

1 **WO**

2

3

4

5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8

9

Rasool Kashkool,

No. CV 09-1898-PHX-JAT

10

Plaintiff,

ORDER

11

vs.

12

John Rea; Jane Doe Rea,

13

Defendants.

14

15

16

On September 23, 2009, after reviewing the complaint and the request to proceed in forma pauperis, the Court ordered as follows:

17

18

Pending before the Court is Plaintiff's motion to proceed in forma pauperis under 28 U.S.C. § 1915.

19

A. 28 U.S.C. § 1915(e)(2)

20

Congress provided with respect to in forma pauperis cases that a district court "shall dismiss the case at any time if the court determines" that the "allegation of poverty is untrue" or that the "action or appeal" is "frivolous or 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." 28 U.S.C. § 1915(e)(2). While much of section 1915 outlines how prisoners can file proceedings in forma pauperis, section 1915(e) applies to all in forma pauperis proceedings, not just those filed by prisoners. *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000)("section 1915(e) applies to all in forma pauperis complaints"). "It is also clear that section 1915(e) not only permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim." *Id.* Therefore, this court must dismiss an in forma pauperis complaint if it fails to state a claim or if it is frivolous or malicious.

21

22

23

24

25

26

27

Kennedy v. Andrews, 2005 WL 3358205, *2 (D. Ariz. 2005).

28

