

FILED

SEP 20 2010

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**Clerk, U.S. District and
Bankruptcy Courts**

JOHN WILLIAM ZIMMERMAN,

Plaintiff,

v.

RODNEY D. FOURACRE, *et al.*,

Defendants.

Civil Action No. 10-1582

MEMORANDUM OPINION

This matter comes before the court on review of plaintiff's application to proceed *in forma pauperis* and *pro se* civil complaint. The court will grant the application, and dismiss the complaint.

The court must dismiss a complaint if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. 28 U.S.C. § 1915(E)(1)(B). In *Neitzke v. Williams*, 490 U.S. 319 (1989), the Supreme Court states that the trial court has the authority to dismiss not only claims based on an indisputably meritless legal theory, but also claims whose factual contentions are clearly baseless. Claims describing fantastic or delusional scenarios fall into the category of cases whose factual contentions are clearly baseless. *Id.* at 328. The trial court has the discretion to decide whether a complaint is frivolous, and such finding is appropriate when the facts alleged are irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

Plaintiff describes himself a "non-person, with Diplomatic Status and Immunity, [and] a Free Independent (((Sovereign)))". Compl. at 8 (parentheses and bold type in original). Because he is a sovereign and not a person, he alleges that the State of Colorado is without

authority to imprison him. *See id.* 7-8. He demands his immediate release from the Fremont Correctional Facility in Canon City, Colorado, *id.* at 8, among other relief, *id.* at 8-10.

The court is mindful that complaints filed by *pro se* litigants are held to less stringent standards than those applied to formal pleadings drafted by lawyers. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Having reviewed plaintiff's complaint, the court concludes that its factual contentions are baseless and wholly incredible. For this reason, the complaint is frivolous and must be dismissed. *See* 28 U.S.C. § 1915(e)(2)(B)(i).

An Order consistent with this Memorandum Opinion is issued separately.

RICHARD W. ROBERTS
United States District Judge

DATE: August 31, 2010