

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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VIRGILLIO VIRGO,	:	
GREGORY KLUP, SR.,	:	
Plaintiffs,	:	
	:	
v.	:	Civil No. 17-5730
	:	
EDWARD GARCIA, JR.,	:	
EDWARD GARCIA,	:	
Defendants.	:	

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**OPINION**

**Joseph F. Leeson, Jr.**  
**United States District Judge**

**January 3, 2018**

Plaintiff Virgillio Virgo filed this civil action against Edward Garcia, Jr., and Edward Garcia. He also filed a motion to proceed *in forma pauperis*. Although Mr. Virgo named Gregory Klup, Sr., as a co-plaintiff, Mr. Klup neither signed the Complaint nor filed a motion to proceed *in forma pauperis*. Accordingly, the Court dismisses Mr. Klup as a plaintiff in this action. The Court also grants Mr. Virgo leave to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915, because it appears that he is incapable of paying the fees necessary to commence this action. However, the Court dismisses Mr. Virgo’s Complaint.

Federal Rule of Civil Procedure 8(a) requires a complaint to contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” A district court may *sua sponte* dismiss a complaint that does not comply with Rule 8 if “the complaint is so confused, ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised.”

*Simmons v. Abruzzo*, 49 F.3d 83, 86 (2d Cir. 1995) (quotations omitted). Furthermore, as Mr. Virgio is proceeding *in forma pauperis*, the Court must dismiss his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(ii) if it is frivolous or fails to state a claim. A complaint is frivolous if it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). It is legally baseless if “based on an indisputably meritless legal theory,” *Deutsch v. United States*, 67 F.3d 1080, 1085 (3d Cir. 1995), and factually baseless “when the facts alleged rise to the level of the irrational or the wholly incredible.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). To survive dismissal for failure to state a claim, the complaint must contain “sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quotations omitted). Conclusory statements and naked assertions will not suffice. *Id.*

As is typical of Mr. Virgio’s filings in federal court, his Complaint is rambling, unclear, and nonsensical. As his statement of the claim, Mr. Virgio writes:

Compensatory deman[d]s sum \$75,000.00  
I was thrown fecal[] matter on me myself assaulted respondent talked in Spanish on what plan[n]ed for Mr. Gregory Klup, Sr. Found Mr. Klup in the revines of 309 exchange rescue one open field murder expla[n]ation buzzards  
Mr. Gregory Klup let Garcia Ed out of his cell. If you don’t w[a]nt to be feis don’t come to jail so stop b\*\*\*\*ing and moaning found Klup Sr. body and motorcycle 309 exchange A.P.D. I.A.D. Clifford Knaphengers opps  
Repelvins cor[r]ections L.C.P.  
Neta prisons gang 2006 3 prongs indictments groups activity illicit narcotics to violence Sheriffs L.C.S.D. [unintelligible] long lives the President  
On 2006 I went on writ for a possible[] release discovered Mr. Sr Klups, Gregory

(Compl. at 3.) Having reviewed the Complaint, the Court cannot ascertain a clear factual basis for a non-frivolous claim within this Court’s jurisdiction. Accordingly, the Court dismisses the Complaint pursuant to Rule 8 and 28 U.S.C. § 1915(e)(2)(B)(i)-(ii). In light of Mr. Virgio’s Complaint in this action and his similar complaints in other actions, the Court concludes that

amendment would be futile. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 112-13 (3d Cir. 2002). An appropriate order follows, which shall be docketed separately.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.  
JOSEPH F. LEESON, JR.  
United States District Judge