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Edwin Ejikeme v. Director Federal Bureau of Inv

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-3910

EDWIN IKECHUKWU EJIKEME,
Appellant

v.

DIRECTOR FEDERAL BUREAU OF INVESTIGATION, and his associates including
his replacement if any; ESPERANTE S. TOVI, FBI agent with pseudo name Anulika

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil No. 2-15-cv-00008)
District Judge David S. Cercone

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6

April 28, 2016

Before: AMBRO, SHWARTZ, and NYGAARD, Circuit Judges

(Opinion filed May 6, 2016)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Pro se appellant Edwin Ejikeme appeals from the judgment of the United States District Court for the Western District of Pennsylvania dismissing his complaint as frivolous. We will affirm.

I.

Ejikeme initiated this action in 2015 against Robert Mueller, Director of the FBI, and Esperante S. Tovi, an alleged FBI agent operating under the pseudonym Anulika. In his complaint, Ejikeme sets a forth a variety of fantastical allegations against these Defendants, including allegations that they attempted to infect him with HIV, placed him on domestic and international spy satellites, and falsely informed the managers of Family Dollar and Bottom Dollar that Ejiekeme was stealing merchandise from these stores.

On November 9, 2015, after granting Ejikeme *in forma pauperis* status, the District Court dismissed his complaint as frivolous. Ejikeme filed a timely notice of appeal from this order on November 20, 2015.

II.

We have jurisdiction under 28 U.S.C. § 1291 and review the District Court’s dismissal of the complaint as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i) for abuse of discretion. See Denton v. Hernandez, 504 U.S. 25, 33 (1992).

Section 1915(e)(2)(B)(i) “authorizes the dismissal of a[n IFP] complaint as factually frivolous if a court determines that the contentions are clearly baseless.” Deutsch v. United States, 67 F.3d 1080, 1085 (3d Cir. 1995). Here, Ejikeme’s allegations appear to arise from some type of imagined campaign by the FBI to infect him with HIV and otherwise harass and annoy him by stealing various personal items and smearing his

reputation at local discount stores. The District Court properly dismissed these claims as frivolous.¹ Denton, 504 U.S. at 33 (“[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.”).

Accordingly, we will affirm the decision of the District Court.

¹ We have reviewed Ejikeme’s argument in support of appeal, which contains similarly fantastical allegations against Mueller.