously granted Plaintiff leave to proceed *in forma pauperis*. For the reasons set forth below, the Court dismisses Plaintiff’s Complaint (ECF No. 2), without leave to amend.

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STANDARDS

The Court must dismiss an action initiated by an individual in custody seeking redress from a governmental entity or officer or employee, if the Court determines that the action (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(B); 28 U.S.C. § 1915A(b). To state a claim, a plaintiff must allege facts which, when accepted as true, give rise to a plausible inference that the defendants violated the plaintiff's constitutional rights. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (holding that to survive a motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face'") (simplified). Detailed factual allegations are not required, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiff is proceeding as a self-represented litigant, and therefore the Court construes the pleadings liberally and affords Plaintiff the benefit of any doubt. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (noting that documents filed by a self-represented litigant must be liberally construed, and that a self-represented litigant's complaint "must be held to less stringent standards than formal pleadings drafted by lawyers"). "Unless it is absolutely clear that no amendment can cure" defects in the complaint, "a pro se litigant is entitled to notice of the complaint's deficiencies and an opportunity to amend prior to dismissal of the action." *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam).

DISCUSSION

"Section 1983 creates a private right of action against individuals who, acting under color of state law, violate federal constitutional or statutory rights." *Devereaux v. Abbey*, 263 F.3d

1070, 1074 (9th Cir. 2001). Therefore, “[t]o state a claim under [Section 1983], the plaintiff must allege two elements: (1) that a right secured by the Constitution or laws of the United States was violated; and (2) that the alleged violation was committed by a person acting under color of state law.” *Campbell v. Washington Dep’t of Soc. Servs*, 671 F.3d 837, 842 n.5 (9th Cir. 2011) (citing *Ketchum v. Alameda Cty.*, 811 F.2d 1243, 1245 (9th Cir. 1987)).

Plaintiff does not assert any discrete facts in the complaint, nor does he identify any specific claim he seeks to advance. Instead, Plaintiff merely demands relief, seeking a court order to allow him “to petition for presidency while in E.O.C.I.” and to “allow U.S. born citizens in E.O.C.I. to vote[.]” (Compl. at 5.)

Plaintiff fails to state a claim under Section 1983. The Court discerns no legal barrier to Plaintiff’s desire to run for President of the United States, and therefore the Court cannot provide the relief sought. Moreover, to the extent Plaintiff seeks to challenge the denial of his right to vote, “[t]he Constitution allows a state to exclude from the franchise those convicted of a crime[.]” *Neal v. California*, No. 2:18-cv-1259 KJM KJN P, 2018 WL 4182522, at *4 (E.D. Cal. Aug. 29, 2018) (citing *Richardson v. Ramirez*, 418 U.S. 24, 56 (1974)). Oregon law provides that an individual convicted of a felony and sentenced to a period of incarceration may not exercise the right to vote from the date of his sentencing until he is released from incarceration, or the conviction is set aside. OR. REV. STAT. § 137.281(1) and (3)(d). Because Plaintiff is presently incarcerated at EOCl in connection with a second-degree robbery conviction,¹ allegations

¹ See Oregon Offender Search for Jermel Arcilicia Taylor, OREGON DEPARTMENT OF CORRECTIONS, <https://docpub.state.or.us/OOS/intro.jsf>; see also *Callister v. Owen*, No. 1:16-cv-00474-CWD, 2017 WL 1499224, at *2 (D. Idaho 2017) (explaining that judicial notice may be taken of “[p]ublic records and government documents available from reliable sources on the Internet, such as websites run by governmental agencies”) (simplified).

concerning the denial of Plaintiff's right to vote fail to state a claim on which relief may be granted.

CONCLUSION

Based on the foregoing, the Court DISMISSES Plaintiff's Complaint (ECF No. 2) for failure to state a claim. Because no amendment can cure the deficiencies noted above, the dismissal is without leave to amend. The Court thus DISMISSES this action and DENIES AS MOOT all pending motions. The Court certifies that any appeal taken from this order would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3)(A).

IT IS SO ORDERED.

DATED this 3rd day of April, 2024.



Karin J. Immergut
Karin J. Immergut
United States District Judge

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JERMEL ARCILICIA TAYLOR, AKA
Genius, AKA Melo, AKA Yusuf, AKA
Popcorn, DBA New Muslim Party
(N.I.U.A.), doing business as New Muslim
Party, Corp,

Plaintiff - Appellant,

v.

OREGON DEMOCRATIC PARTY,

Defendant - Appellee.

No. 24-2551

D.C. No.
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District of Oregon,
Pendleton

MANDATE

The judgment of this Court, entered April 25, 2025, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to
Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT