

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**EL SHANU CAZU BEY,**

**Petitioner,**

**v.**

**Case No: 6:18-mc-37-Orl-41KRS**

**US SECRETARY OF STATE and  
SECRETARY OF DEPARTMENT OF  
HOMELAND SECURITY,**

**Defendants.**

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**REPORT AND RECOMMENDATION**

**TO THE UNITED STATES DISTRICT COURT:**

This cause came on for consideration of Petitioner's "Emergency Diplomatic Relations" filing (the "Petition") and his "Memorandum to Waive ALL UNITED STATE MUNICIPAL COURT document fees," which I construe as a motion to proceed *in forma pauperis*.

Petitioner, who states that he was previously known as Derick Devon Smith, alleges that he is seeking a common-law remedy pursuant to Constitutional Law 1791 (Republic) and Treaty on behalf of himself and the Moorish National Republic. He seeks to require this Court to honor "the personam and territorial sovereign jurisdiction, Florida State Republic 06143, Moorish National Republic and its Heirs." Doc. No. 1, at 1.

Pursuant to 28 U.S.C. § 1915(e)(2)(B), when a plaintiff seeks to proceed *in forma pauperis* the Court is required to consider whether the plaintiff's complaint is frivolous, malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See also* Local Rule 4.07; *Mitchell v. Farcass*, 112 F.3d 1483, 1491 n.1

(11th Cir. 1997) (Lay, J., concurring) (“Section 1915(e) applies to all [in forma pauperis] litigants — prisoners who pay fees on an installment basis, prisoners who pay nothing, and nonprisoners in both categories.”). Additionally, under Rule 12(h)(3) of the Federal Rules of Civil Procedure, a district court may at any time, upon motion or *sua sponte*, act to address the potential lack of subject-matter jurisdiction in a case. *Herskowitz v. Reid*, 187 F. App’x 911, 912-13 (11th Cir. 2006) (citing *Howard v. Lemmons*, 547 F.2d 290, 290 n.1 (5th Cir. 1977)). “[I]t is incumbent upon federal courts trial and appellate to constantly examine the basis of jurisdiction, doing so on our own motion if necessary.” *Save the Bay, Inc. v. United States Army*, 639 F.2d 1100, 1102 (5th Cir. 1981). Federal courts are courts of limited jurisdiction; therefore, the Court must inquire into its subject-matter jurisdiction, even when a party has not challenged it. *See, e.g., Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999).

A case is frivolous when it contains factual allegations and legal conclusions that lack an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Here, Petitioner has not alleged with any specificity how he has been harmed and how that alleged harm is within the subject matter jurisdiction of this Court. He provides no citation to the Treaty allegedly violated, and the citations to “Constitutional Law 1791 (Republic)” and “Florida Republic 06143” are insufficient to determine what laws he relies upon. Additionally, because it does not appear that Petitioner is a member of the bar of this Court, he may not seek relief on behalf of the Moorish National Republic. *See, e.g., Franklin v. Garden State Life Ins.*, 462 F. App’x 928, 930 (11th Cir. 2012)(citing 28 U.S.C. § 1654)(unpublished decision cited as persuasive authority). Because the Petition is frivolous, I recommend that the Court not permit Petitioner to file an amended petition.

For the reasons stated above, I **RESPECTFULLY RECOMMEND** that the Court **DISMISS** the petition and **DIRECT** the Clerk of Court to terminate the motion to proceed *in forma pauperis* (Doc. No. 2) and **CLOSE** the case.

Failure to file written objections to the proposed findings and recommendations contained in this Report and Recommendation within fourteen (14) days from the date of its filing shall bar an aggrieved party from challenging on appeal the district court's order based on unobjected-to factual and legal conclusions.

Recommended in Orlando, Florida on June 11, 2018.

*Karla R. Spaulding*  
KARLA R. SPAULDING  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy