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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ROY LEE JONES,)	Case No.: 1:14-cv-01991- JLT
)	
Plaintiff,)	ORDER AUTHORIZING SERVICE OF THE
)	COMPLAINT
v.)	
)	ORDER DIRECTING CLERK TO ISSUE
CAROLYN W. COLVIN,)	SUMMONS, SOCIAL SECURITY CASE
Acting Commissioner of Social Security,)	DOCUMENTS, AND SCHEDULING ORDER
)	
Defendant.)	ORDER DIRECTING PLAINTIFF TO COMPLETE
)	THE SERVICE DOCUMENTS

Plaintiff Roy Lee Jones seeks is proceeding *in forma pauperis* with an action for judicial review of the administrative decision denying his application for Social Security benefits. For the following reasons, the Court finds service of the complaint is appropriate.

I. SCREENING REQUIREMENT

When an individual seeks to proceed *in forma pauperis*, the Court is required to review the complaint and shall dismiss a complaint, or portion of the complaint, if it is “frivolous, malicious or fails to state a claim upon which relief may be granted; or . . . seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915A(b); 28 U.S.C. § 1915(e)(2). A plaintiff’s claim is frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992).

1 **II. PLEADING STANDARDS**

2 General rules for pleading complaints are governed by the Federal Rules of Civil Procedure. A
3 pleading must include a statement affirming the court’s jurisdiction, “a short and plain statement of the
4 claim showing the pleader is entitled to relief; and . . . a demand for the relief sought, which may
5 include relief in the alternative or different types of relief.” Fed. R. Civ. P. 8(a).

6 A complaint must state the elements of the plaintiff’s claim in a plain and succinct manner.
7 *Jones v. Cmty Redevel. Agency*, 733 F.2d 646, 649 (9th Cir. 1984). The purpose of a complaint is to
8 give the defendant fair notice of the claims against him, and the grounds upon which the complaint
9 stands. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002). The Supreme Court explained,

10 Rule 8 does not require detailed factual allegations, but it demands more than an
11 unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers
12 labels and conclusions or a formulaic recitation of the elements of a cause of action will
not do. Nor does a complaint suffice if it tenders naked assertions devoid of further
factual enhancement.

13 *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009) (internal quotation marks and citations omitted).

14 Conclusory and vague allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2d
15 266, 268 (9th Cir. 1982). The Court clarified further,

16 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim
17 to relief that is plausible on its face.” [Citation]. A claim has facial plausibility when
18 the plaintiff pleads factual content that allows the court to draw the reasonable
19 inference that the defendant is liable for the misconduct alleged. [Citation]. The
20 plausibility standard is not akin to a “probability requirement,” but it asks for more than
a sheer possibility that a defendant has acted unlawfully. [Citation]. Where a complaint
pleads facts that are “merely consistent with” a defendant’s liability, it “stops short of
the line between possibility and plausibility of ‘entitlement to relief.’

21 *Iqbal*, 556 U.S. at 679 (citations omitted). When factual allegations are well-pled, a court should
22 assume the truth and determine whether the facts would make the plaintiff entitled to relief; conclusions
23 in the pleading are not entitled to the same assumption of truth. *Id.* The Court may grant leave to
24 amend a complaint to the extent deficiencies of the complaint can be cured by amendment. *Lopez v.*
25 *Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

26 **III. DISCUSSION AND ANALYSIS**

27 Here, Plaintiff’s complaint indicated his application and appeal for Social Security benefits
28 were denied by an administrative law judge (“ALJ”) on September 22, 2014. (Doc. 1 at 2.) On

1 January 7, 2015, Plaintiff reported that his claim for benefits was before the ALJ pursuant to a remand
2 ordered by the District Court in *Jones v. Comm'r of Soc. Sec.*, case number 1:12-cv-01283-BAM.
3 (Doc. 5 at 2.) If a claimant does not file an exception disagreeing with the ALJ's decision issued upon
4 remand, and the Appeals Council does not assume jurisdiction over the decision, the ALJ's written
5 decision is a "final decision of the Commissioner after remand." 20 C.F.R. §§ 404.984(d). Therefore,
6 the ALJ's decision became the final decision of the Commissioner, without Plaintiff seeking review by
7 the Appeals Council, and the Court has jurisdiction over the action.

8 **IV. CONCLUSION AND ORDER**

9 Plaintiff states a cognizable claim for review of the administrative decision denying Social
10 Security benefits. Accordingly, **IT IS HEREBY ORDERED:**

- 11 1. The Clerk of Court is DIRECTED to issue summons as to the defendant, Carolyn
12 Colvin, Acting Commissioner of Social Security;
- 13 2. The Clerk of Court is DIRECTED to issue and serve Plaintiff with Social Security Case
14 Documents, including the Scheduling Order, Order regarding Consent, the Consent
15 Form, and USM-285 Forms; and
- 16 3. The U.S. Marshal is DIRECTED to serve a copy of the complaint, summons, and this
17 order upon the defendant as directed by Plaintiff in the USM Forms.

18
19 IT IS SO ORDERED.

20 Dated: January 23, 2015

/s/ Jennifer L. Thurston
21 UNITED STATES MAGISTRATE JUDGE