

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:26-CV-13-BO

LINWOOD M. GALLOP, JR.,

Plaintiff,

v.

ALAN HIRSCH,

Defendant.

ORDER
MEMORANDUM AND
RECOMMENDATION

This matter is before the court on Plaintiff's application to proceed *in forma pauperis* and for frivolity review of the amended complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). [DE-5, -8].¹ For the reasons that follow, the application to proceed *in forma pauperis* is allowed, and it is recommended that the complaint be dismissed.

I. Standard of Review

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the court shall dismiss the complaint if it is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks money damages from a defendant immune from such recovery. 28 U.S.C. § 1915(e)(2)(B)(i–iii); *see Adams v. Rice*, 40 F.3d 72, 74 (4th Cir. 1994) (explaining Congress enacted predecessor statute 28 U.S.C. § 1915(d) “to prevent abuse of the judicial system by parties who bear none of the ordinary financial disincentives to filing meritless claims”). A case is frivolous if it lacks an arguable basis in either

¹ In response to the court's order of June 9, 2026, directing Plaintiff to sign the original complaint, provide a financial disclosure statement, and properly complete summonses and notice of self-representation, Plaintiff complied with the court's order and also filed an amended complaint and application. [DE-5, -8]. These documents supplant the original complaint and previously filed application. *See Fawzy v. Wauquiez Boats SNC*, 873 F.3d 451, 455 (4th Cir. 2017) (filing of an amended complaint “renders the original complaint ‘of no effect,’” (quoting *Young v. City of Mount Ranier*, 238 F.3d 567, 573 (4th Cir. 2001))).

law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *McLean v. United States*, 566 F.3d 391, 399 (4th Cir. 2009) (“Examples of frivolous claims include those whose factual allegations are ‘so nutty,’ ‘delusional,’ or ‘wholly fanciful’ as to be simply ‘unbelievable.’”). A claim lacks an arguable basis in law when it is “based on an indisputably meritless legal theory.” *Neitzke*, 490 U.S. at 327. A claim lacks an arguable basis in fact when it describes “fantastic or delusional scenarios.” *Id.* at 327–28.

In the present case, Plaintiff is proceeding *pro se*, and pleadings drafted by a *pro se* litigant are held to a less stringent standard than those drafted by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). This court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See id.*; *Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *Noble v. Barnett*, 24 F.3d 582, 587 n.6 (4th Cir. 1994). However, the principles requiring generous construction of *pro se* complaints are not without limits; the district courts are not required “to conjure up questions never squarely presented to them.” *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985).

II. Analysis

Plaintiff has identified the defendant in this matter as Alan Hirsch of the North Carolina State Board of Elections. Am. Compl. [DE-5] at 2. Plaintiff identifies the basis for this court’s jurisdiction to be Section 2 of the Voting Rights Act, the 14th and 15th Amendments, and the Guarantee Clause of Article 4 of the United States Constitution. *Id.* at 3. The entirety of the factual basis of plaintiff’s purported claims is as follows:

North Carolina 1st District Voting Map Reduce the Black Voting Population by 7.9% To Favor Republicans. My Right to have a Representative of my choice was taken away. Congress explicitly Rejected the “Intent Test” in 1982 *Mobile v. Bolden*. The State has No Authority To remove or dilute my Right to Be Represented.

Id. at 4.

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief[.]” Fed. R. Civ. P. 8(a)(2). This is necessary “in order to ‘give the defendant fair notice of what the . . . claim is and the grounds upon which it rests[.]’” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). At the pleading stage, “while a complaint . . . does not need detailed factual allegations, a plaintiff’s obligation to provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do[.]” *Id.* (internal citations and quotation marks omitted). “Factual allegations must be enough to raise a right to relief above the speculative level” *Id.*; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”) (quoting *Twombly*, 550 U.S. at 570).

Here, Plaintiff claims dilution of his voting right to elect a representative of his choosing, but the complaint contains no factual allegations to support those claims. Therefore, Plaintiff’s complaint contains only labels and conclusions and is insufficient to give Defendant notice of the grounds on which the claims rest. Here, the operative complaint does not contain specific factual allegations relevant to Defendant’s purported conduct and, instead, mentions legal conclusions and generally conclusory statements of liability, which the court cannot credit in its analysis. *See e.g.*, *Willis v. Jones Cnty. Bd. of Elections*, No. 4:20-CV-230-FL, 2021 WL 2272385, at *3 (E.D.N.C. June 3, 2021) (“Plaintiff’s claim then that defendant NCSBE violated either the VRA or a provision of the United States Constitution, as actionable under 42 U.S.C. § 1983, lacks the requisite factual support needed for a plausible claim. Case law prohibits the court from relying on plaintiff’s conclusory statements and its own speculation in order to allow plaintiff to proceed with this

litigation.”) (citations omitted). In light of this pleading deficiency, the claims against Defendant are subject to dismissal pursuant 28 U.S.C. § 1915(e).

III. Conclusion

For the reasons stated herein, the application to proceed *in forma pauperis* is allowed, and it is recommended that Plaintiff’s complaint be dismissed without prejudice for failure to state a claim.

IT IS DIRECTED that a copy of this Memorandum and Recommendation be served on Plaintiff. You shall have until **July 27, 2026**, to file written objections to the Memorandum and Recommendation. The presiding district judge must conduct his or her own review (that is, make a de novo determination) of those portions of the Memorandum and Recommendation to which objection is properly made and may accept, reject, or modify the determinations in the Memorandum and Recommendation; receive further evidence; or return the matter to the magistrate judge with instructions. *See, e.g.*, 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); Local Civ. R. 1.1 (permitting modification of deadlines specified in local rules), 72.4(b), E.D.N.C.

If you do not file written objections to the Memorandum and Recommendation by the foregoing deadline, you will be giving up the right to review of the Memorandum and Recommendation by the presiding district judge as described above, and the presiding district judge may enter an order or judgment based on the Memorandum and Recommendation without such review. In addition, your failure to file written objections by the foregoing deadline will bar you from appealing to the Court of Appeals from an order or judgment of the presiding district judge based on the Memorandum and Recommendation. See *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985).

Submitted, the 13th day of July, 2026.


Robert B. Jones, Jr.
United States Magistrate Judge