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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KODY LOGAN BARCUS,  
Plaintiff,  
v.  
NSA,  
Defendant.

No. 2:14-cv-2125-MCE-KJN PS

FINDINGS AND RECOMMENDATIONS

Plaintiff Kody Logan Barcus, proceeding without counsel, commenced this action on September 15, 2014, and requested leave to proceed *in forma pauperis*. (ECF Nos. 1, 2.)<sup>1</sup> Plaintiff's motion to proceed *in forma pauperis* is incomplete and also contains some unintelligible comments. As such, it should be denied.

Ordinarily, however, the court would have denied plaintiff's motion without prejudice, requiring plaintiff to either (a) pay the applicable filing fee or (b) file an amended motion to proceed *in forma pauperis* that is properly completed and demonstrates his entitlement to proceed *in forma pauperis*. Nevertheless, the court concludes that requiring plaintiff to do either of the above in this case is futile, because the action is clearly subject to dismissal for lack of subject matter jurisdiction.

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<sup>1</sup> This case proceeds before the undersigned pursuant to E.D. Cal. L.R. 302(c)(21) and 28 U.S.C. § 636(b)(1).

1           “Under the substantiality doctrine, the district court lacks subject matter jurisdiction when  
2 the question presented is too insubstantial to consider.” Cook v. Peter Kiewit Sons Co., 775 F.2d  
3 1030, 1035 (9th Cir. 1985) (citing Hagans v. Lavine, 415 U.S. 528, 536-39 (1974)). “The claim  
4 must be ‘so insubstantial, implausible, foreclosed by prior decisions of this Court or otherwise  
5 completely devoid of merit as not to involve a federal controversy within the jurisdiction of the  
6 District Court, whatever may be the ultimate resolution of the federal issues on the merits.’” Id.  
7 (quoting Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 666 (1974)); see also Apple v.  
8 Glenn, 183 F.3d 477, 479 (6th Cir. 1999) (“a district court may, at any time, *sua sponte* dismiss a  
9 complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of  
10 Civil Procedure when the allegations of a complaint are totally implausible, attenuated,  
11 unsubstantial, frivolous, devoid of merit, or no longer open to discussion.”).

12           Here, plaintiff alleges that defendant NSA (the National Security Agency), as well as  
13 several other federal agencies or entities (including the FBI, CIA, Secret Service, NCIS, the  
14 White House, the military, and something called “dodge witch”) committed “treason acts,” and  
15 used (and continues to use) electrical and other weapons against plaintiff. Plaintiff seeks agency  
16 records concerning the use of such weapons against plaintiff pursuant to the Freedom of  
17 Information Act. Plaintiff’s complaint attaches multiple pages from some type of internet website  
18 or online forum with accounts from various individuals who claim to have been victims of  
19 electromagnetic harassment, mind control, surveillance, and electronic torture experiments  
20 conducted by government agencies, corporations, and other entities.

21           Because plaintiff’s allegations are fanciful, delusional, implausible, and completely  
22 devoid of merit, the court finds plaintiff’s claims to be so insubstantial as to not involve a federal  
23 controversy within the jurisdiction of this court.

24           Accordingly, for the reasons outlined above, IT IS HEREBY RECOMMENDED that:

- 25           1. Plaintiff’s motion to proceed *in forma pauperis* (ECF No. 2) be denied.
- 26           2. The action be dismissed for lack of subject matter jurisdiction pursuant to the  
27           substantiality doctrine.

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