

1 **WO**

2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8  
9 Christopher E. Ellington,

10 Plaintiff,

11 v.

12 Tom Horne, Attorney General for the State  
of Arizona, et al.,

13 Defendants.  
14

No. CV-13-00271-PHX-DGC

**ORDER**

15  
16 Christopher M. Ellington is a pro se Plaintiff proceeding *in forma pauperis*  
17 (“IFP”) in this action against the Attorney General and three judges of the State of  
18 Arizona. He filed his complaint (Doc. 1) and a motion for a preliminary injunction  
19 (Doc. 4) on February 7, 2013. He alleges that the actions of the state court judges have  
20 violated his rights under the federal and state constitutions and other state and federal  
21 laws.

22 In IFP proceedings, a district court “shall dismiss the case at any time if the court  
23 determines that ... the action ... fails to state a claim on which relief can be granted[.]” 28  
24 U.S.C. § 1915(e)(2). While much of § 1915 concerns prisoner litigation, § 1915(e)  
25 applies to all IFP proceedings. *Lopez v. Smith*, 203 F.3d 1122, 1126 n. 7 (9th Cir. 2000)  
26 (en banc). “Section 1915(e) (2)(B)(ii) ... allows a district court to dismiss[ ] sua sponte ...  
27 a complaint that fails to state a claim[.]” *Id.* at 1130. “It is also clear that section 1915(e)  
28 not only permits but requires a district court to dismiss an in forma pauperis complaint

1 that fails to state a claim.” *Id.* at 1127. A district court dismissing under  
2 § 1915(e)(2)(B)(ii) “should grant leave to amend even if no request to amend the  
3 pleading was made, unless it determines that the pleading could not possibly be cured by  
4 the allegation of other facts.” *Id.* at 1127–29 (citations omitted).

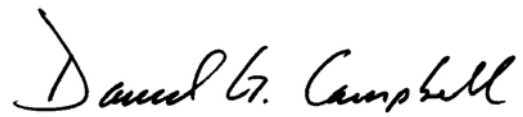
5 All of Plaintiff’s allegations arise from what appear to be ongoing proceedings  
6 before the Pinal County Superior Court. He variously complains that he was not granted  
7 a hearing within “5 calendar court days” as he alleges is mandated by Arizona law, that  
8 JP Morgan Chase Bank, N.A., the real party in interest, made no effort to attend a hearing  
9 and had discussions with the judge off the record, and that several of the rulings of the  
10 superior court judges have been wrong. Doc. 1 at 4-8. He claims these actions violate  
11 his constitutional due process rights and amount to violations of various state and federal  
12 statutes. He moves for injunctive relief against the judges. *Id.*

13 The Rooker-Feldman doctrine prohibits a federal district court from exercising  
14 subject matter jurisdiction over a suit that is a de facto appeal from a state court  
15 judgment. *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004)(citing *Bianchi*  
16 *v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003). The doctrine is based on  
17 28 U.S.C. § 1257, which grants jurisdiction to review a state court judgment in the United  
18 States Supreme Court. The negative inference of that statute is that lower federal courts  
19 are prohibited from exercising jurisdiction over appeals from state court judgments. The  
20 IFP complaint at issue in this case is not clearly styled as an appeal from a state court  
21 judgment, but all of the allegedly wrongful conduct arises from decisions and actions of  
22 the superior court judges. Accordingly, the Court will construe the complaint as a de  
23 facto appeal from a state court judgment and dismiss the complaint for lack of  
24 jurisdiction. Because the jurisdictional defect cannot be cured by additional amendment,  
25 the dismissal is with prejudice.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS ORDERED** that the complaint (Doc. 1) is dismissed with prejudice. The Clerk is directed to terminate this matter.

Dated this 22nd day of February, 2013.



---

David G. Campbell  
United States District Judge