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

8
9 Casey R. Williams,

10 Plaintiff,

11 v.

12 Chief Black,

13 Defendants.

No. CV13-1978-PHX-DGC

ORDER

14 Plaintiff Casey R. Williams commenced this action by filing a pro se complaint on
15 September 30, 2013. Doc. 1. Plaintiff has filed a motion to proceed in forma pauperis
16 (“IFP”). Doc. 2. For reasons that follow, the Court will dismiss the complaint and deny
17 the motion without prejudice.

18 **I. Dismissal of the Complaint.**

19 In IFP proceedings, a district court “shall dismiss the case at any time if the court
20 determines that . . . the action . . . fails to state a claim on which relief can be granted[.]”
21 28 U.S.C. § 1915(e)(2). While much of § 1915 concerns prisoner litigation, § 1915(e)
22 applies to all IFP proceedings. *Lopez v. Smith*, 203 F.3d 1122, 1126 n. 7 (9th Cir. 2000)
23 (en banc). “Section 1915(e) (2)(B)(ii) . . . allows a district court to dismiss[] sua
24 sponte . . . a complaint that fails to state a claim[.]” *Id.* at 1130. “It is also clear that
25 section 1915(e) not only permits but requires a district court to dismiss an in forma
26 pauperis complaint that fails to state a claim.” *Id.* at 1127. A district court dismissing
27 under § 1915(e)(2)(B)(ii) “should grant leave to amend even if no request to amend the
28 pleading was made, unless it determines that the pleading could not possibly be cured by

1 the allegation of other facts.” *Id.* at 1127–29 (citations omitted).

2 Rule 8 of the Federal Rules of Civil Procedure provides that “[a] pleading that
3 states a claim for relief must contain . . . a short and plain statement of the claim showing
4 that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). This short and plain statement
5 “need not contain detailed factual allegations; rather, it must plead ‘enough facts to state
6 a claim to relief that is plausible on its face.’” *Clemens v. DaimlerChrysler Corp.*, 534
7 F.3d 1017, 1022 (9th Cir.2008) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570
8 (2007)); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“The plausibility
9 standard . . . asks for more than a sheer possibility that a defendant has acted
10 unlawfully”). Legal conclusions couched as factual allegations are not given a
11 presumption of truthfulness and “conclusory allegations of law and unwarranted
12 inferences are not sufficient.” *Pareto v. F.D.I.C.*, 139 F.3d 696, 699 (9th Cir. 1998).
13 Dismissal is appropriate where the complaint lacks a cognizable legal theory, lacks
14 sufficient facts alleged under a cognizable legal theory, or contains allegations disclosing
15 some absolute defense or bar to recovery. *See Balistreri v. Pacifica Police Dept.*, 901
16 F.2d 696, 699 (9th Cir. 1988); *Weisbuch v. County of L.A.*, 119 F.3d 778, 783, n.1 (9th
17 Cir. 1997).

18 **II. Plaintiff’s Complaint.**

19 Plaintiff’s complaint asserts that the Glendale Police Department allegedly
20 arrested and detained Plaintiff and placed him in “Magellan’s.” It also alleges a battery,
21 sexual harassment, monitoring and war crimes. It contains virtually no facts in support of
22 these claims. Attached to the complaint is a document entitled “Important Key Words.”
23 It is not clear to the Court how this document relates to Plaintiff’s complaint.

24 Because the complaint is difficult to understand, contains virtually no facts, and
25 fails to state a plausible claim for relief, the Court will dismiss it for failure to state a
26 claim. The Court also notes that the complaint fails to state the legal nature of Plaintiff’s
27 claim, the basis for this Court’s jurisdiction, the specific defendants being sued, or the
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1 actions of those defendant that give rise to liability.

2 **III. Leave to Amend and Plaintiff’s Obligations.**

3 In this circuit, “[a] pro se litigant must be given leave to amend his or her
4 complaint unless it is absolutely clear that the deficiencies of the complaint could not be
5 cured by amendment.” *Karim–Panahi v. L.A. Police Dep’t*, 839 F.2d 621, 623 (9th Cir.
6 1988). The Court will dismiss the complaint without prejudice and allow Plaintiff to file
7 an amended complaint, consistent with this order, that properly states a claim for relief.
8 Plaintiff shall have until **January 6, 2014** to file an amended complaint.

9 Plaintiff is advised that he must become familiar with, and follow, the Federal
10 Rules of Civil Procedure and the Rules of the United States District Court for the District
11 of Arizona (“Local Rules”), which may be obtained in the Clerk of Court’s office. For
12 purposes of the amended complaint, Plaintiff is directed to Rule 8 of the Federal Rules of
13 Civil Procedure. Rule 8(a) provides that a complaint “must contain (1) a short and plain
14 statement of the grounds for the court’s jurisdiction . . . (2) a short and plain statement of
15 the claim showing that the pleader is entitled to relief, and (3) a demand for the relief
16 sought.” Fed. R. Civ. P. 8(a). These pleading requirements shall be set forth in separate
17 and discrete paragraphs. Rule 8(d) provides that each such paragraph “must be simple,
18 concise, and direct.” Fed. R. Civ. P. 8(d)(1).

19 The “short and plain statement of the claim” required by Rule 8(a)(2) must not
20 only designate a cause of action, but must also include enough factual allegations to
21 render the claim plausible. *Iqbal*, 556 U.S. at 678. If Plaintiff chooses to file an amended
22 complaint asserting constitutional violations by federal or state officials, his pleading
23 should include a statement of the constitutional rights Plaintiff believes to have been
24 violated, how each right was violated, how each defendant contributed to the violation,
25 and what injury was caused by each alleged constitutional violation. Such factual
26 allegations must provide enough information to “allow[] the court to draw the reasonable
27 inference that the defendant[s are] liable for the misconduct alleged.” *Iqbal*, 556 U.S. at
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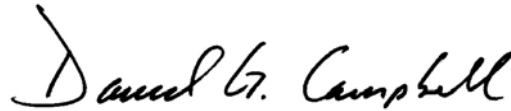
1 678.

2 If Plaintiff fails to prosecute this action or to comply with the rules or any Court
3 order, the Court may dismiss the action with prejudice pursuant to Federal Rule of Civil
4 Procedure 41(b). *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
5 (holding that the district court did not abuse its discretion in dismissing a pro se
6 plaintiff's complaint for failing to comply with a court order).

7 **IT IS ORDERED:**

- 8 1. Plaintiff's request for IFP status (Doc. 2) is **denied without prejudice**.
- 9 2. Plaintiff's complaint (Doc. 1) is **dismissed without prejudice**.
- 10 3. Plaintiff shall have until **January 6, 2014**, to file an amended complaint.
- 11 4. The Clerk of Court shall terminate this action without further order of Court
12 if Plaintiff fails to file an amended complaint by **January 6, 2014**.

13 Dated this 12th day of December, 2013.

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18 David G. Campbell
19 United States District Judge
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