

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>RICO CORTEZ DUKES,</b>	)	
<b>Plaintiff,</b>	)	
<b>vs.</b>	)	<b>No. 3:17-CV-2063-K-BH</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
<b>Defendant.</b>	)	<b>Referred to U.S. Magistrate Judge</b>

**FINDINGS, CONCLUSIONS AND RECOMMENDATION**

Pursuant to *Special Order No. 3-251*, this pro se case has been automatically referred for screening. Based on the relevant filings and applicable law, the plaintiff's claims should be **DISMISSED**.

**I. BACKGROUND**

On August 3, 2017, the plaintiff filed this *pro se* case against the United States of America. (*See* doc. 3.) His initial filing is titled as a criminal complaint, and he appears to allege "federal voter registration fraud." (*Id.* at 1, 2.)<sup>1</sup> He claims that the voter identification number for an individual in Connecticut is the same number as the serial number that is assigned to his birth certificate, which was issued by Louisiana. (*Id.* at 2, 4.) The bar code on his birth certificate allegedly makes it a negotiable instrument that can be sold or traded for profit. (*Id.* at 2.) He also contends that he has audio recordings in which the Washington DC Board of Elections and the Department of Justice confessed, which establishes federal voter registration fraud beyond a reasonable doubt. (*Id.*) No process has been issued.

**II. PRELIMINARY SCREENING**

Because the plaintiff has been permitted to proceed *in forma pauperis*, his complaint is sub-

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<sup>1</sup> Citations to the record refer to the CM/ECF system page number at the top of each page rather than the page numbers at the bottom of each filing.

ject to judicial screening under 28 U.S.C. § 1915(e)(2). It provides for *sua sponte* dismissal of the complaint, or any portion thereof, if the Court finds it is frivolous or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary relief against a defendant who is immune from such relief.

A complaint is frivolous when it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A claim lacks an arguable basis in law when it is “based on an indisputably meritless legal theory.” *Id.* at 327. A complaint fails to state a claim upon which relief may be granted when it fails to plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); accord *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009). To avoid dismissal for failure to state a claim, plaintiffs must allege facts sufficient to “raise the right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. Mere “labels and conclusions” nor “a formulaic recitation of the elements of a cause of action” suffice to state a claim upon which relief may be granted. *Id.*

### **III. CRIMINAL CHARGES**

To the extent that plaintiff’s filing, which is titled as a criminal complaint, seeks to enforce a criminal statute or have someone criminally prosecuted, it fails to state a claim. “Private citizens do not have the right to bring a private action under a federal criminal statute.” *Sappore v. Arlington Career Inst.*, No. 3:09-CV-1671-N, 2010 WL 446076, at \*2 (N.D. Tex. Feb. 8, 2010) (citing *Pierre v. Guidry*, 75 F. App’x 300, 301 (5th Cir. 2003) (per curiam)). A private party may not enforce criminal statutes through a civil action. *Florance v. Buchmeyer*, 500 F.Supp.2d 618, 626 (N.D. Tex. 2007). Nor is there a constitutional right to have someone criminally prosecuted. See *Oliver v. Collins*, 914 F.2d 56, 60 (5th Cir.1990). The plaintiff has failed to state a plausible claim upon

which relief may be granted.

#### IV. RECOMMENDATION

The plaintiff's claims should be **DISMISSED** with prejudice for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B).

**SO RECOMMENDED on this 18th day of August, 2017.**

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE

#### **INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE