UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

HOWARD J. NELSON **CIVIL ACTION NO.**

VERSUS **22-364-JWD-SDJ**

SONJA NETTE EDMONDS, et al.

NOTICE

Please take notice that the attached Magistrate Judge's Report has been filed with the Clerk of the U. S. District Court.

In accordance with 28 U.S.C. § 636(b)(1), you have **14 days** after being served with the attached report to file written objections to the proposed findings of fact, conclusions of law, and recommendations set forth therein. Failure to file written objections to the proposed findings, conclusions, and recommendations within **14 days** after being served will bar you, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court.

ABSOLUTELY NO EXTENSION OF TIME SHALL BE GRANTED TO FILE WRITTEN OBJECTIONS TO THE MAGISTRATE JUDGE'S REPORT.

Signed in Baton Rouge, Louisiana, on March 28, 2025.

SCOTT D. JOHNSON
UNITED STATES MAGISTRATE JUDGE

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MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter comes before the Court on Plaintiff Howard J. Nelson's Complaint. On June 21, 2022, the Court granted Plaintiff's Motion to Proceed In Forma Pauperis (R. Doc. 3). As Plaintiff is now proceeding IFP, this Court has performed a review pursuant to 28 U.S.C. § 1915(e) to determine whether the Complaint should be dismissed as frivolous or malicious or whether it fails to state a claim upon which relief may be granted. For the reasons set forth below, the Court recommends that Plaintiff's Complaint be **dismissed**.

I. Plaintiff's Allegations

On June 6, 2022, Plaintiff filed a form Complaint (R. Doc. 1) naming as Defendants Sonja Nette Edmonds; attorney Nancy G. Rubin; Levavi, P.C.; and Rubin & Levavi, P.C.[1] The Statement of Claim made by Plaintiff in his Complaint alleges that "Sonja Nette Edmonds is in violation of Calif Name Change Law."[2] In an attachment to his Complaint, Plaintiff further explains his allegations, though they are extremely difficult to understand. It appears to the Court that Plaintiff is asking this Court to rescind judgments in two civil cases in California state court and possibly one in the 21st Judicial District Court in Tangipahoa Parish, though the subject of those cases is unclear.[3] Additionally, Plaintiff alleges that Sonja Edmonds violated the "California Name Change Laws" and takes issue with the distribution of proceeds from a property in Antioch,

[1] R. Doc. 1 at 1-2.
[2] *Id.* at 4.
[3] R. Doc. 1-1 at 1-2.

California.[4] He concludes by stating: "It is also my impression that I am being discriminated against Because of my age being a senior, my color because I am Black and my gender because I am a Man."[5] No further information is provided. The Court notes that this Complaint appears related to a Complaint previously filed in this Court by Plaintiff on January 20, 2022 (*see* 3:22-cv-00043-JWD-SDJ), which this Court dismissed as frivolous pursuant to 28 U.S.C. § 1915(e) after conducting a hearing.[6]

II. Law and Analysis

A. Legal Standard

District courts must construe IFP complaints filed by *pro se* plaintiffs liberally. Nonetheless, even the most liberally construed IFP complaint can be dismissed at any time, regardless of service or the filing of an answer, if the court determines the case is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). Dismissal under § 1915(e) may be made before service of process. *Green v. McKaskle*, 788 F.2d 1116, 1119 (5th Cir. 1986).

An IFP complaint is properly dismissed as frivolous if the plaintiff's claims lack an arguable basis either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 32 (1992); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Hicks v. Garner*, 69 F.3d 22, 25 (5th Cir. 1995). A court may dismiss a claim as factually frivolous only if the facts are clearly baseless, a category encompassing allegations that are fanciful, fantastic, and delusional. *Denton*, 504 U.S. at 32-33; *see also Ancar v. Sara Plasma, Inc.*, 964 F.2d 465, 468 (5th Cir. 1992) ("A complaint is factually frivolous if the facts alleged rise to the level of the irrational or wholly incredible"). Pleaded facts which are merely improbable or strange are not frivolous. *Denton*, 504 U.S. at 33; *Ancar*, 964 F.2d at 468.

[4] *Id.* at 2.
[5] *Id.* at 3.
[6] *See* 3:22-cv-00043-JWD-SDJ, R. Docs. 8, 9.

To determine whether the complaint fails to state a claim under § 1915(e)(2)(B)(ii), courts apply the same standard used for dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure. *Hart v. Hairston*, 343 F.3d 762, 763-64 (5th Cir. 2003). When reviewing a Rule 12(b)(6) motion to dismiss, the court must accept all well-pleaded facts as true and view them in the light most favorable to the non-moving party. *Baker v. Putnal*, 75 F.3d 190, 196 (5th Cir. 1996); *Benton v. United States*, 960 F.2d 19, 21 (5th Cir. 1992). Nonetheless, "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). "To survive a motion to dismiss, a 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) (*quoting Twombly*, 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

B. Plaintiff fails to state a plausible claim against any Defendant

In his Complaint, Plaintiff asserts claims against four separate named Defendants, although two Defendants, Levavi P.C. and Rubin & Levavi, P.C. appear to refer to the same entity. However, Plaintiff's Complaint does not assert a viable cause of action against any named Defendant. The entirety of Plaintiff's prayer for relief is: "Relief in the case of Sonja Edmonds Nelson who use my last name Frivolous in cases case: 2022000009 case: FDI-05-759905 should be resended under California Statutes" and cites to California Code of Civil Procedure Sections 1275 and 1276 and a summary of the "California Name Change Law."[7] Plaintiff then later states that "[t]he legal remedy is for Judge Scott D. Johnson United States Magistrate Judge United States District Court Middle District Court of Louisiana who presided over Case: 22-43-JWD-SDJ on April 27, 2022 to resend judgements in the following Cases: No. 2022000009 No. FDI-05-759905

[7] R. Docs. 1 at 4, 1-1 at 1, 1-2 at 1.

Jeffrey Johnson District Judge signed on January 13, 2022 in the 21st Judicial District Court for Tangipahoa Parish State of Louisiana."[8]

Other than listing them as Defendants, Plaintiff does not level any allegations against, or even mention at all, Defendants Nancy G. Rubin; Levavi, P.C.; and Rubin & Levavi, P.C. As such, the Court has no information about their perceived connection to or involvement with Plaintiff's allegations, and no allegations of wrongdoing have been made against them. Thus, Plaintiff has failed to a state a claim of action for which relief may be granted against them.

With regard to Defendant Sonja Edmonds, Plaintiff alleges that she is "in violation of Calif Name Change Law" and that she used Plaintiff's last name "frivolous" in the aforementioned two cases.[9] Based on Plaintiff's allegations, it is possible that he is alleging Sonja Edmonds violated the California Name Change Law in that she did not change her name after becoming divorced from Plaintiff. However, this is in no way clear to the Court from Plaintiff's allegations. Regardless, the wrongdoing by Sonja Edmonds alleged by Plaintiff is violation of a California state law. And the relief being sought for this alleged action is rescission by this Court of rulings in either California or Louisiana state courts. Plaintiff has cited no authority—and the Court knows of none—which would allow it to grant the relief requested. As such, the Court finds Plaintiff has failed to state a cause of action against any named Defendant in this case and recommends dismissal of his Complaint.

III. Conclusion

For the foregoing reasons,

[8] R. Doc. 1-1 at 5.
[9] R. Doc. 1 at 4.

IT IS RECOMMENDED that Plaintiff's Complaint be **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e).

Signed in Baton Rouge, Louisiana, on March 28, 2025.

SCOTT D. JOHNSON
UNITED STATES MAGISTRATE JUDGE