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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GABRIEL MARTINEZ,

 Plaintiff,

 v.

AMY LOPEZ, et al.,

 Defendants.

Case No. 1:18-cv-00221-DAD-SAB

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSING ACTION
AS FRIVOLOUS

(ECF No. 1)

OBJECTIONS DUE WITHIN TWENTY
DAYS

Plaintiff Gabriel Martinez is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Currently before the Court is Plaintiff’s complaint, filed on February 13, 2018.

I.
SCREENING REQUIREMENT

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that “fail[] to state a claim on which relief may be granted,” or that “seek[] monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

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1 A complaint must contain “a short and plain statement of the claim showing that the
2 pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not
3 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
4 conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell
5 Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Moreover, Plaintiff must demonstrate
6 that each defendant personally participated in the deprivation of Plaintiff’s rights. Jones v.
7 Williams, 297 F.3d 930, 934 (9th Cir. 2002).

8 Prisoners proceeding pro se in civil rights actions are entitled to have their pleadings
9 liberally construed and to have any doubt resolved in their favor. Wilhelm v. Rotman, 680 F.3d
10 1113, 1121 (9th Cir. 2012) (citations omitted). To survive screening, Plaintiff’s claims must be
11 facially plausible, which requires sufficient factual detail to allow the Court to reasonably infer
12 that each named defendant is liable for the misconduct alleged. Iqbal, 556 U.S. at 678-79; Moss
13 v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). The “sheer possibility that a defendant
14 has acted unlawfully” is not sufficient, and “facts that are ‘merely consistent with’ a defendant’s
15 liability” falls short of satisfying the plausibility standard. Iqbal, 556 U.S. at 678; Moss, 572
16 F.3d at 969.

17 II.

18 DISCUSSION

19 A pleading is “factual[ly] frivolous[]” when “the facts alleged rise to the level of the
20 irrational or the wholly incredible, whether or not there are judicially noticeable facts available to
21 contradict them.” Denton v. Hernandez, 504 U.S. 25, 25-26 (1992). Section 1915 gives courts
22 “the unusual power to pierce the veil” of a complaint such as that filed by the plaintiff and to
23 “dismiss those claims whose factual contentions are clearly baseless.” Neitzke v. Williams, 490
24 U.S. 319, 327 (1989). Clearly baseless factual allegations include those “that are ‘fanciful,’
25 ‘fantastic,’ and ‘delusional.’ ” Denton, 504 U.S. at 32-33 (quoting Neitzke, 490 U.S. at 325, 327,
26 328). Here, the Court finds that Plaintiff has alleged claims that are frivolous, and therefore,
27 must be dismissed.

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1 Plaintiff alleges that he is a man king by inherent “rite” and that “wrongdoers have
2 conspired treason against whom they owe allegiance to.” (Compl. 1, ECF No. 1.) They have
3 forged instruments that have “kidnapped the princess held for her ransom”, “imprisoned the king
4 into slavery”, and “liquidate the king’s trusts.” (Id.) Plaintiff alleges treason under 18 U.S.C.
5 2381 and RICO. (Id.) Plaintiff alleges that he has an inherent right to be protected from injury
6 from corrupt organizations and treason. (Id. at 2.) Plaintiff brings this action against judges of
7 the Superior Court of California, the Fresno County District Attorney and prosecutors, federal
8 defenders, and the doctor who performed a psychiatric evaluation on him. (Id. at 3.) Plaintiff is
9 seeking to have the named defendants imprisoned for treason. (Id. at 1.) The claim that Plaintiff
10 is a king and that the named defendants have committed treason and RICO violations is fanciful
11 and delusional. Plaintiff’s complaint presents irrational and illogical claims which fail to provide
12 any comprehensible factual basis and, therefore, are wholly incredible. The Court finds that
13 Plaintiff’s factual allegations are grounded in delusion, are facially irrational, and wholly
14 incredible. See Denton, 504 U.S. at 32-33; Neitzke, 490 U.S. at 325, 3273, 328. Plaintiff’s
15 complaint is therefore frivolous.

16 Pursuant to 28 U.S.C. § 1915A, the Court shall dismiss a prisoner’s complaint or portion
17 of the complaint against a governmental entity or officer or employee of a governmental entity
18 that is “frivolous, malicious, or fails to state a claim upon which relief may be granted.” 28
19 U.S.C. § 1915A(b)(1). Under Rule 15(a) of the Federal Rules of Civil Procedure, leave to
20 amend shall be freely given when justice so requires. Fed. R. Civ. P. 15(a)(2). In this instance,
21 no amendment could cure the deficiencies discussed above. Nunes v. Ashcroft, 375 F.3d 805,
22 808 (9th Cir. 2004; Washington v. Lowe’s HIW Inc., 75 F. Supp. 3d 1240, 1245 (N.D. Cal.
23 2014), appeal dismissed (Feb. 25, 2015). Accordingly, the Court finds that granting leave to
24 amend would be futile and this action should be dismissed without leave to amend.

25 III.

26 CONCLUSION AND RECOMMENDATION

27 Plaintiff’s complaint contains factual allegations that are grounded in delusion, are
28 facially irrational and wholly incredible and are therefore frivolous. Further, the claims alleged

1 in the complaint are incapable of being cured by amendment so granting leave to amend would
2 be futile. Ebner v. Fresh, Inc., 838 F.3d 958, 968 (9th Cir. 2016).

3 Based on the foregoing, IT IS HEREBY RECOMMENDED that Plaintiff's complaint be
4 dismissed without leave to amend pursuant to 28 U.S.C. § 1915A(b)(1) as frivolous.

5 This findings and recommendations is submitted to the district judge assigned to this
6 action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 304. Within twenty
7 (20) days of service of this recommendation, Plaintiff may file written objections to this findings
8 and recommendations with the Court. Such a document should be captioned "Objections to
9 Magistrate Judge's Findings and Recommendations." The district judge will review the
10 magistrate judge's findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(C).
11 Plaintiff is advised that failure to file objections within the specified time may result in the
12 waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing
13 Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

14 IT IS SO ORDERED.

15 Dated: March 8, 2018

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18 UNITED STATES MAGISTRATE JUDGE
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