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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDDIE R. PATE, JR.,

Plaintiff,

No. CIV S-08-1802 JAM DAD PS

vs.

ANY ONE GUILTIE,

FINDINGS AND RECOMMENDATIONS

Defendant.

_____ /

Plaintiff, proceeding pro se, has filed a document titled "Complaint" along with an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. The proceeding has been referred to the undersigned in accordance with Local Rule 72-302(c)(21) and 28 U.S.C. § 636(b)(1).

A filing fee of \$350.00 is required to commence a civil action in a federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action without prepayment of fees or security therefor by a litigant who submits an affidavit demonstrating inability to pay. 28 U.S.C. § 1915(a). Here, plaintiff indicates that he is not currently employed, but he has provided no information about his last employment. Plaintiff indicates that he received money during the past 12 months from self-employment, disability or workers compensation payments, and other sources, which are not described, but he fails to provide any

1 information about each source of money and the amount of money received from each source
2 during the past year. Plaintiff also indicates that he owns things of value but refers only vaguely
3 to multiple business accounts, personal accounts, and properties that belong to him. This
4 application fails to establish that plaintiff is indigent. See Olivares v. Marshall, 59 F.3d 109, 112
5 (9th Cir. 1995); Alexander v. Carson Adult High Sch., 9 F.3d 1448, 1449 (9th Cir. 1993).

6 Ordinarily, the undersigned would recommend that the plaintiff's in forma
7 pauperis application be denied and that plaintiff be granted an opportunity to pay the filing fee in
8 full should he wish to proceed with this case on a fee-paid basis. However, no basis for federal
9 jurisdiction has been properly alleged in plaintiff's complaint.

10 Plaintiff's pleading consists of a one-page form that provides a sample format and
11 instructions for pro se litigants filing civil complaints in federal court, an attached page that
12 contains a few sentences, and a proof of service that does not reflect service on any person or
13 entity. The first page of the document identifies defendants as "Guilt of Others" and "Any One
14 Guiltie [sic]." The document contains no statements that can be construed as jurisdictional and
15 no allegations that state any cognizable federal claim. Plaintiff alleges that he is an inventor who
16 has businesses all over the world. He requests "better representation," "better money, housing,
17 partnership togetherness," and "no more discrimination acts if preventable." In a separately filed
18 civil cover sheet, plaintiff identifies defendants as "Guiltie [sic] People Too [sic] Be Found,"
19 suggests "Internationalist Diversity," and claims that the nature of his suit includes numerous
20 statutory issues, product liability, real property, slander, personal property damage, civil rights,
21 labor litigation, patents and trademarks, and taxes, among others.

22 It appears that this court lacks subject matter jurisdiction over this action. See
23 Bell v. Hood, 327 U.S. 678, 682-83 (1946) (recognizing that a claim is subject to dismissal for
24 want of jurisdiction where it is "wholly insubstantial and frivolous" and so patently without merit
25 as to justify dismissal for lack of jurisdiction); Hagans v. Lavine, 415 U.S. 528, 543 (1974)
26 (acknowledging that a claim may be dismissed for lack of jurisdiction if it is "so insubstantial,

1 implausible, . . . or otherwise completely devoid of merit as not to involve a federal controversy
2 within the jurisdiction of the District Court”). See also Franklin v. Murphy, 745 F.2d 1221, 1227
3 n.6 (9th Cir. 1984) (holding that even “[a] paid complaint that is ‘obviously frivolous’ does not
4 confer federal subject matter jurisdiction . . . and may be dismissed sua sponte before service of
5 process.”).

6 In light of the severe deficiencies of plaintiff’s complaint, the undersigned finds
7 that it would be futile to grant plaintiff leave to amend, even if he were to pay the filing fee. The
8 undersigned will therefore recommend that plaintiff’s in forma pauperis application be denied
9 and that this action be dismissed with prejudice for lack of subject matter jurisdiction. See Fed.
10 R. Civ. P. 12(h)(3).

11 Accordingly, IT IS HEREBY RECOMMENDED that:

- 12 1. Plaintiff’s August 4, 2008 application to proceed in forma pauperis (Doc. No.
13 2) be denied; and
14 2. This action be dismissed with prejudice for lack of subject matter jurisdiction.

15 These findings and recommendations will be submitted to the United States
16 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
17 fifteen (15) days after these findings and recommendations are served by the Clerk of the Court,
18 plaintiff may file written objections with the court. A document containing objections must be
19 titled “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised
20 that failure to file objections within the specified time may waive the right to appeal the District
21 Court’s order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 DATED: November 3, 2009.

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25 _____
26 DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

25 DAD:kw
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