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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY SCOTT VAN HUISEN,
Plaintiff,
v.
CLINTON ADMINISTRATION, et al.,
Defendants.

No. 2:23-cv-1596 DJC KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis. On September 25, 2023, plaintiff filed an amended complaint. On November 15, 2023, the undersigned granted plaintiff thirty days to file a second amended complaint or inform the court whether he intends to stand on his first amended complaint. (ECF No. 31.) On November 27, 2023, plaintiff filed a request for extension of time to amend (ECF No. 32); however, this request was directed to the September 22, 2023 order, and by then, plaintiff had already filed an amended complaint. On November 30, 2023, plaintiff filed a response to the November 15, 2023 order, indicating he intended to stand on his amended complaint. Thus, the motion for extension of time is denied as moot, and the court now screens plaintiff’s amended complaint.

As discussed below, it is recommended that plaintiff’s amended complaint be dismissed as legally frivolous and without leave to amend.

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1 Screening Standards

2 The court is required to screen complaints brought by prisoners seeking relief against a
3 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
4 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
5 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
6 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

7 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
8 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
9 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an
10 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
11 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
12 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
13 Cir. 1989); Franklin, 745 F.2d at 1227.

14 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon
15 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in
16 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467
17 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt
18 Lake Log Owners Ass’n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under
19 this standard, the court must accept as true the allegations of the complaint in question, Hosp.
20 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light
21 most favorable to the plaintiff, and resolve all doubts in the plaintiff’s favor, Jenkins v.
22 McKeithen, 395 U.S. 411, 421 (1969).

23 Discussion

24 As set forth above, a complaint is legally frivolous within the meaning of 28 U.S.C. §
25 1915 “where it lacks an arguable basis either in law or in fact.” Neitzke, 490 U.S. at 325. “The
26 court may . . . dismiss a claim as frivolous where it is based on an indisputably meritless legal
27 theory or where the factual contentions are clearly baseless.” Howell v. Johnson, 2021 WL
28 3602139, at *1

1 (E.D. Cal. 2021) (citing Neitzke, 490 U.S. at 327). “The critical inquiry is whether a . . . claim,
2 however inartfully pleaded, has an arguable legal and factual basis.” Id. (citations omitted).

3 Here, plaintiff’s amended complaint is based on indisputably meritless legal theories.
4 Examples of claims based on an indisputably meritless legal theory include claims of
5 infringement of a legal interest which clearly does not exist. Neitzke, 490 U.S. at 327. Plaintiff
6 purports to bring this suit against Bill Clinton and the Clinton Administration, but there is no
7 connection between plaintiff and such defendants.

8 Plaintiff’s factual allegations also are incomprehensible and appear to be baseless. Clearly
9 baseless factual allegations include those “that are ‘fanciful,’ ‘fantastic,’ and ‘delusional.’”
10 Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) (quoting Neitzke, 490 U.S. at 325, 327, 328).
11 Thus, “a finding of factual frivolousness is appropriate when the facts alleged rise to the level of
12 the irrational or the wholly incredible, whether or not there are judicially noticeable facts
13 available to contradict them.” Denton, 304 U.S. at 33. Plaintiff refers to defamation, an illicit
14 contract, an intentional tort, crimes against humanity, treachery, treason, infamy, gerrymandering,
15 breach of the peace, and “malapportioned - equity, an egg hatched by cruelty!” (ECF No. 27 at
16 7.) In addition to his conclusory recitation of various unrelated legal terms and concepts, plaintiff
17 includes various quotes from the Bible, a quote from John F. Kennedy, and recounts the Pledge of
18 Allegiance. (ECF No. 27 at 5-7.) Plaintiff’s factual allegations are incomprehensible.

19 Therefore, the undersigned concludes that plaintiff’s amended complaint is legally
20 frivolous, fails to state any claims that are plausible, and the undersigned recommends that this
21 action be dismissed.

22 Because the amended complaint is incomprehensible with no basis in fact or law, it is
23 recommended that plaintiff should not be granted leave to amend; leave to amend would be futile.
24 See Lopez v. Smith, 203 F.3d 1122, 1127 n.8 (9th Cir. 2000) (“When a case may be classified as
25 frivolous or malicious, there is, by definition, no merit to the underlying action and so no reason
26 to grant leave to amend.”); accord Badfoot v. Estelle, 874 F.2d 815 and n.1, 4 (9th Cir. 1989)
27 (Unreported, Table) (affirming dismissal of prisoner’s complaint without leave to amend based on
28 finding it incomprehensible).

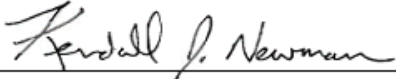
1 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion (ECF No. 32) is denied
2 as moot.

3 Further, IT IS RECOMMENDED that plaintiff’s amended complaint be dismissed
4 without leave to amend, and this action be terminated.

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
7 after being served with these findings and recommendations, plaintiff may file written objections
8 with the court and serve a copy on all parties. Such a document should be captioned
9 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
10 failure to file objections within the specified time may waive the right to appeal the District
11 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: December 8, 2023

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14 /vanh1596.56


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE