

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

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|-----------------------------|---|-----------------------------------------|
| DARNELL EMERSON WASHINGTON, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | Case: 1:16-cv-02126 |
| | : | Assigned To : Unassigned |
| | : | Assign. Date : 10/25/2016 |
| MARC ROTENBERG, Electronic | : | Description: Pro Se Gen. Civil (F Deck) |
| Privacy Information Center, | : | |
| | : | |
| Defendant. | : | |

MEMORANDUM OPINION

For purposes of this Memorandum Opinion, the Court consolidates three complaints designated by the plaintiff as Claim #1, Claim #2 and Claim #3.

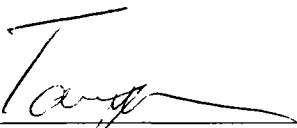
The plaintiff currently is incarcerated at the Colorado State Prison in Canon City, Colorado. Generally, he alleges that the defendants are responsible for having a “verichip” implanted in his arm without his consent. The verichip allegedly causes him to suffer headaches, and its electronic shock waves continually cause him pain. *See* Compl. (Claim #2) at 1. It also has harmful effects, such as “electrical hazards, MRI incompatibility, adverse tissue reaction, and migration of the implanted transponder.” *Id.* The plaintiff attributes to the verichip the loss of his liberty. *See* Compl. (Claim #1) at 1. He demands no particular relief.

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); *see Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (“[A] complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact.”). Having reviewed the complaint, the Court

concludes that what factual contentions are identifiable are baseless and wholly incredible. Therefore, the Court will grant the plaintiff's application to proceed *in forma pauperis* and dismiss his *pro se* civil complaint with prejudice as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) and 1915A(b)(1).¹ An Order consistent with this Memorandum Opinion is issued separately.

DATE:

10/24/2016


United States District Judge

¹ This is the third complaint the plaintiff has brought regarding the alleged implantation of a verichip. See *Washington v. Elec. Privacy Info. Ctr.*, No. 1:16-cv-1866 (D.D.C. Sept. 19, 2016) (dismissing case with prejudice as frivolous); *Washington v. Standzel*, No. 2:16-CV-2194, 2016 WL 4204484, at *1 (C.D. Cal. Apr. 5, 2016), reconsideration denied sub nom. *Washington v. Elec. Privacy Info Ctr.*, No. LACV1602194, 2016 WL 4009829 (C.D. Cal. July 1, 2016).