

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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T. ISHUTKINA & N. SYNKOV      :      Civ. No. 3:17CV01406 (JCH)
                                :
v.                              :
                                :
V. PUTIN                       :      August 23, 2017
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RECOMMENDED RULING

This matter is before the Court on an initial review of self-represented plaintiffs T. Ishutkina and N. Synkov’s (“plaintiffs”) Complaint [Doc. #1] and Motions for Leave to Proceed in Forma Pauperis [Doc. ##2, 3]. For the reasons set forth below, the Court **GRANTS** plaintiffs’ Motions for Leave to Proceed in Forma Pauperis [**Doc. ##2, 3**], and recommends that the Complaint [**Doc. #1**] be **DISMISSED, with prejudice**, pursuant to 28 U.S.C. §1915(e)(2)(B)(i)-(iii).

I. Background

Plaintiffs bring this action against defendant, President of the Russian Federation, “V. Putin.” See Doc. #1, Complaint. Plaintiffs assert that they are the founder (Ishutkina) and executive director (Synkov) of Fermata Arts Foundation, a non-profit organization, see id. at 6, which “places an importance on geopolitical and cultural awareness[.]” Doc. #1-7. Although the harm alleged in the Complaint is difficult to discern,

plaintiffs generally allege that President of the United States Donald Trump, President Putin, and the law firm of Morgan, Brown & Joy, LLC, have participated in "terrorist" acts. See id. at 2-5. Plaintiffs allege that President Putin's "goal is to increase the number of front men organizing terror in the world and the USA to uncontrollable/unmanageable conditions[.]" Id. at 3. Plaintiffs further allege: "Putin - through KGB institutions pursues the formation of concept of capturing the presidential structures; is attempting to become a 'prairie president', destroying any possibility of civilization security." Id. at 5 (sic). Plaintiffs specifically request:

To Putin: open financial resources in the structures of government departments of his country to finance the American non-profit organizations with the establishment of information centers and academic centers with reading lectures by lecturers from business companies affiliated with non-profit organizations of America.

The per annum budget is to be \$100 million from each government department.

Pay Fermata Arts Foundation a lump grant to reimburse Fermata Arts Foundation's expenses (In 2014 a request was initiated for a meeting with Putin through the preliminary form of negotiations with the Russian Ambassador to the United States S. I. Kislyak. So far, no decision has been made. Negotiations had different forms and directions in order to form a package of discussion papers for talks with President Putin).

To Putin: pay Fermata Arts Foundation \$50 million for damages.

Doc. #1 at 5 (sic).

Attached to plaintiffs' Complaint are 35 pages of exhibits. These exhibits include poems, and letters addressed to President Putin and copied to President Trump. See, e.g., Doc. #1-3, at 8; #1-4 at 3. Also attached as exhibits are letters regarding the Fermata Arts Foundation from various politicians. See, e.g., Doc. #1-5; #1-6; #1-7; #1-8.

II. Motions for Leave to Proceed in Forma Pauperis
[Doc. ##2, 3]

Each plaintiff has filed a motion seeking to proceed without payment of fees and costs, along with a financial affidavit. [Doc. ##2, 3]. Each plaintiff asserts an inability to pay fees and costs, because his or her monthly income and benefits do not cover his or her monthly expenses. See Doc. #2 at 3-5; see also Doc. #3 at 3-5. The plaintiffs assert that they jointly own a single family home with an estimated value of \$306,000.00, but on which monthly payments are delinquent and owing. See Doc. #2 at 4; Doc. #3 at 4. Each plaintiff also claims to have \$12.00 in a bank account. See id. Plaintiff Synkov represents that he owns a 2008 BMW worth \$7,000.00, but on which he owes \$14,174.00. See Doc. #3 at 4. Plaintiff Ishutkina represents that she owns a 2005 Saab worth \$550.00, but on which she owes \$3,051.00. At this stage, such allegations are sufficient to establish that plaintiffs are "unable to pay" the ordinary filing fees required by the Court. 28 U.S.C.

§1915(a)(1). Accordingly, plaintiffs' Motions for leave to Proceed in Forma Pauperis [Doc. ##2, 3] are **GRANTED**.¹

III. Initial Review

A. Standard of Review

The determination of whether an in forma pauperis plaintiff should be permitted to proceed under 28 U.S.C. §1915 involves two separate considerations. The Court must first determine whether the plaintiff may proceed with the action without prepaying the filing fee in full. See 28 U.S.C. §1915(a). The Court has already addressed that issue. Second, section 1915 provides that "the court shall dismiss the case at any time if the court determines that" the case "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). In the interest of efficiency, the Court reviews complaints under this provision shortly after filing to determine whether the plaintiffs have stated a cognizable, non-frivolous claim.

The Court construes complaints filed by self-represented plaintiffs liberally. See Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court exercises caution in dismissing a case under section 1915(e) because a claim that the Court perceives as likely to be unsuccessful is not necessarily frivolous. See

¹ The Court grants these motions despite plaintiffs' failure to disclose all previously filed cases in this District.

Neitzke v. Williams, 490 U.S. 319, 329 (1989). In addition, “unless the court can rule out any possibility, however unlikely it might be, that an amended complaint would succeed in stating a claim[,]” the Court will permit “a pro se plaintiff who is proceeding in forma pauperis” to file an amended complaint that attempts to state a claim upon which relief may be granted. Gomez v. USAA Fed. Sav. Bank, 171 F.3d 794, 796 (2d Cir. 1999).

B. Analysis

Assuming for the sake of this ruling that plaintiffs have standing to request relief on behalf of Fermata Arts Foundation, even if the Complaint presents a cognizable claim, President Putin is immune from personal jurisdiction in the courts of the United States.

The Court takes judicial notice that President Putin is a current head of state that is recognized by the United States. “Recognized states enjoy certain privileges and immunities relevant to judicial proceedings[.]” Kadic v. Karadzic, 70 F.3d 232, 244 (2d Cir. 1995) (collecting cases). “A head-of-state recognized by the United States government is absolutely immune from personal jurisdiction in United States courts unless that immunity has been waived by statute or by the foreign government recognized by the United States.” Lafontant v. Aristide, 844 F. Supp. 128, 131-32 (E.D.N.Y. 1994); accord Matar v. Dichter, 500 F. Supp. 2d 284, 290 (S.D.N.Y. 2007), aff’d, 563 F.3d 9 (2d Cir.

2009); Gomes v. ANGOP, Angola Press Agency, No. 11CV0580 (DLI) (JO), 2012 WL 3637453, at *7-8 (E.D.N.Y. Aug. 22, 2012), aff'd sub nom. Gomes v. ANGOP, 541 F. App'x 141 (2d Cir. 2013).

"The doctrine [of head of state immunity] is a corollary of the broader principle of foreign sovereign immunity that is deeply rooted in this nation's history. See, e.g., Schooner Exch. v. McFaddon, 11 U.S. (7 Cranch) 116 (1812). Like the concept of foreign sovereign immunity, head of state immunity is premised on notions of comity as well as on the recognition that foreign leaders must be able to represent their nations abroad without the threat of being hailed into a foreign legal system. See Lafontant, 844 F. Supp. at 132.

Devi v. Rajapaksa, No. 11CV6634 (NRB), 2012 WL 3866495, at *2 (S.D.N.Y. Sept. 4, 2012). Accordingly, absent any allegations that immunity has been waived by statute or by the Russian Federation, President Putin, as a sitting head of state, is immune from this Court's jurisdiction. See, e.g., Gomes, 2012 WL 3637453, at *7; Weiming Chen v. Ying-jeou Ma, No. 12CV5232 (NRB), 2013 WL 4437607, at *3 (S.D.N.Y. Aug. 19, 2013).

"In the Second Circuit, the district court has the authority to dismiss actions sua sponte in the rare case when it faces a truly frivolous suit." Gonzalez v. Ocwen Home Loan Servicing, 74 F. Supp. 3d 504, 518 (D. Conn. 2015), reconsideration denied, No. 3:14CV53 (CSH), 2015 WL 2124365 (May 6, 2015), and aff'd sub nom. Gonzalez v. Deutsche Bank Nat. Tr. Co., 632 F. App'x 32 (2d Cir. 2016) (citation omitted).

An action is "frivolous" when either: (1) "the 'factual contentions are clearly baseless,' such as when allegations are the product of delusion or fantasy;" or (2) "the claim is 'based on an indisputably meritless legal theory.'" Nance v. Kelly, 912 F.2d 605, 606 (2d Cir. 1990) (per curiam) (quoting Neitzke v. Williams, 490 U.S. 319, 327 (1989)). A claim is based on an "indisputably meritless legal theory" when either the claim lacks an arguable basis in law, Benitez v. Wolff, 907 F.2d 1293, 1295 (2d Cir. 1990) (per curiam), or a dispositive defense clearly exists on the face of the complaint. See Pino v. Ryan, 49 F.3d 51, 53 (2d Cir. 1995).

Livingston v. Adirondack Beverage Co., 141 F.3d 434, 437 (2d Cir. 1998). Because the only defendant named in the Complaint is immune from the personal jurisdiction of the United States courts, the Complaint is frivolous and sua sponte dismissal is appropriate.

Therefore, because any amendment of the Complaint would be futile, the Court recommends that plaintiff's Complaint be **DISMISSED, with prejudice**, pursuant to 28 U.S.C.

§1915(e)(2)(B)(i)-(iii).

IV. Conclusion

For the reasons stated above, plaintiffs' Motions for Leave to Proceed in Forma Pauperis [**Doc. ##2, 3**] are **GRANTED**, and the Court recommends that the Complaint [**Doc. #1**] be **DISMISSED, with prejudice**, pursuant to 28 U.S.C. §1915(e)(2)(B)(i)-(iii).

This is a recommended ruling. See Fed. R. Civ. P. 72(b)(1). **Any objections to this recommended ruling must be filed with the**

