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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL J. ARZAGA,  
Plaintiff,  
v.  
MATTHEW CATE, et al.,  
Defendants.

No. 2:16-cv-0151 AC P

ORDER

I. Introduction

Plaintiff is a state prisoner at Kern Valley State Prison, under the authority of the California Department of Corrections and Rehabilitation (CDCR). Plaintiff proceeds pro se with a putative civil rights complaint entitled “Citizen Complaint For: Rape, Torture, Extortion, Hostage Kidnap” et seq. See ECF No. 1. Plaintiff has consented to the jurisdiction of the undersigned Magistrate Judge for all purposes pursuant to 28 U.S.C. § 636(c), and Local Rule 305(a). See ECF No. 4.

For the reasons set forth below, the court dismisses this action as frivolous and for failure to state a potentially cognizable claim. See 28 U.S.C. § 1915A. The court denies as moot plaintiff’s request to proceed in forma pauperis, ECF No. 6, and numerous other motions.

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1           II.     Screening of Plaintiff’s Complaint

2                   A.     Legal Standards

3           This court is required to screen complaints brought by prisoners seeking relief against a  
4 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
5 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally  
6 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek  
7 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).  
8 A claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v.  
9 Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir.  
10 1984).

11           Rule 8 of the Federal Rules of Civil Procedure “requires only ‘a short and plain statement  
12 of the claim showing that the pleader is entitled to relief,’ in order to ‘give the defendant fair  
13 notice of what the . . . claim is and the grounds upon which it rests.” Bell Atlantic Corp. v.  
14 Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)). “[T]he  
15 pleading standard Rule 8 announces does not require ‘detailed factual allegations,’ but it demands  
16 more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” Ashcroft v. Iqbal,  
17 556 U.S. 662, 678 (2009) (quoting Twombly at 555). To survive dismissal for failure to state a  
18 claim, “a complaint must contain sufficient factual matter, accepted as true, to “state a claim to  
19 relief that is plausible on its face.” Iqbal at 678 (quoting Twombly at 570). “A claim has facial  
20 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable  
21 inference that the defendant is liable for the misconduct alleged. The plausibility standard is not  
22 akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant  
23 has acted unlawfully.” Id. (citing Twombly at 556). “Where a complaint pleads facts that are  
24 ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and  
25 plausibility of “entitlement to relief.”” Id. (quoting Twombly at 557).

26           A pro se litigant is entitled to notice of the deficiencies in the complaint and an  
27 opportunity to amend, unless the complaint’s deficiencies cannot be cured by amendment. See  
28 Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987).

1                   B.     Screening

2                   In his complaint, plaintiff names approximately 39 defendants. See ECF No. 1, 4-5. The  
3 complaint summarily asserts claims for rape, torture, extortion, kidnap with hostage and ransom,  
4 “medical/hate crime/negligence . . . 420 counts,” violations of due process, intimidation of  
5 witnesses, obstruction of justice, impersonating an FBI officer, bribery, theft, robbery, and more.  
6 In addition to seeking damages in the amount of “\$100 million,” plaintiff seeks, inter alia, a  
7 medical examination to locate the transmitter in his body and the camera lenses in his eyes.

8                   In a “supplement” to the complaint filed August 29, 2016, plaintiff names 22 defendants,  
9 including newly-named defendants California Health and Welfare Agency and San Joaquin  
10 General Hospital. See ECF No. 22. Plaintiff alleges that he has suffered “rape, torture, or  
11 sodomy” by defendants, causing “gruesome foreign objects forced and left in plaintiff,” and  
12 resulting in plaintiff contracting Hepatitis C. Plaintiff contends that he has been denied adequate  
13 medical and mental health care, and seeks “\$250 million” in damages.

14                   Plaintiff has filed numerous motions, including the following:

- 15                   • Motions for injunctive relief seeking, inter alia, “to obtain relevant forensic evidence  
16                   located inside the plaintiff’s body forced by thee defendant(s),” ECF No. 7 at 10 (sic);  
17                   and a temporary restraining order directing defendants to refrain from engaging in  
18                   “retorial (sic) misconduct,” and “terrorist threats,” ECF No. 14 at 2;
- 19                   • Motion for default judgment against the unserved defendants, ECF No. 12;
- 20                   • Motion for summary judgment, including 29 alleged claims, ECF No. 13 at 19-20, and  
21                   18 pages of string citations, id. at 3-19;
- 22                   • Motion for all relevant evidence, ECF No. 16;
- 23                   • Motion to appear before the Magistrate Judge, ECF No. 19;
- 24                   • Motions to compel discovery, ECF Nos. 20, 21; and
- 25                   • Motion to appoint counsel, ECF No. 23.

26                   The undersigned finds that plaintiff’s allegations – as set forth in his complaint and  
27 numerous additional filings – are fanciful and therefore legally frivolous; this action lacks any  
28 basis in fact or in law. See Neitzke, supra, 490 U.S. at 325; Franklin, 745 F.2d at 1227-28. The

1 court also finds that amendment of the complaint would be futile. Noll, 809 F.2d at 1448.  
2 Therefore, plaintiff's complaint will be dismissed without leave to amend; plaintiff's numerous  
3 motions will be denied as moot; and the Clerk of Court will be directed to close this case.  
4 Dismissal of this case shall count as a "strike" under 28 U.S.C. § 1915(g).<sup>1</sup>


5 III. Conclusion

6 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's complaint, ECF No. 1, is dismissed without leave to amend.
- 8 2. Plaintiff's numerous additional motions, ECF Nos. 6, 7, 12, 13, 14, 16, 19, 20, 21, 23,  
9 are denied as moot.
- 10 3. This action is dismissed.
- 11 4. Dismissal of this case shall count as a "strike" under 28 U.S.C. § 1915(g).
- 12 5. The Clerk of Court is directed to close this case.

13 SO ORDERED.

14 DATED: October 25, 2016

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16 ALLISON CLAIRE  
17 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Under the "three strikes" provision of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g), a  
26 prisoner who has had three or more cases dismissed as frivolous, malicious, or for failure to state  
27 a claim, is precluded from proceeding in forma pauperis in a new action unless the complaint  
28 demonstrates that plaintiff was under "imminent danger of serious physical injury" at the time he  
filed the complaint. See 28 U.S.C. § 1915(g); Andrews v. Cervantes, 493 F.3d 1047 (9th Cir.  
2007).