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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SEAN O'NEAL,  
  
                                Plaintiff,  
  
                                v.  
  
U.S. D.O.E.; D.O.D.; OBAMA; JAMES  
BUTNER; ROBERT BUTNER;  
MICHAEL BUTNER,  
  
                                Defendants.

No. 2:13-cv-2611-KJM-EFB PS

ORDER AND FINDINGS AND  
RECOMMENDATIONS

This case, in which plaintiff is proceeding *in propria persona*, was referred to the undersigned under Local Rule 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1). Plaintiff seeks leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. His declaration makes the showing required by 28 U.S.C. §1915(a)(1) and (2). See ECF No. 2. Accordingly, the request to proceed *in forma pauperis* is granted. 28 U.S.C. § 1915(a).

Determining that plaintiff may proceed *in forma pauperis* does not complete the required inquiry. Pursuant to § 1915(e)(2), the court must dismiss the case at any time if it determines the allegation of poverty is untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant.

Although pro se pleadings are liberally construed, see *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972), a complaint, or portion thereof, should be dismissed for failure to state a claim if it

1 fails to set forth “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl.*  
2 *Corp. v. Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41  
3 (1957)); *see also* Fed. R. Civ. P. 12(b)(6). “[A] plaintiff’s obligation to provide the ‘grounds’ of  
4 his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of  
5 a cause of action’s elements will not do. Factual allegations must be enough to raise a right to  
6 relief above the speculative level on the assumption that all of the complaint’s allegations are  
7 true.” *Id.* (citations omitted). Dismissal is appropriate based either on the lack of cognizable  
8 legal theories or the lack of pleading sufficient facts to support cognizable legal theories.  
9 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

10 In reviewing a complaint under this standard, the court must accept as true the allegations  
11 of the complaint in question, *Hospital Bldg. Co. v. Rex Hosp. Trustees*, 425 U.S. 738, 740 (1976),  
12 construe the pleading in the light most favorable to the plaintiff, and resolve all doubts in the  
13 plaintiff’s favor, *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969). A pro se plaintiff must satisfy  
14 the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure. Rule 8(a)(2)  
15 “requires a complaint to include a short and plain statement of the claim showing that the pleader  
16 is entitled to relief, in order to give the defendant fair notice of what the claim is and the grounds  
17 upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing  
18 *Conley v. Gibson*, 355 U.S. 41 (1957)).

19 Additionally, a federal court is a court of limited jurisdiction, and may adjudicate only  
20 those cases authorized by the Constitution and by Congress. *Kokkonen v. Guardian Life Ins. Co.*,  
21 511 U.S. 375, 377 (1994). The basic federal jurisdiction statutes, 28 U.S.C. §§ 1331 & 1332,  
22 confer “federal question” and “diversity” jurisdiction, respectively. Federal question jurisdiction  
23 requires that the complaint (1) arise under a federal law or the U. S. Constitution, (2) allege a  
24 “case or controversy” within the meaning of Article III, § 2 of the U. S. Constitution, or (3) be  
25 authorized by a federal statute that both regulates a specific subject matter and confers federal  
26 jurisdiction. *Baker v. Carr*, 369 U.S. 186, 198 (1962). To invoke the court’s diversity  
27 jurisdiction, a plaintiff must specifically allege the diverse citizenship of all parties, and that the  
28 matter in controversy exceeds \$75,000. 28 U.S.C. § 1332(a); *Bautista v. Pan American World*

1 *Airlines, Inc.*, 828 F.2d 546, 552 (9th Cir. 1987). A case presumably lies outside the jurisdiction  
2 of the federal courts unless demonstrated otherwise. *Kokkonen*, 511 U.S. at 376-78. Lack of  
3 subject matter jurisdiction may be raised at any time by either party or by the court. *Attorneys*  
4 *Trust v. Videotape Computer Products, Inc.*, 93 F.3d 593, 594-95 (9th Cir. 1996).

5 The court finds that plaintiff's complaint is frivolous. Plaintiff alleges that when he was  
6 15 years old, he met the Butners family, who work for the Pentagon or the Department of  
7 Defense. He claims that the Butner family conducted Behavior Modification Experiments on  
8 plaintiff against his will. ECF No. 1 at 1. He further alleges that because of the experiments  
9 conducted on him, "[t]he Burners and Bodilys and [plaintiff] could hear each others [sic] thoughts  
10 from remote locations." *Id.* at 2. He claims that experiments have been conducted on him for the  
11 past 27 years and have turned him against his family, who now believe that plaintiff is crazy and  
12 dangerous. *Id.* He further claims that he was seeing a doctor because of the voices he was  
13 hearing, and that he discovered that defendants "were transmitting signals to [his] brain using  
14 Extremely Low Frequency Electromagnetic Radiation using satellites." *Id.* Plaintiff contends  
15 that the Butner family has been assaulting him for more than 20 years by "using these satellites."  
16 *Id.* Plaintiff alleges that in 1997, due to defendants' alleged conduct, he planned, but did not  
17 carry out, a shooting rampage, which he describes as "[e]xactly like Sandy Hook Elementary and  
18 all the other school shootings since 1999 Columbine School Shooting Rampage." *Id.*

19 Plaintiff claims that defendants, including President Obama and his staff, have ignored his  
20 complaints of terrorism and mind control experiments. He therefore contends that defendants  
21 have subjected him to cruel and unusual punishments and violated his right to privacy. *Id.* at 3.  
22 He seeks damages in excess of \$100 million and also an order enjoining defendants from  
23 conducting further mind control experiments. *Id.*

24 Plaintiff's allegations are implausible and can only be described as delusional.  
25 Accordingly, the court finds that plaintiff's allegations have no basis in fact and that the instant  
26 complaint is frivolous. *See Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (observing that a  
27 court has the "power to pierce the veil of the complaint's factual allegations and dismiss those  
28 claims whose factual contentions are clearly baseless," which includes "claims describing

1 fantastic or delusional scenarios.”). Therefore, plaintiff complaint must be dismissed with  
2 prejudice. *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987) (While the court ordinarily  
3 would permit a pro se plaintiff to amend, leave to amend should not be granted where it appears  
4 amendment would be futile).

5 Accordingly, it is hereby ORDERED that plaintiff’s request for leave to proceed *in forma*  
6 *pauperis*, ECF No. 2, is granted.

7 Further, it is hereby RECOMMENDED that:

- 8 1. Plaintiff’s complaint be dismissed without leave to amend; and  
9 3. The Clerk be directed to close this case.

10 These findings and recommendations are submitted to the United States District Judge  
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
12 after being served with these findings and recommendations, any party may file written  
13 objections with the court and serve a copy on all parties. Such a document should be captioned  
14 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
15 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
16 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: June 30, 2014.

18   
19 EDMUND F. BRENNAN  
20 UNITED STATES MAGISTRATE JUDGE