

ENTERED

May 13, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CHRIS SEVIER,

Plaintiff,

VS.

GREG ABBOTT, *et al*,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:16-CV-347

ORDER

Before the Court are Defendants’ Motions to Dismiss (Docs. ##7, 18), Plaintiff’s First Motion for Joinder as to Complaint (Doc. #17), and Defendant Chris Daniel’s Response to First Motion for Joinder (Doc. #25). Having considered the arguments and the applicable law, the Court dismisses this case as frivolous under 28 U.S.C. § 1915.

This case is about a man who wishes to marry his computer. The Plaintiff, Chris Sevier, filed this action pursuant to 42 U.S.C. § 1983 against Texas Governor Greg Abbott, Texas Attorney General Ken Paxton, and Harris County Clerk Chris Daniel,¹ asking the Court to recognize his constitutional right to marry an inanimate object. Doc. #1. On April 7, 2016, the Court denied Plaintiff’s Motion to proceed in forma pauperis, finding that he would not suffer undue financial hardship from paying the \$400 filing fee. Doc. #12. Now, Defendants move to dismiss for failure to state a claim.

¹ Harris County District Clerk Chris Daniels does not issue marriage licenses and is not a proper party. Doc. #18 at 2. County Clerk Stan Stanart issues marriage licenses. *Id.* Plaintiff seeks to add County Clerk Stan Stanart as a party to this lawsuit. Doc. #17. That request is denied.

I. Background

Plaintiff purports to bring this suit on behalf of himself and all “other-sex” individuals who wish to marry an object, animal, or multiple people at the same time, claiming that they are being denied their constitutional right to do so. Doc. #1 at 14. Plaintiff’s forty-page Complaint alleges, among other things, that “[a]fter five unelected lawyers from DC imposed their proselytizing relativism will on the Nation in *Obergefell v. Hodges* in a moral superiority power play of incredibly egomania, the definition has apparently now arbitrarily included man-man, woman-woman, and man-woman marriages at the continuing expense of man-object, man-animal, and man-multiperson marriages.” Doc. #1 at 29. Plaintiff has filed similar lawsuits in Tennessee, Utah, and South Carolina.² On March 24, 2016, Magistrate Judge Shiva Hodges recommended to the South Carolina District Court that the case be dismissed sua sponte because “Plaintiff’s claims are implausible, fanciful, and frivolous.” Report and Recommendation, *Sevier v. Haley et al.*, Case No. 3:16-cv-00665-TLW-SVH (D.S.C. Mar. 24, 2016). The Court agrees with this conclusion and will do the same.

II. Legal Standard

Plaintiff filed this action pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding

² See *Sevier v. Haslam et al.*, Case No. 3:16-cv-00134 (M.D. Tenn. Feb. 3, 2016); *Sevier v. Herbert et al.*, Case No. 2:16-cv-00124-JNP-DBP (D. Utah Feb. 18, 2016); *Sevier v. Haley et al.*, Case No. 3:16-cv-00665 (D.S.C. Mar. 1, 2016). Plaintiff has also sought to intervene in other lawsuits to make this argument. See Order Denying Leave for Chris Sevier to Intervene, *Brenner v. Scott*, 999 F. Supp. 2d 1278 (N.D. Fla. Apr. 24, 2014) (Case No. 4:14cv107-RH/CAS) (“Perhaps the motion is satirical. Or perhaps it is only removed from reality. Either way, the motion has no place in this lawsuit.”); see also Order, *Kitchen v. Herbert*, 755 F.3d 1193 (10th Cir. May 5, 2014) (No. 13-4178) (denying Sevier's motion to intervene).

with the lawsuit. To protect against possible abuses of this privilege, the statute allows a district court to dismiss the case upon a finding that an action fails to state a claim on which relief may be granted or is frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i), (ii). A finding of frivolity can be made where the complaint lacks an arguable basis either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992). A claim based on a meritless legal theory may be dismissed sua sponte under 28 U.S.C. § 1915(e)(2)(B). See *Neitzke v. Williams*, 490 U.S. 319, 327 (1989); *Allison v. Kyle*, 66 F.3d 71, 73 (5th Cir. 1995).

Pro se complaints are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978).³ A federal district court is charged with liberally construing a complaint filed by a pro se litigant to allow the development of a potentially meritorious case. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In evaluating a pro se complaint, the plaintiff's allegations are assumed to be true. *Fine v. City of N.Y.*, 529 F.2d 70, 74 (2d Cir. 1975). The mandated liberal construction afforded to pro se pleadings means that if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so. Nevertheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleadings to allege facts that set forth a claim currently cognizable in a federal district court. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 390-91 (4th Cir. 1990).

³ Although pro se litigants are not held to the standard of professionals, they are not granted unrestrained license to pursue totally frivolous cases. *Clark v. Green*, 814 F.2d 221, 223 (5th Cir. 1987) (imposing sanctions on pro se litigant for frivolous appeal).

III. Analysis

Plaintiff seeks to compel Texas to recognize his right to marry his computer. A federal court lacks subject matter jurisdiction over an “obviously frivolous complaint.” *Chong Su Yi v. Soc. Sec. Admin.*, No. 1312195, 2014 WL 629513, at *1 (4th Cir. Feb. 19, 2014) (affirming dismissal of factually and legally frivolous claims in a fee-paid pro se case); *see also Holloway v. Pagan River Dockside Seafood, Inc.*, 669 F.3d 448, 452-53 (4th Cir. 2012) (noting a federal court lacks subject matter jurisdiction over a complaint raising claims “so insubstantial, implausible . . . or otherwise completely devoid of merit as not to involve a federal controversy”) (citation omitted). Complaints “based on allegations that seem delusional, irrational, and wholly beyond belief” are considered factually frivolous. *Brunson v. U.S. Dep’t of Justice of Fed. Bureau of Investigation*, C/A No. 3:14-2540-JFA-PJG, 2014 WL 4402803, at *2 (D.S.C. Sept. 3, 2014) (adopting the recommendation that plaintiff’s claims that he was injured by an internal intelligent monitor machine be dismissed as frivolous and delusional); *see also Brock v. Angelone*, 105 F.3d 952, 953–54 (4th Cir. 1997) (dismissing appeal as frivolous and finding plaintiff’s allegation that he was being poisoned or experimented upon fanciful or delusional). Because Plaintiff’s claims are implausible, fanciful, and frivolous, the Court will summarily dismiss Plaintiff’s Complaint.

Previously, the Court denied Plaintiff’s motion to proceed in forma pauperis under Section 1915 without reaching the question of whether the case was frivolous. Doc. #12. Now having reached the question, the Court will vacate its prior Order and dismiss the case outright. Since the Court has decided to dismiss the Complaint as frivolous under Section 1915, the Court will refund Plaintiff’s \$400 filing fee.

IV. Conclusion

For the foregoing reasons, the Court's prior Order denying Plaintiff's motion to proceed in forma pauperis (Doc. #12) is VACATED. Defendants' Motions to Dismiss (Docs. ##7, 18) are GRANTED and the case is DISMISSED WITHOUT PREJUDICE. The Court ORDERS the Clerk's office to issue a refund of the filing fee in the amount of \$400. All other pending motions are DENIED AS MOOT.

It is so ORDERED.

MAY 13 2016

Date

Handwritten signature of Alfred H. Bennett in black ink, consisting of stylized initials 'AMB' followed by a checkmark.

THE HONORABLE ALFRED H. BENNETT
UNITED STATES DISTRICT JUDGE