UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

DERON JOHN MANTEI,	§	
	§	
Plaintiff,	§	
	§	
v.	§	SA-18-CV-170-DAE
	§	
KNIGHT-SWIFT TRANSPORTATION,	§	
	§	
Defendants.	§	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

To the Honorable United States District Judge David Ezra:

This Report and Recommendation concerns the status of this case. Plaintiff was granted leave to proceed *in forma pauperis* in this matter, pursuant to 28 U.S.C. 1915(a)(1). Having reviewed Plaintiff's complaint as required by 28 U.S.C. 1915(e)(2)(B)(i), I recommend that the complaint be **DISMISSED** as frivolous.

I. Background.

Plaintiff has filed seven related cases in this Division. Five of the cases remain active: (1) *Mantei v. Swift Trans. Co.*, SA-17-CV-1155-DAE (HJB); (2) *Mantei v. Stocking*, SA-18-CV-91-XR (HJB); (3) *Mantei v. Maricopa Co. Sheriff's Dept., et al.*, SA-18-CV-100-XR (HJB); (4) *Mantei v. FBI, et al.*, SA-18-CV-137-OLG; and (5) *Mantei v. Knight-Swift Trans.*, SA-18-CV-170-DAE.[1] A brief description of each of the active cases follows.

- In *Mantei v. Swift Transp. Co.*, SA-17-CA-1155-DAE (HJB), Plaintiff alleges that he was employed by a trucking company for three months starting in October

[1] Two other cases have been dismissed: (1) *Mantei v. FBI, et al.*, SA-18-CV-123-OLG, and (2) *Mantei v. State of Kansas Child Support Enf't, et al.*, SA-18-CV-124-OLG.

2016. He contends that Defendant attempted to force or defraud him into driving to a county in Kansas where he would be detained for failing to pay child support. According to Plaintiff, when the scheme failed, the trucking company paid an extraction team to intercept and assault the plaintiff, using stun guns, lasers, and other electrical devices that caused severe pain, tissue damage, and radiation absorption to the plaintiff's testicles and other areas of the body. Plaintiff claimed that, at the time of the filing of the Complaint, he "continues to be under some sort of electronically based attack perhaps a microphone or other devices aimed at his genitals, back, and legs and other parts of his body." *Mantei v. Swift Transp Co.*, SA-17-CA-1155-DAE (HJB), Complaint at 7–8 (W.D. Tex. November 13, 2017).

- In *Mantei v. Stocking*, SA-18-CV-91-XR (HJB), Plaintiff makes similar allegations, this time naming as Defendant the CEO of Swift Transportation Company, Richard Stocking. (Docket Entry 1-1, at 1.) Plaintiff appears to allege that Stocking was responsible for Plaintiff being assaulted, and that Stocking paid to have Plaintiff poisoned in Houston, Texas. He also alleges that some sort of signal is being directed at his genitals whenever he comes to the federal courthouse in San Antonio. (*Id.* at 3–4.)
- In *Mantei v. Maricopa Co. Sheriff's Dept., et al.*, SA-18-CV-100-XR-HJB, Plaintiff alleges that the Maricopa County Sheriff's Department conspired with the trucking company to arrange for his assault and detention, and that the Department may have somehow been involved in an attack upon him on a Greyhound bus and at a hospital in Phoenix. Plaintiff also alleges that the former Maricopa Sheriff was in Houston with the CEO of the trucking company at the

time he was poisoned. (Docket Entry 1-1, at 2.) He alleges that a "team," apparently of Maricopa County Sheriff's Department employees, are "using [an] electronic device to electronically castrate the plaintiff." (*Id.* at 3.) In sum, he alleges that "[t]he company and others have had the plaintiff under what amounts to a hostage situation for one year now where his genitals are under a constant attack." (*Id.*)

- In *Mantei v. Federal Bureau of Investigations, et al.*, SA-18-CV-137-OLG, Plaintiff alleges that he has "in affect been taken hostage by someone using a Communications Satellite." (SA-18-CV-137-OLG, Docket Entry 1-1, at 1.) Plaintiff further claims that he has sent "500+ messages to the FBI and federal judges" to get attention to this matter. (*Id.* at 2.) He further alleges that "a U.S. authority" has taken him hostage for a year and tortured him for the purpose of covering up "things that have been done to his back ground and the resulting 10 years of oppression by local law enforcement entities[.]" (*Id.*) He claims that the federal government has failed to regulate the use of the technology that is attacking him. (*Id.*) Finally, he argues that Swift Company is using this communications satellite to take his testicles and that they are attacking his genitals twenty-four hours per day. (*Id.* at 2–3.)
- In *Mantei v. Knight-Swift Trans.*, SA-18-CV-170-DAE, Plaintiff alleges that he was fraudulently hired by Swift Transportation Company. (SA-18-CV-170-DAE, Docket Entry 1-1, at 1.) He further alleges that upon confronting the trucking company, they had him "extracted" from his company truck, and that during the extraction he sustained damage to his testicles. (*Id.*) He continues to allege that

he is under a twenty-four hour per day "genital battering" by a "Communications Satellite Channel and a link." (*Id.* at 3.) In this seventh suit, Plaintiff claims that the people attacking him have "threaten[ed] to hurt or even kill any judge" assigned to the suits filed by Plaintiff. (*Id.*) Plaintiff closes the Complaint by stating that he will be filing a suit against the Court. (*Id.* at 4.)

II. Discussion.

In IFP cases, § 1915(e)(2)(B) requires the Court to "dismiss the case at any time if the [C]ourt determines that . . . the action or appeal . . . is frivolous or malicious [or] fails to state a claim on which relief may be granted . . . ." 28 U.S.C. § 1915(e)(2)(B)(i), (ii). A complaint may be dismissed as frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Talib v. Gilley*, 138 F.3d 211, 213 (5th Cir. 1998). A complaint lacks an arguable basis in law if it is based on "an indisputably meritless legal theory." *Harper v. Showers*, 174 F.3d 716, 718 (5th Cir. 1999). Claims are factually frivolous if the facts are clearly baseless, a category encompassing allegations that are fanciful, fantastic, and delusional. *See Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992); *Neitzke*, 490 U.S. at 327. A court must not dismiss a complaint simply because the set of facts presented by the plaintiff appears to be "unlikely." *Denton*, 504 U.S. at 33. However, a complaint must allege a set of facts "to state a claim . . . that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). This court is "vested with especially broad discretion in making the determination of whether an IFP proceeding is frivolous." *Green v. McKaskle*, 788 F.2d 1116, 1119 (5th Cir. 1986).

Plaintiff's Complaint contains irrational and nonsensical allegations and does not include sufficient supporting factual allegations to demonstrate a non-frivolous claim. The only factual allegations Plaintiff makes are "fanciful," "fantastic," and "delusional." *See Denton v.*

Hernandez, 504 U.S. 25, 32–33 (1992) (quoting *Neitzke*, 490 U.S. at 325, 328). Accordingly, they are subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(i). Plaintiff's Complaint should be dismissed.[2]

III. Conclusion.

Having considered Plaintiff's Complaint under the standards set forth in 28 U.S.C. § 1915(e), the undersigned recommends that Plaintiff's Complaint be **DISMISSED** as frivolous pursuant to Section 1915(e).

IV. Instructions for Service and Notice of Right to Object.

The United States District Clerk shall serve a copy of this report and recommendation on all parties by either (1) electronic transmittal to all parties represented by attorneys registered as a "filing user" with the clerk of court, or (2) by mailing a copy to those not registered by certified mail, return receipt requested. Written objections to this report and recommendation must be filed **within fourteen (14) days** after being served with a copy of same, unless this time period is modified by the district court. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). The party shall file the objections with the clerk of the court, and serve the objections on all other parties. A party filing objections must specifically identify those findings, conclusions or recommendations to which objections are being made and the basis for such objections; the district court need not consider frivolous, conclusive or general objections. A party's failure to file written objections

[2] The undersigned previously admonished Plaintiff in its February 7, 2018, Show Cause Order in SA-18-CV-100-XR (HJB) that filing additional frivolous or baseless lawsuits before proceedings in this and other then-existing cases concluded may result in Plaintiff being enjoined from future filings. (SA-18-CV-100-XR (HJB), Docket Entry 3, at 4.) Plaintiff did not heed the Court's warning. Instead, Plaintiff filed two additional lawsuits in the weeks following the Court's admonition. Chief Judge Orlando L. Garcia issued an Order on March 15, 2018, dismissing one of Plaintiff's cases and ordering him to show cause why a pre-filing injunction should not be entered against him. (SA-18-CV-124-OLG, *Mantei v. State of Kansas Child Support Enf't, et al.*, Docket Entry 5.) The undersigned recommends that, absent a showing of good cause, a pre-filing injunction against Plaintiff is appropriate.

to the proposed findings, conclusions and recommendations contained in this report shall bar the party from a *de novo* determination by the district court. *Thomas v. Arn*, 474 U.S. 140, 149–52 (1985); *Acuña v. Brown & Root, Inc.,* 200 F.3d 335, 340 (5th Cir. 2000). Additionally, failure to file timely written objections to the proposed findings, conclusions and recommendations contained in this report and recommendation shall bar the aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc).

SIGNED on March 20, 2018.

Henry J. Bemporad
United States Magistrate Judge