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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHEW FORREY HOLGERSON,

Plaintiff,

v.

JOE A. LIZARRAGA, et al.,

Defendants.

No. 2:14-cv-1767-EFB P

ORDER GRANTING IFP AND DISMISSING
ACTION AS FRIVOLOUS PURSUANT TO
28 U.S.C. § 1915A

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983.¹ In addition to filing a complaint, he has filed an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

I. Request to Proceed In Forma Pauperis

Plaintiff’s application makes the showing required by 28 U.S.C. § 1915(a)(1) and (2). Accordingly, by separate order, the court directs the agency having custody of plaintiff to collect and forward the appropriate monthly payments for the filing fee as set forth in 28 U.S.C. § 1915(b)(1) and (2).

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¹ This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. See E.D. Cal. Local Rules, Appx. A, at (k)(4).

1 **II. Screening Requirement and Standards**

2 Federal courts must engage in a preliminary screening of cases in which prisoners seek
3 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C.
4 § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion
5 of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which
6 relief may be granted,” or “seeks monetary relief from a defendant who is immune from such
7 relief.” *Id.* § 1915A(b).

8 A pro se plaintiff, like other litigants, must satisfy the pleading requirements of Rule 8(a)
9 of the Federal Rules of Civil Procedure. Rule 8(a)(2) “requires a complaint to include a short and
10 plain statement of the claim showing that the pleader is entitled to relief, in order to give the
11 defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl. Corp. v.*
12 *Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41 (1957)).
13 While the complaint must comply with the “short and plain statement” requirements of Rule 8,
14 its allegations must also include the specificity required by *Twombly* and *Ashcroft v. Iqbal*, 556
15 U.S. 662, 679 (2009).

16 To avoid dismissal for failure to state a claim a complaint must contain more than “naked
17 assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of
18 action.” *Twombly*, 550 U.S. at 555-557. In other words, “[t]hreadbare recitals of the elements of
19 a cause of action, supported by mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at
20 678.

21 Furthermore, a claim upon which the court can grant relief must have facial plausibility.
22 *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual
23 content that allows the court to draw the reasonable inference that the defendant is liable for the
24 misconduct alleged.” *Iqbal*, 556 U.S. at 678. When considering whether a complaint states a
25 claim upon which relief can be granted, the court must accept the allegations as true, *Erickson v.*
26 *Pardus*, 551 U.S. 89 (2007), and construe the complaint in the light most favorable to the
27 plaintiff, *see Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974).

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1 **III. Screening Order**

2 Plaintiff’s complaint must be dismissed as frivolous pursuant to § 1915A. He alleges that
3 he has been “implanted with a mind altering emotion alteration . . . next to his optic nerve,” and
4 that he is controlled by “the national security agency main complex of Maryland, Washington,
5 D.C.” ECF No. 1 at 4. He claims this is being done by “off planet alien species . . .know[n] as
6 God, the Lord, the Lord God, Father, [and] the Lord Christ Jesus.” *Id.* at 5. He adds that since
7 1999, the National Security Agency and the Central Intelligence Agency have conspired against
8 inmates and prison and “by extension,” American citizens, through “acids, corrosives, erosives,
9 and soft metals.” *Id.* at 6. As relief, he requests that he be removed from the Enhanced
10 Outpatient Program at Mule Creek State Prison, monetary damages against the psychological
11 staff at the prison, and monetary damages for “false diagnosis of mind control symptoms.” *Id.* at
12 4.

13 Plaintiff’s allegations are plainly frivolous. They lack even “an arguable basis either in
14 law or in fact,” and appear “fanciful,” “fantastic,” or “delusional.” *Neitzke v. Williams*, 490 U.S.
15 319, 325, 328 (1989). Therefore, this action must be dismissed without leave to amend. *See*
16 *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (“Under Ninth Circuit case law, district
17 courts are only required to grant leave to amend if a complaint can possibly be saved. Courts are
18 not required to grant leave to amend if a complaint lacks merit entirely.”); *see also Doe v. United*
19 *States*, 58 F.3d 494, 497 (9th Cir. 1995) (“[A] district court should grant leave to amend even if
20 no request to amend the pleading was made, unless it determines that the pleading could not be
21 cured by the allegation of other facts.”).

22 **IV. Summary**

23 Accordingly, IT IS HEREBY ORDERED that:


- 24 1. Plaintiff’s request to proceed in forma pauperis (ECF No. 9) is granted.
25 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected in
26 accordance with the notice to the California Department of Corrections and Rehabilitation
27 filed concurrently herewith.

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3. This action is dismissed as frivolous and the Clerk is directed to terminate all outstanding motions and close the case.

DATED: April 28, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE