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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRODERICK JAMES WARFIELD,
Plaintiff,
v.
BOWERS, et al.,
Defendants.

No. 2:17-cv-2467-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff proceeds without counsel in an action brought under 42 U.S.C. § 1983. He commenced this action while confined to a county jail, and has since been transferred to Napa State Hospital. In addition to filing two complaints (ECF Nos. 1 & 4), he has filed an application to proceed in forma pauperis (“IFP”) under 28 U.S.C. § 1915. ECF No. 6. The court has reviewed the application and trust fund account statement and finds that it makes the showing required by 28 U.S.C. § 1915(a)(1) and (2). Thus, plaintiff’s IFP application will be granted. The court will, however, recommend that the amended complaint be dismissed as frivolous, without leave to amend.

I. Screening Requirements

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally

1 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
2 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

3 A claim “is [legally] frivolous where it lacks an arguable basis either in law or in fact.”
4 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th
5 Cir. 1984). “[A] judge may dismiss [in forma pauperis] claims which are based on indisputably
6 meritless legal theories or whose factual contentions are clearly baseless.” *Jackson v. Arizona*,
7 885 F.2d 639, 640 (9th Cir. 1989) (citation and internal quotations omitted), superseded by statute
8 on other grounds as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000); *Neitzke*, 490
9 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully pleaded,
10 has an arguable legal and factual basis. *Id.*

11 “Federal Rule of Civil Procedure 8(a)(2) requires only ‘a short and plain statement of the
12 claim showing that the pleader is entitled to relief,’ in order to ‘give the defendant fair notice of
13 what the . . . claim is and the grounds upon which it rests.’” *Bell Atl. Corp. v. Twombly*, 550 U.S.
14 544, 555 (2007) (alteration in original) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)).
15 However, in order to survive dismissal for failure to state a claim, a complaint must contain more
16 than “a formulaic recitation of the elements of a cause of action;” it must contain factual
17 allegations sufficient “to raise a right to relief above the speculative level.” *Id.* (citations
18 omitted). “[T]he pleading must contain something more . . . than . . . a statement of facts that
19 merely creates a suspicion [of] a legally cognizable right of action.” *Id.* (alteration in original)
20 (quoting 5 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1216 (3d
21 ed. 2004)).

22 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to
23 relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl.*
24 *Corp.*, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content
25 that allows the court to draw the reasonable inference that the defendant is liable for the
26 misconduct alleged.” *Id.* (citing *Bell Atl. Corp.*, 550 U.S. at 556). In reviewing a complaint
27 under this standard, the court must accept as true the allegations of the complaint in question,
28 *Hospital Bldg. Co. v. Rex Hosp. Trs.*, 425 U.S. 738, 740 (1976), as well as construe the pleading

1 in the light most favorable to the plaintiff and resolve all doubts in the plaintiff's favor, *Jenkins v.*
2 *McKeithen*, 395 U.S. 411, 421 (1969).

3 **II. Screening Order**

4 Plaintiff claims that this is a class action and that Aladdin Bail Bonds illegally seized
5 property "of FBI # 0155210W6 by an arbitrary contract." ECF No. 4 at 6. He does not explain
6 who makes up the purported class, the nature of the "arbitrary" contract, or identify the allegedly
7 seized property in any way. Nevertheless, he claims that "any rejection of this claim by any
8 defendant including the Governor of the State of California will be shot on sight and killed by
9 federal agents that have been stalking them and wiretapping wireless all electronic devices by
10 satellite transmission." *Id.* Some of the listed defendants, of which there are 96, are inanimate
11 objects, i.e., "Stolen Cup #5" and "Broken Teeth." *Id.* at 1. Others are groups of unidentified
12 people, i.e., "People that have fraudulently accused (Bro) Mike of rape," "All Hells Angels
13 Presidents Nationwide," and "All militia organizations internationally." *Id.* at 3, 4. Other
14 individual defendants include the "waitress from old skyline bar [who] spilled drink," and
15 "Musician Bruno Mars." *Id.* at 3, 5. According to plaintiff, the Governor and other government
16 officials have engaged in various forms of criminal activity, including first degree murder, capital
17 case murder, child molestation, indecent exposure, prostitution, and musical piracy. *Id.* As
18 punishment for those crimes, he requests "male genital castration, female reproduction of ovaries
19 removed, lobotomy, cranial brain removal, [and continuation of] bankruptcy proceedings. *Id.* at
20 8.

21 Plaintiff's complaint appears to be a compilation of disjointed delusional assertions that
22 defy comprehension and must be dismissed. None of his allegations state a cognizable §1983
23 claim (indeed, his allegations are barely intelligible) and, factually, the allegations can only be
24 categorized as fanciful. The Supreme Court has held that a complaint is frivolous if it "embraces
25 not only the inarguable legal conclusion, but also the fanciful factual allegation." *Neitzke v.*
26 *Williams*, 490 U.S. 319, 325 (1989). A court may dismiss a claim as frivolous where the factual
27 contentions contained therein are clearly baseless, *id.* at 327, and the court finds it appropriate to
28 do so in the instant case.

1 The only question that remains is whether that dismissal should be with or without leave
2 to amend. The Ninth Circuit has held that “[a] pro se litigant must be given leave to amend his or
3 her complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured
4 by amendment.” *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987) (internal quotation marks
5 and citations omitted). The disjointed, unintelligible nature of plaintiff’s complaint convinces the
6 court that further attempts to refine these allegations would not be fruitful. There is simply no
7 version of these facts and arguments which can be shaped into a valid claim.

8 **III. Conclusion**

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff’s application to proceed in forma pauperis (ECF No. 6) is GRANTED;
11 and
12 2. The Clerk is directed to randomly assign a United States District Judge to this
13 case.

14 Further, IT IS HEREBY RECOMMENDED that plaintiff’s amended complaint (ECF No.
15 4) be dismissed without leave to amend as frivolous and the Clerk be directed to close the case.

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

23 Dated: May 16, 2018.

24 
25 EDMUND F. BRENNAN
26 UNITED STATES MAGISTRATE JUDGE
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