

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

KEVIN SPENCE, : CIVIL ACTION  
Plaintiff, :  
 :  
v. :  
 :  
COMMUNITY LIFE IMPROVEMENT, :  
Defendant. : No. 03-CV-3406

MEMORANDUM AND ORDER

J. M. KELLY, J.

JUNE , 2003

Presently before the Court is a Motion to Proceed In Forma Pauperis filed by pro se Plaintiff Kevin Spence ("Plaintiff"). Plaintiff seeks this Court's permission to proceed in forma pauperis in filing this claim, which, based on the scant facts provided, appears to aver violations of the Fourth and Fourteenth Amendments, in addition to state common law claims of negligence, invasion of privacy and trespassing, allegedly committed by Defendant Community Life Improvement ("Defendant"). For the following reasons, Plaintiff's Motion to Proceed In Forma Pauperis is **DENIED** and his Complaint is **DISMISSED WITHOUT PREJUDICE**.

Pursuant to 28 U.S.C. § 1915(a), a Court can allow a civil action to commence without the prepayment of the required filing fee, provided that the individual pursuing such action files an affidavit that includes a statement of all assets possessed that the person is unable to pay such fees or provide security therefor. See 28 U.S.C. § 1915(a). Although Plaintiff provided

this Court with a statement in support of his in forma pauperis request, he fails to answer question 1(b),<sup>1</sup> rendering his application incomplete. Eligibility to proceed in forma pauperis is based on a showing of indigence. See Roman v. Jeffes, 904 F.2d 192, 194 n.1 (3d Cir. 1990). Since this Court cannot determine from an incomplete financial statement whether Plaintiff can pay court costs, his request to proceed in forma pauperis is **DENIED**.

Nevertheless, Plaintiff's Complaint must be dismissed as frivolous under § 1915(e)(2)(B)(i). While the statute does not define "frivolous," the United States Supreme Court explains that a complaint is "frivolous where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989). Claims are properly dismissed as frivolous under this standard when they are based on an indisputably meritless legal theory or when the contentions made are clearly baseless. Deutsch v. United States, 67 F.3d 1080, 1085 (3d Cir. 1995). Plaintiff's Complaint is an eight-page, handwritten, rambling document that devotes only two sentences to set forth his vague Constitutional and common law allegations. It appears that

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<sup>1</sup>Question 1 asks the applicant, "Are you presently employed?" If the answer is "yes," the applicant is to answer question 1(a), detailing amount of salary or wages received per month and the name and address of the applicant's current employer. If the answer is "no," then the applicant must answer question 1(b), stating the date of last employment and the amount of salary and wages per month received.

Plaintiff received a notice entitled "City of Philadelphia CLIP Warning!," which indicated that certain "violations" were found on his property, including: (1) high weeds/grass, (2) trash/debris, and (3) other/pool. (See Attachment to Compl.) Plaintiff alleges in his Complaint that this "CLIP Warning!" is a "notice that would revoke his privileges for owning or leaseing [sic] his home . . . ." (Compl. ¶ 4.) However, Plaintiff fails to state with specificity any other facts to support this conclusion. Because Plaintiff's pro se Complaint contains insufficient factual support and because even the most liberal reading of his Complaint could not bring forth a meritorious legal theory for this action, we find that it is frivolous and warrants dismissal. Accordingly, we **DENY** Plaintiff's Motion to Proceed In Forma Pauperis and **DISMISS WITHOUT PREJUDICE** Plaintiff's Complaint as frivolous.

BY THE COURT:

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JAMES MCGIRR KELLY, J.