

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

SAMUEL SHARI TERRELL, III

Plaintiff,

v.

M.K Ultra, et al.,

Defendants.

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C.A. No. 23-094WES

**REPORT AND RECOMMENDATION  
RECOMMENDING SUMMARY DISMISSAL**

PATRICIA A. SULLIVAN, United States Magistrate Judge.

This is the second case filed in 2023 in this District by *pro se* Plaintiff Samuel Shari Terrell, III, a citizen of Rhode Island. The first case was summarily dismissed for failure to state a claim on February 21, 2023, just two weeks prior to the filing of this new one on March 8, 2023. Terrell v. Illuminati, et al., C.A. No. 23-052WES, 2023 WL 1765674, at \*1-2 (D.R.I. Feb. 3, 2023), adopted by text order (D.R.I. Feb. 21, 2023). As with the first complaint, Plaintiff has accompanied his new complaint with an *in forma pauperis* (“IFP”) application, which triggers preliminary screening pursuant to 28 U.S.C. § 1915(e)(2)(B). ECF No. 2. The IFP application has been referred to me for report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). While the application now appears to establish IFP eligibility, I recommend that it be denied as moot because the new complaint fails to state a claim.

**I. Standard of Review**

To survive screening, a complaint must contain sufficient factual allegations 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)). Pursuant to 28 U.S.C.

§ 1915(e)(2)(B), a federal court must dismiss an action if the court determines that the action is frivolous, fails to state a claim or seeks damages from a defendant with immunity. The standard for dismissal of an action filed *in forma pauperis* is identical to the standard for dismissal on a motion to dismiss brought under Fed. R. Civ. P. 12(b)(6). See Fridman v. City of N.Y., 195 F. Supp. 2d 534, 538 (S.D.N.Y. 2002). Accordingly, the court must take the allegations in the complaint as true and draw all reasonable inferences in the plaintiff's favor. Estelle v. Gamble, 429 U.S. 97, 99 (1976). The court "should not grant the motion unless it appears to a certainty that the plaintiff would be unable to recover under any set of facts." Roma Constr. Co. v. aRusso, 96 F.3d 566, 569 (1st Cir. 1996). Additionally, dismissal is required if the court is satisfied that the action is "frivolous." 28 U.S.C. § 1915(e)(2)(B)(i). A claim "is frivolous where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

## **II. Discussion**

I find that Plaintiff's new complaint is substantially the same as the one that has already been dismissed; indeed, several pages of the new pleading are copies of pages that were included in the first. Compare ECF No. 1 at 13-16, with Illuminati, C.A. No. 23-cv-52WES, ECF No. 1 at 2-7. In each pleading, Plaintiff references "Charles Windsor," "Biden and Trump," "Asia" and "the World" as defendants and makes such allegations as "I own the DaVinci Document" and "I live in my house alone and I locked the door." The new pleading adds such new allegations as "mind control" and "Optical Cranium Vision," but nothing that conceivably states a plausible claim for relief. ECF No. 1 at 4, 10. That is, like the first complaint, this pleading is incoherent and entirely lacking in any content that purports to state a claim by Plaintiff against any of the named defendants. See Illuminati, 2023 WL 1765674, at \*1-2. Based on these deficiencies, I

recommend that Plaintiff's complaint be summarily dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) because it fails to state a claim. In making this recommendation, I have accepted Plaintiff's allegations as true and have drawn all reasonable inferences in his favor. See Estelle, 429 U.S. at 99. I have also reviewed the pleading liberally, given Plaintiff's *pro se* status. See Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (per curiam); Instituto de Educacion Universal Corp. v. U.S. Dep't of Educ., 209 F.3d 18, 23 (1st Cir. 2000).

This time I also recommend that the Court dismiss the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) because it is frivolous. This finding is based not only on the pleading's utter lack of any arguable basis in law or fact, see Neitzke, 490 U.S. at 325, but also on the Court's recent dismissal of substantially the same pleading at screening. In addition, I recommend that the Court accompany its order of dismissal with a caution – if this pattern of filing frivolous cases continues, Plaintiff will be at risk that the Court will enjoin him from filing further civil actions except with leave from the Chief Judge. See Rosario v. McElroy, No. CA 15-060 ML, 2015 WL 1213223, at \*4 (D.R.I. Mar. 17, 2015) (with six cases dismissed as frivolous in less than two years, and because claimant “does not have the right to waste judicial resources by regularly filing frivolous lawsuits,” recommending that court issue order limiting ability to file new complaints); Plante v. U.S. Dep't of Interior, CA No. 14-519 S, 2015 WL 631197, at \*1-2 (D.R.I. Feb. 12, 2015) (enjoining plaintiff from filing additional complaints without prior court approval due to “the trigger-happy manner in which Plaintiff initiates patently frivolous actions in this Court and his demonstrated willingness to reassert the same frivolous claims against the same or similar defendants”).

### **III. Conclusion**

Based on the foregoing, I recommend that Plaintiff's complaint be summarily dismissed with prejudice for failure to state a claim and as frivolous. Because the complaint is not viable, I further recommend that the IFP motion be denied as moot. Finally, I recommend that the Court issue a caution advising Plaintiff that the pattern established by these two complaints puts him at risk that, if it continues, the Court will enjoin him from initiating any new civil action, except with the prior approval of the Chief Judge of this District.

Any objection to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b)(2); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision. See United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Patricia A. Sullivan  
PATRICIA A. SULLIVAN  
United States Magistrate Judge  
March 13, 2023