

Farnan, District Judge



Michael Chambers, an inmate at the Howard R. Young Correctional Institution filed this civil rights action pursuant to 42 U.S.C. § 1983. He appears pro se and was granted leave to proceed in forma pauperis. (D.I. 4.)

For the reasons discussed below, the Court will dismiss, without prejudice, the Complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b)(1).

I. THE COMPLAINT

Plaintiff alleges that the State of Delaware knowingly and unlawfully transferred him from Pennsylvania to Delaware in violation of the Interstate Agreement on Detainers Act ("IAD"), Article II. Plaintiff alleges that Defendants are liable under 42 U.S.C. § 1983 for violation of the IAD. He seeks \$1,000 per day for each day he is held in Delaware

II. STANDARD OF REVIEW

When a litigant proceeds in forma pauperis, 28 U.S.C. § 1915 provides for dismissal under certain circumstances. When a prisoner seeks redress from a government defendant in a civil action, 28 U.S.C. § 1915A provides for screening of the Complaint by the Court. Both 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b)(1) provide that the Court may dismiss a complaint, at any time, if the action is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a

defendant immune from such relief.

Pro se complaints are liberally construed in favor of the plaintiff. Haines v. Kerner, 404 U.S. 519, 520-521 (1972). The Court must "accept as true factual allegations in the complaint and all reasonable inferences that can be drawn therefrom." Nami v. Fauver, 82 F.3d 63, 65 (3d Cir. 1996) (citing Holder v. City of Allentown, 987 F.2d 188, 194 (3d Cir. 1993)). An action is frivolous if it "lacks an arguable basis either in law or in fact," Neitzke v. Williams, 490 U.S. 319, 325 (1989), and the claims "are of little or no weight, value, or importance, not worthy of serious consideration, or trivial." Deutsch v. United States, 67 F.3d 1080, 1083 (3d Cir. 1995). Additionally, a pro se complaint can only be dismissed for failure to state a claim when "it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" Haines v. Kerner, 404 U.S. 519, 520-521 (1972) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)).

III. ANALYSIS

A. Habeas Corpus

To the extent that Plaintiff attempts to challenge his conviction and/or sentence, his sole federal remedy for challenging the fact or duration of his confinement is by way of habeas corpus. Preiser v. Rodriguez, 411 U.S. 475 (1973). A plaintiff cannot recover under § 1983 for alleged wrongful

incarceration unless he proves that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. See Heck v. Humphrey, 312 U.S. 477, 487 (1994). In this case, Plaintiff has not alleged that his conviction or sentence was reversed or invalidated as provided by Heck. Additionally, violations of the IAD cognizable in federal habeas corpus, rather than in a § 1983 claim, because the IAD is a "law of the United States" for purposes of 28 U.S.C. § 1154. McCandless v. Vaughn, 172 F.3d 255, 263 (3d Cir. 1999) (citations omitted). Accordingly, the Court will dismiss Plaintiff's claim to the extent that it is based on the fact or duration of his confinement.¹

B. Respondeat Superior

Plaintiff names as Defendant the Governor of the State of Delaware and Attorney General Carl Danberg ("Danberg")² apparently on the basis of respondeat superior. Supervisory

¹The Court takes notice that on December 18, 2006, Plaintiff filed a Petition for Habeas Corpus in this Court. Chambers v. Williams, Civ. No. 06-771-UNA.

²To the extent Danburg is named as a defendant because of his role as a prosecutors, he has absolute immunity for all activities relating to judicial proceedings. See Imbler v. Pachtman, 424 U.S. 409 (1976). Moreover, prosecutors are absolutely immune for all actions performed in a "quasi-judicial" role. Id. at 430.

liability cannot be imposed under § 1983 on a respondeat superior theory. See Monell v. Department of Social Services of City of New York, 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). In order for a supervisory public official to be held liable for a subordinate's constitutional tort, the official must either be the "moving force [behind] the constitutional violation" or exhibit "deliberate indifference to the plight of the person deprived." Sample v. Diecks, 885 F.2d 1099, 1118 (3d Cir. 1989) (citing City of Canton v. Harris, 489 U.S. 378, 389 (1989)).

The Complaint contains no allegations against the foregoing supervisory officials. The Complaint does not allege that these Defendants were the "driving force [behind]" Plaintiff's alleged constitutional violations or that they were deliberately indifferent to his plight.

Even construing the Complaint in the light most favorable to the Plaintiff, as the Court must do, it is evident that Governor Minner and Danberg were named as Defendants solely because of their supervisory/administrative positions. Accordingly, the Court will dismiss the claims against them as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b).

IV. CONCLUSION

For the reasons discussed above, the Court will dismiss the Complaint without prejudice as frivolous pursuant to 28 U.S.C. §

1915(e)(2)(B) and § 1915A(b)(1). An appropriate Order will be entered.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MICHAEL L. CHAMBERS, :
 :
 Plaintiff, :
 :
 v. : Civ. No. 06-739-JJF
 :
 GOVERNOR RUTH ANN MINNER and :
 ATTORNEY GENERAL CARL DANBERG, :
 :
 Defendants. :

ORDER

NOW THEREFORE, at Wilmington this 10 day of January, 2007,
IT IS HEREBY ORDERED that:

1. The Complaint is **DISMISSED WITHOUT PREJUDICE** as
frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) and §
1915A(b)(1). Amendment of the Complaint would be futile. See
Grayson v. Mayview State Hosp., 293 F.3d 103, 111 (3d Cir. 2002);
Borelli v. City of Reading, 532 F.2d 950, 951-52 (3d Cir. 1976).

2. Plaintiff is not required to pay any previously
assessed fees or the \$350.00 filing fee. The Clerk of the Court
is directed to send a copy of this Order to the appropriate
prison business office.


UNITED STATES DISTRICT JUDGE