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

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Bartlett Elliot,

No. CV 10-8109-PCT-MHM

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Plaintiff,

**ORDER**

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vs.

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Robert J. Eustace and Annette M. Eustace,

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Defendants.

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17 Pending before the Court is Plaintiff’s Motion for Leave to Proceed In Forma Pauperis  
18 (Doc. # 4). The Court has screened Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915(e)(2)  
19 and will dismiss it for failure to state a claim. “[S]ection 1915(e) not only permits but  
20 requires a district court to dismiss an in forma pauperis complaint that fails to state a claim.”  
21 Lopez v. Smith, 203 F.3d 1122, 1127 (9<sup>th</sup> Cir. 2000).

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22 Rule 8(a) of the Federal Rules of Civil Procedure requires that:

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23 A pleading which sets forth a claim for relief, whether an original  
24 claim, counter-claim, cross-claim, or third-party claim, shall contain (1) a short  
25 and plain statement of the grounds upon which the court's jurisdiction depends,  
26 unless the court already has jurisdiction and the claim needs no new grounds  
27 of jurisdiction to support it, (2) a short and plain statement of the claim  
28 showing that the pleader is entitled to relief, and (3) a demand for judgment for  
the relief the pleader seeks. Relief in the alternative or of several different  
types may be demanded.

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1 Here, among other defects, Plaintiff's complaint fails to allege an appropriate basis for  
2 federal subject matter jurisdiction: the denial of the "pursuit of happiness" under the  
3 Declaration of Independence is not a sufficient basis to invoke the jurisdiction of the Court.

4 The Court will give Plaintiff one opportunity to amend the complaint. Plaintiff must:

5 make clear his allegations in short, plain statements with each claim for relief  
6 identified in separate sections. In the amended complaint, [Plaintiff] must  
7 write out the rights he believes were violated, the name of the person who  
8 violated the right, exactly what that individual did or failed to do, how the  
9 action or inaction of that person is connected to the violation of [Plaintiff's]  
10 rights, and what specific injury [Plaintiff] suffered because of the other  
11 person's conduct. *See Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).  
12 Each claim of an alleged violation must be set forth in a separate count. Any  
13 amended complaint filed by [Plaintiff] must conform to the requirements of  
14 Rules 8(a) and (e)(1) of the Federal Rules of Civil Procedure.

15 *Kennedy v. Andrews*, 2005 WL 3358205, \*3 (D. Ariz. 2005).

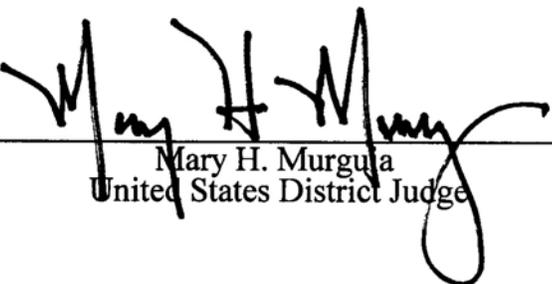
16 Accordingly,

17 **IT IS ORDERED** dismissing Plaintiff's complaint for failure to comply with Federal  
18 Rule of Civil Procedure 8(a). (Doc. #1)

19 **IT IS FURTHER ORDERED** denying as moot Plaintiff's Motion to Proceed in  
20 Forma Pauperis. (Doc. # 4)

21 **IT IS FURTHER ORDERED** that Plaintiff may file an Amended Complaint in  
22 compliance with Rule 8(a) no later than 30 days from the date of this order. Plaintiff may  
23 file another Motion to Proceed in Forma Pauperis at that time if he desires. If no Amended  
24 Complaint is filed, this case will be dismissed without further notice.

25 DATED this 18<sup>th</sup> day of July, 2010.

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Mary H. Murgula  
United States District Judge