

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMAS E. NOBLE,)
)
 Plaintiff,)
)
 v.) Civil Action No. 03-906-KAJ
)
 EDWARD BECKER, DOLORES)
 SLOVITER, LEONARD GARTH,)
 RUGGIERO ALDISERT, MARJORIE)
 RENDELL, JOSEPH WEIS,)
 THEODORE MCKEE, MAX ROSENN,)
 SAMUEL ALITO, TIMOTHY LEWIS,)
 RICHARD NYGARRD, ROBERT COWEN,)
 ANTHONY SCIRICA, MORTON GREEN-))
 BURG, CAROL LOS MANSMANN,)
 COLLIN SEITZ, JANE R. ROTH,)
 WALTER STAPLETON, SUE)
 ROBINSON, GREGORY SLEET,)
 JAMES LATCHUM, JOSEPH FARNAN,)
 RODERICK MCKELVIE, MURRY)
 SCHWARTZ, CALEB WRIGHT, MARY)
 PAT TROSTLE, JAMES GILES,)
 JAMES KELLY, JOSEPH MCGLYNN,)
 JOHN FULLAM, CLARENCE)
 NEWCOMER, M. ANGELL, EDWARD)
 CAHN, CLIFFORD GREEN, DANIEL)
 HUYETT, BRUCE KAUFFMAN,)
 FRANKLIN ANTWERPEN, WILLIAM)
 YOHN, CURTIS JOYNER, J.)
 DITTER, RONALD BUCKWALTER,)
 LOWELL REED, JAN DUBOIS,)
 HERBERT HUTTON, JAY WALDMAN,)
 HARVEY BARTLE, STEWART)
 DALZELL, JOHN PADOVA, EDUARDO)
 ROBENO, ANITA BRODY, WILLIAM)
 CALDWELL, SYLVIA RAMBO,)
 MALCOLM MUIR, EDWIN KOSIK,)
 ROBERT CONOBY, JAMES MCCLURE,)
 WILLIAM NEALON, RAYMOND)
 DURKIN, THOMAS BLEWITT,)
 ANDREW SMYSER, DONALD ZEIGLER,)
 GARY LANCASTER, D. SMITH,)
 MAURICE COHILL, GUSATAVE)
 DIAMOND, THE 3RD CIRCUIT)
 CLERK, THE 3RD CIRCUIT STAFF)
 ATTORNEY, THE E.D. PA CLERK,)

THE M.D. PA CLERK, THE W.D.)
 PA CLERK, THE D.DEL CLERK,)
 JOHN FLAHERTY, STEPHEN)
 ZAPPALA, RALPH CAPPY, SANDRA)
 NEWMAN, RUSSELL NIGRO,)
 RONALD CASTILLE, ROBERT NIX,)
 JR., CHARLES JOHNS, THE)
 CHESTER COUNTY PA DISTRICT)
 ATTORNEY, ROBERT GAWTHROP,)
 DOMINIC MARRONE, THOMAS FRAME,)
 CLERK OF THE CHESTER COUNTY)
 COMMON PLEAS COURT, DICK)
 THORNBURG, BOB CASEY, TOM)
 RIDGE, THE CHESTER COUNTY)
 PUBLIC DEFENDER, WARDEN)
 REDMAN, JEFFREY BEARD, THE)
 WARDENS AT SCI GRATERFORD,)
 SCI ROCKVIEW, SCI DALLAS, SCI)
 CRESSON, SCI GREENE, AND SCI)
 CAMP HILL AT THE TIMES)
 PLAINTIFF WAS HELD THERE, and)
 ANYONE ELSE WHO CONSPIRED)
 WITH THEM TO VIOLATE)
 PLAINTIFF'S RIGHTS,)
)
 Defendants,)

MEMORANDUM AND ORDER

The plaintiff, Thomas E. Noble ("Noble"), a pro se litigant, has filed this action pursuant to 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.¹

¹ Thomas E. Noble was formerly known as Thomas D. Guyer. It appears that Noble legally changed his name from Thomas D. Guyer to Thomas E. Noble on April 22, 2002. See Guyer v. Cronin, No. 01-683-SLR (D. Del. dismissed February 15, 2002) (D.I. 30). A search of this Court's Prisoner Database as well as the Integrated Case Management System ("ICMS") indicates that Noble was also formerly known as Walter M. Guyer. Several of the lawsuits filed by Noble in this Court in the 1980s indicate that

I. STANDARD OF REVIEW

When reviewing pauper applications, the Court must make two separate determinations. First, the Court must determine whether Noble is eligible for pauper status pursuant to 28 U.S.C. § 1915. Based on the information provided in Noble's in forma pauperis affidavit, the Court concludes that the Noble has insufficient funds to pay the requisite filing fee. Accordingly, the Court will grant Noble's request to proceed in forma pauperis.

Second, the Court must "screen" the complaint to determine whether it 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 pursuant to 28 U.S.C. § 1915(e) (2) (B). The United States Supreme Court has held that 28 U.S.C. § 1915(e) (2) (B)'s term "frivolous" when applied to a complaint, "embraces not only the inarguable legal conclusion, but also the fanciful factual allegation," such that a claim is frivolous within the meaning of § 1915(e) (2) (B) if it "lacks an

he was then known as both Walter M. Guyer and Thomas D. Guyer. This Court has been unable to determine when Noble stopped using the name Walter M. Guyer. Significantly, Noble was prohibited from filing any more civil rights complaints in the Eastern District of Pennsylvania while using the name Walter M. Guyer. See In re Walter M. Guyer, No. 90-0679-JMK, 1990 WL 162131 (E.D. Pa. Oct. 19, 1990).

arguable basis either in law or in fact," Neitzke v. Williams, 490 U.S. 319, 325 (1989).²

When reviewing complaints pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must apply the standard of review set forth in Fed. R. Civ. P. 12(b)(6). Neal v. Pennsylvania Bd. of Prob. & Parole, CA No. 96-7923, 1997 WL 338838 (E.D. Pa. June 19, 1997) (applying Rule 12(b)(6) standard as appropriate standard for dismissing claim under § 1915A).³ Under this standard, the Court must "accept as true the 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). Pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers and can only be dismissed for failure to state a claim if it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to

² Neitzke applied § 1915(d) prior to the enactment of the Prisoner Litigation Reform Act ("PLRA"). Section 1915(e)(2)(B) is the re-designation of the former § 1915(d) under the PLRA. Therefore, cases addressing the meaning of frivolous under the prior section remain applicable. See § 804 of the PLRA, Pub.L.No. 104-134, 110 Stat. 1321 (April 26, 1996).

³ The bases for dismissal under § 1915A are virtually identical to § 1915(e)(2)(B). Section 1915A(a) requires the Court to screen prisoner complaints seeking redress from governmental entities, officers, or employees before docketing, if feasible, and to dismiss those complaints which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant immune from such relief. Therefore, the Court applies the § 1915A standard of review when screening non-prisoner complaints pursuant to § 1915(e)(2)(B).

relief.'" Estelle v. Gamble, 429 U.S. 97, 106 (1976) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)).

As discussed below, Noble's claims against the Defendants have no arguable basis in law or in fact and shall be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B).

II. DISCUSSION

1. Background

Noble is, to put it mildly, an habitual litigant. He has filed 26 complaints in this Court alone.⁴ Noble has filed at least 37 complaints in other district courts.⁵ Many of these

⁴ Noble v. Sleet, No. 02-1380-JTG (dismissed August 8, 2003); Guyer v. Cronin, No. 01-683-SLR (dismissed February 2, 2002); Guyer v. Dist. Court Judges, No. 01-253-GMS (dismissed June 21, 2001); Guyer v. Kunz, No. 99-923-GMS (dismissed December 15, 2000); Guyer v. Bell Atlantic, No. 99-07-JLL (dismissed March 3, 1999); Guyer v. Schwartz, No. 87-634 (filed December 7, 1987); Guyer v. Blackwell, No. 87-48 (filed March 29, 1987); Guyer v. Redman, No. 85-707 (filed December 6, 1985); Guyer v. Walsh, No. 85-365 (filed June 24, 1985); Guyer v. Brown, No. 85-269 (filed May 6, 1985); Guyer v. Redman, No. 84-418 (filed July 31, 1984); Guyer v. Aitken, No. 84-417 (filed July 31, 1984); Guyer v. Unknown Mailroom Officer, No. 84-390 (filed July 17, 1984); Guyer v. Kunev, No. 84-378 (filed July 6, 1984); Guyer v. Sullivan, No. 84-377 (filed July 6, 1984); Guyer v. USA, No. 84-375 (filed July 5, 1984); Guyer v. USA, No. 84-231 (filed March 26, 1984); Guyer v. Voegel, No. 84-219 (filed March 14, 1984); Guyer v. Greer, No. 84-204 (filed March 12, 1984); Guyer v. Sullivan, No. 84-59 (filed February 7, 1984); Guyer v. Sullivan, No. 84-58 (filed February 7, 1984); Guyer v. Redman, No. 83-695 (filed October 14, 1983); Guyer v. Dupont, No. 84-694 (filed October 14, 1983); Guyer v. Silverman, No. 83-693 (filed October 14, 1983); Guyer v. Redman, No. 83-511 (filed August 12, 1983); and, Guyer v. Sullivan, No. 83-327 (filed May 27, 1983).

⁵ Guyer v. Higgins, No. 98-2608 (D. D.C. dismissed October 28, 1998); Guyer v. Kelly, No. 97-4793 (E.D. Pa. dismissed May 5, 1998); Guyer v. G.B. Supv./Dir. for Hig Society Magazine, No. 97-

cases appear to be related to the claims raised in the present suit. At least one of his claims is in the nature of a habeas case and appears to be related to the conviction Noble seeks to have overturned here. See Guyer v. Spaniol, No. 90-3136 (D. D.C. dismissed January 2, 1991).

4515 (N.D. Il. dismissed July 31, 1998); Guyer v. Kelly, No. 96-7935 (E.D. Pa. dismissed November 27, 1996); Guyer v. D'Andrea, No. 96-1908 (M.D. Pa. dismissed December 6, 1996); Guyer v. Beard, No. 96-1115 (M.D. Pa. dismissed April 9, 1997); Guyer v. Caldwell, No. 96-145 (M.D. Pa. dismissed April 9, 1997); Guyer v. Kelly, No. 95-7738 (E.D. Pa. dismissed September 26, 1996); Guyer v. Caldwell, No. 95-2061 (M.D. Pa. dismissed April 9, 1997); Guyer v. Coral Ridge, No. 93-6064 (S.D. Fl. dismissed February 16, 1993); Guyer v. Casey, No. 92-409 (M.D. Pa. dismissed September 11, 1992); Guyer v. Nealon, No. 91-685 (M.D. Pa. dismissed August 15, 1991); Guyer v. Kelly, No. 90-6590 (E.D. Pa. dismissed October 24, 1990); Guyer v. Kunz, No. 90-6589 (E.D. Pa. dismissed October 4, 1990); Guyer v. Lehman, No. 90-6204 (E.D. Pa. dismissed October 1, 1990); Guyer v. Kelly, No. 90-6181 (E.D. Pa. dismissed October 15, 1990); Guyer v. Sisk, No. 90-6179 (E.D. Pa. dismissed October 15, 1990); Guyer v. Andes, No. 90-6178 (E.D. Pa. dismissed January 10, 1991); Guyer v. Hostutler, No. 90-6176 (E.D. Pa. dismissed October 1, 1990); Guyer v. Ferguson, No. 90-5405 (E.D. Pa. dismissed September 20, 1990); Guyer v. Sugerman, No. 90-5404 (E.D. Pa. dismissed September 12, 1990); Guyer v. Lehman, No. 90-5403 (E.D. Pa. dismissed September 12, 1990); Guyer v. Hoagland, No. 90-5402, E.D. Pa. dismissed September 20, 1990); Guyer v. Spaniol, No. 90-3137 (D. D.C. dismissed January 2, 1991); Guyer v. Spaniol, No. 90-3136 (D. D.C. dismissed January 2, 1991); Guyer v. Davey, No. 90-2625 (D. D.C. dismissed October 25, 1990); Guyer v. Hostutler, No. 90-1954 (M.D. Pa. dismissed August 21, 1991); Guyer v. Durkin, No. 90-1865 (M.D. Pa. dismissed November 30, 1990); Guyer v. Lehman, No. 1850 (M.D. Pa. dismissed August 30, 1991); Guyer v. Berry, No. 90-1510 (M.D. Pa. dismissed January 29, 1991); Guyer v. Lehman, No. 90-1019 (M.D. Pa. dismissed October 22, 1990); Guyer v. Taylor, No. 90-920 (M.D. Pa. dismissed December 14, 1990); Guyer v. Otto, No. 90-744 (M.D. Pa. dismissed June 11, 1990); Guyer v. Deramus, No. 90-705 (M.D. Pa. dismissed July 20, 1990); and, Guyer v. Frame, No. 84-47 (E.D. Pa. dismissed March 18, 1992).

When reviewing Noble's complaint history, a pattern becomes clear. After the dismissal of his claims, rather than file an appeal as required by the Federal Rules of Civil and Appellate Procedure, Noble simply files new lawsuits and demands further review. See In Re Walter M. Guyer, No. 96-7935, 1996 WL 689376 (E.D. Pa. November 27, 1996) (noting that while Guyer expanded the number of defendants "the wrongs alleged ... have been previously alleged in the profusion of suits which Mr. Guyer has filed in this District..."); Guyer v. Kelly, No. 90-6181, 1990 WL 158194 (E.D. Pa. October 15, 1990) (noting that "[p]laintiff's redress for decisions he does not agree with is by appeal, and not by starting another civil rights complaint."); Guyer v. Crampton, No. 86-76, 1987 WL 14156 (E.D. Pa. July 20, 1987). Furthermore, it appears that Noble began demanding transfer of his cases to the United States Supreme Court in 1995. See Guyer v. Caldwell, No. 95-2061 (M.D. Pa. dismissed April 9, 1997); Guyer v. Kelly, No. 95-7738 (E.D. Pa. dismissed September 26, 1996); Guyer v. Caldwell, No. 96-145 (M.D. Pa. dismissed April 9, 1997); Guyer v. D'Andrea, No. 96-1908 (M.D. Pa. dismissed December 6, 1996); and, Guyer v. Kelly, No. 97-4793 (E.D. Pa. dismissed May 5, 1998).

Nobel has also filed two Motions for Recusal. (D.I. 5 and 6) Nobel alleges that I am unable to render a fair and impartial decision in this matter because I am a member of a

broad conspiracy to deprive him of his constitutional rights.
(Id.)

2. Motion for Recusal

Noble filed his first Motion for Recusal on December 12, 2003. (D.I. 5) On December 29, 2003, Noble filed yet another document seeking recusal, which document he titled a "Complaint." Noble listed all the previous Defendants, and purported to add me as an additional defendant. Noble again argues in that document that I should recuse myself from this case. Therefore, I construe the December 29, 2003 "Complaint" as Noble's second Motion for Recusal.

Noble does not present a statutory basis for his Motions. Therefore, the Court will analyze the motions under both § 144 and § 455 of Title 28 of the United States Code. In order to be disqualifying, both § 144 and § 455 require that the alleged bias or prejudice stem from an extrajudicial source. See Liteky v. United States, 510 U.S. 540 (1994). "Extrajudicial source" means a source outside the present or *prior* judicial proceedings. See id. at 555 (emphasis added). The Court will address Noble's allegations separately under each section.

Section 144 requires that a party seeking recusal file a "timely and *sufficient* affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party." See 28 U.S.C. § 144

(emphasis added). "Conclusory allegations need not be accepted as true." Jones v. Pittsburgh Nat. Corp., 899 F.2d 1350, 1356 (3d Cir. 1990) (citing United States v. Vespe, 868 F.2d 1328, 1340 (3d Cir. 1989)). In this case, Noble's affidavit is not sufficient to support his claims. Noble has not presented any facts to support his motions. He has merely presented his conclusory allegations that a vast conspiracy exists. He bases that belief, as well as the motions for recusal, not on any tangible evidence but on judicial rulings in his prior cases.

However, "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." Liteky v. United States, 510 U.S. at 555 (citing United States v. Grinnell Corp., 384 U.S. 563, 583 (1966)). The Supreme Court explained that judicial rulings "in and of themselves can only in the rarest circumstances evidence the degree of favoritism or antagonism required" to prove bias. Id. Noble's bare allegation that I am biased because other judges in this District have dismissed his prior suits has no merit and is insufficient to support his claim.

Under § 455, "any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455. Section 455 requires a judge to raise the issue of bias sua sponte. "Under this section a judge must consider whether a

reasonable person knowing all the circumstances would harbor doubts concerning the judge's impartiality." Jones, 899 F.2d at 1356 (citing United States v. Dalfonso, 707 F.2d 757, 760 (3d Cir. 1983)). Again, other than his bare allegations, Noble has offered no evidence to support his claim that the Court harbors a bias against him. Consequently, the Court finds that no reasonable person, knowing all the circumstances, would harbor doubts concerning the Court's impartiality.

Noble has failed to allege sufficient facts to prove that the Court has a personal bias or prejudice against him. Furthermore, Noble has failed to show that a reasonable person, knowing all the circumstances, would harbor doubts concerning the Court's impartiality. Therefore, the Court shall deny the motions for recusal.

3. The Complaint

Noble raises two claims in his complaint. First, Noble alleges that the Defendants have engaged in a conspiracy to violate his constitutional rights by keeping him unlawfully imprisoned. Second, Noble alleges that the Defendants have continued the conspiracy by denying him "access to the courts." According to Noble, the alleged conspiracy has spanned two States and at least three successive administrations in the Commonwealth of Pennsylvania, as well as both the State and Federal Judiciaries. (D.I. 2) Noble asks that his case be transferred

to the United States Supreme Court for assignment to an "impartial" district court. Next, he requests appointment of counsel. Third, Noble requests that all of his cases filed since 1983 be reopened and consolidated with this case. Fourth, Noble requests \$200,000,000 in compensatory damages, as well as treble damages under the RICO statutes. Fifth, Noble requests a declaratory judgment reprimanding "all judges who abetted the conspiracy to keep me wrongfully imprisoned and/or obstructed my access to an impartial court, up to the present time." (Id. at 8)

4. Frivolous Allegations Under 28 U.S.C. § 1915(e) (2) (B)

A complaint is frivolous if it lacks an arguable basis in law or fact. Neitzke, 490 U.S. at 325. The Neitzke Court also held that §1915(d) authorized sua sponte dismissal of an in forma pauperis complaint which was frivolous, malicious or failed to state a claim. Id., 490 U.S. at 325. The Court defined the term frivolous as not only the inarguable legal conclusion, but also the fanciful factual allegation. Id. A fanciful factual allegation is one describing scenarios clearly removed from reality. Roman v. Jeffes, 904 F.2d 192, 194 (3d Cir. 1990) (citing, Sultenfuss v. Snow, 894 F.2d 1277, 1278 (11th Cir. 1990)). The Supreme Court further clarified the meaning of a fanciful factual allegation stating:

a finding of factual frivolousness is appropriate when the facts alleged rise

to the level of the *irrational or the wholly incredible*, whether or not there are judicially noticeable facts available to contradict them. Denton v. Hernandez, 504 U.S. 25, 33 (1992) (*emphasis added*).

Consequently, the Court can "pierce the veil of the complaint's factual allegations" to weigh their credibility. Id., at 33. Noble's claim that the Defendants have engaged in a vast conspiracy to violate his constitutional rights is clearly delusional. The remainder of Noble's claims are all based upon the same premise and are also irrational. Therefore, the Court finds the complaint is frivolous within the meaning of § 1915(e)(2)(B) and must be dismissed.

5. Order to Show Cause

Noble is a frequent filer and is apparently familiar with the procedural requirements for filing a case in the district court and for filing an appeal. Although pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers and can only be dismissed for failure to state a claim if it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief,'" Estelle, 429 U.S. at 106 (quoting Conley, 355 U.S. at 45-46), the Court must hold the pro se litigant to the same procedural requirements as licensed attorneys. See McNeil v. United States, 508 U.S. 106, 113 (1993). The Supreme Court has "never suggested that procedural

rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel." Id. Furthermore, the Court noted that "in the long run, experience teaches that strict adherence to the procedural requirements specified by the legislature is the best guarantee of evenhanded administration of the law." Id. (citing Mohasco Corp. v. Silver, 447 U.S. 807, 826 (1980)). In the complaint, Noble clearly indicates that he understands that he should have appealed the Court's decision in Noble v. Sleet, No. 02-1380 (D. Del. dismissed August 8, 2003), but he chose to file a new complaint instead. (D.I. 2 at 7)

Furthermore, it is apparent that Noble has been instructed that the district courts do not have the authority to directly transfer his cases to the Supreme Court. See generally 28 U.S.C. §§ 1251, 1253, 1254, 1257, 1258 and 1259 (explaining jurisdiction); see also, Guyer v. Kunz, No. 99-923-GMS, 2000 WL 1976474 *1 n1 (D. Del. December 15, 2000) ("This court does not have the authority to directly transfer Guyer's case to the Supreme Court of the United States.") Nonetheless, he continues to file frivolous motions and waste valuable judicial resources. Clearly, Noble has engaged in "a continuous pattern of groundless and vexatious litigation." In Re: Oliver, 682 F.2d 443, 446 (3d Cir. 1982).

Accordingly, Noble must be required to show cause why he should not be enjoined from continuing to file pro se civil rights actions in this Court without restriction.

NOW THEREFORE, at Wilmington this 15th day of January, 2004, IT IS HEREBY ORDERED that:

1. Noble's request to proceed in forma pauperis is **GRANTED**.
2. Noble's Motions for Recusal (D.I. 5,6) are **DENIED**.
3. Noble's complaint is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B).
4. Noble shall show cause within twenty (20) days why this Court should not enter an order barring him from filing any further pro se civil rights complaints without the prior approval of the Court.
5. The Clerk of the Court for the United States District Court for the District of Delaware shall refuse to file any complaint or other paper from Thomas E. Noble until this Court has ruled further on this matter.
6. The Clerk of the Court shall mail a copy of this Order forthwith to Noble, the United States Attorney for the Eastern District of Pennsylvania, the United States Attorney for the Middle District of Pennsylvania, the United States Attorney for the Western District of Pennsylvania, the United States

Attorney for the District of Delaware, the Attorney General for the State of Delaware, the Attorney General for the Commonwealth of Pennsylvania, and the District Attorney for Chester County, Pennsylvania.

Kent A. Jordan
UNITED STATES DISTRICT JUDGE