

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Derek D. Fingers,
Appellant-Plaintiff,

v.

Eric Holcomb, James Basinger,
Robert Carter, Jr., Mr. Vanihel,
Shelby Critchfield, and
State of Indiana,
Appellees-Defendants.

February 10, 2023

Court of Appeals Case No.
22A-CT-1942

Appeal from the Sullivan Superior
Court

The Honorable Hugh R. Hunt,
Judge

Trial Court Cause No.
77D01-2207-CT-346

Memorandum Decision by Judge Weissmann
Judges May and Crone concur.

Weissmann, Judge.

- [1] Derek Fingers alleges that his constitutional rights are being violated by the presence of electro-magnetic currents targeting the Indiana judicial system and torturing him inside his prison cell. The trial court dismissed the claim as frivolous. We affirm.

Facts

- [2] Fingers is incarcerated at the Wabash Valley Correctional Facility. He alleges that there are a series of devices emitting electro-magnetic currents capable of controlling the thoughts and actions of judges, jurors, and other members of the judicial process. Fingers also claims these currents torture him and that prison officials have ignored his complaints. When Fingers brought these allegations before a trial court, his complaint was summarily dismissed as frivolous. He appeals that decision.

Discussion and Decision

- [3] Indiana state courts follow a set procedure when an incarcerated offender files a complaint or petition. *See generally* Ind. Code § 34-58-1. After docketing the case, the trial court first undertakes a mandatory review to check if the claim may proceed. Ind. Code § 34-58-1-1. As relevant here, an offender's claim will be dismissed if it is frivolous. Ind. Code § 34-58-1-2(a)(1). A claim is factually frivolous when "the facts alleged are clearly baseless, a category encompassing allegations that are fanciful, fantastic, or delusional." *Smith v. Wrigley*, 908 N.E.2d 354, 359 (Ind. Ct. App. 2009) (internal quotations omitted). We review

an order dismissing a complaint under the screening procedure for offender litigation de novo. *Smith v. Huckins*, 850 N.E.2d 480, 484 (Ind. Ct. App. 2006).

- [4] This case is patently frivolous. Fingers’s allegations of electro-magnetic waves controlling the Indiana judiciary and torturing him while in jail fall within the category of frivolous claims that are ripe to be “summarily dismissed at the screening stage.” *Wrigley*, 908 N.E.2d at 360. Courts need not treat allegations as true when they are “sufficiently fantastic to defy reality as we know it: claims about little green men, or the plaintiff’s recent trip to Pluto, or experiences in time travel.” *Ashcroft v. Iqbal*, 556 U.S. 662, 696 (2009) (Souter, J., dissenting). Fingers’s complaint is impossible as a factual matter, and we need not unnecessarily expend judicial resources discussing it.

- [5] Affirmed.

May, J., and Crone, J., concur.