

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW CARPENTER	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PENNELLSCHOOL DISTRICT ELEMENTARY UNIT	:	NO. 01-6270
Defendant.	:	

DUBOIS, J.

DECEMBER 27, 2001

MEMORANDUM

Plaintiff, Matthew Carpenter, filed a pro se Complaint against Pennell School District Elementary Unit. In the Complaint, he refers to "§ 15.10 Discrimination Claims" and he appends to the Complaint copies of several statutes and voluminous records and reports pertaining to Tiffany Carpenter, a kindergarten student. Plaintiff does not say anything in the Complaint or the attachments which enables the Court to determine the way in which he claims his rights or the rights of Tiffany Carpenter have been violated.

With his Complaint, plaintiff filed a Motion for Leave to Proceed In Forma Pauperis. As it appears he is unable to pay the cost of commencing this action, leave to proceed in forma pauperis is granted. However, because the Court cannot determine what plaintiff is claiming from the Complaint or the attachments, the Complaint will be dismissed as legally frivolous without prejudice, pursuant to 28 U.S.C. § 1915(e). Plaintiff is granted leave to file within forty-five (45) days an amended complaint on behalf of Tiffany Carpenter which identifies her as

a plaintiff¹ and sets forth the factual basis for the claims against Pennell Elementary School, and the statute and/or regulations on which the claims are based.

The standard under which a district court may dismiss an action as frivolous under § 1915 (e) was clarified by the Supreme Court in Neitzke v. Williams, 490 U.S. 319 (1989). Dismissal under § 1915(e) is appropriate either when the action is "based on an indisputably meritless legal theory" or when it posits "factual contentions [that] are clearly baseless." Id. at 327.

The Court cannot determine from the Complaint and attachments the facts underlying plaintiffs claims and whether the claims are based on a meritorious legal theory. If plaintiff decides to file an amended complaint, he should clearly set forth his legal theories and the facts on which they are based. In the event plaintiff requires assistance in drafting the amended complaint, he should communicate with the Education Law Center, Inc., 801 Arch Street, Suite 610, Philadelphia, Pennsylvania 19107.

An appropriate Order follows:

¹Plaintiff's daughter can be identified by her initials.