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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD JAMES BRUCE HATTON,  
SR.,

Plaintiff,

v.

NEVADA COUNTY BEHAVIORAL  
HEALTH, ET AL.,

Defendants.

No. 2:23-cv-01970-KJN (PS)

ORDER and FINDINGS AND  
RECOMMENDATIONS TO DISMISS

Plaintiff, who is proceeding without counsel in this action, requests leave to proceed in forma pauperis (“IFP”).<sup>1</sup> (ECF No. 2.) See 28 U.S.C. § 1915 (authorizing the commencement of an action “without prepayment of fees or security” by a person who is unable to pay such fees).

However, because the undersigned finds that the court lacks subject matter jurisdiction over this action, the undersigned recommends that the action be dismissed without prejudice, and that plaintiff’s application to proceed in forma pauperis in this court be denied as moot. See United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d 960, 967 (9th Cir. 2004) (noting the federal court’s independent duty to ensure it has subject matter jurisdiction in the case).

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<sup>1</sup> This action was randomly assigned to the undersigned pursuant to Appendix A of the Local Rules. Further, actions where a party proceeds without counsel are referred to a magistrate judge pursuant to E.D. Cal. L.R. 302(c)(21). See 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72.

1           **Legal Standards**

2           Pro se pleadings are to be liberally construed. Hebbe v. Pliker, 627 F.3d 338, 342 & n.7  
3 (9th Cir. 2010) (liberal construction appropriate even post-Iqbal). Prior to dismissal, the court is  
4 to tell the plaintiff of deficiencies in the complaint and provide an opportunity to cure—if it  
5 appears at all possible the defects can be corrected. See Lopez v. Smith, 203 F.3d 1122, 1130-31  
6 (9th Cir. 2000) (en banc). However, if amendment would be futile, no leave to amend need be  
7 given. Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 339 (9th Cir. 1996).

8           The court must dismiss a case if, at any time, it determines that it lacks subject matter  
9 jurisdiction. Rule 12(h)(3).<sup>2</sup> A federal district court generally has original jurisdiction over a  
10 civil action when: (1) a federal question is presented in an action “arising under the Constitution,  
11 laws, or treaties of the United States” or (2) there is complete diversity of citizenship and the  
12 amount in controversy exceeds \$75,000. See 28 U.S.C. §§ 1331, 1332(a). Further, a plaintiff  
13 must have standing to assert a claim, which requires an injury in fact caused by defendant(s) that  
14 may be redressed in court. Harrison v. Kernan, 971 F.3d 1069, 1073 (9th Cir. 2020). Under the  
15 well-pleaded complaint rule, “federal jurisdiction exists only when a federal question is presented  
16 on the face of the plaintiff’s properly pleaded complaint.” Caterpillar Inc. v. Williams, 482 U.S.  
17 386, 392 (1987).

18           Federal courts lack subject matter jurisdiction to consider claims that are “so insubstantial,  
19 implausible, foreclosed by prior decisions of this court, or otherwise completely devoid of merit  
20 as not to involve a federal controversy.” Steel Co. v. Citizens for a Better Environment, 523 U.S.  
21 83, 89 (1998); Hagans v. Lavine, 415 U.S. 528, 537 (1974) (court lacks subject matter jurisdiction  
22 over claims that are “essentially fictitious,” “obviously frivolous” or “obviously without merit”);  
23 see also Grancare, LLC v. Thrower by & through Mills, 889 F.3d 543, 549-50 (9th Cir. 2018)  
24 (noting that the “wholly insubstantial and frivolous” standard for dismissing claims operates  
25 under Rule 12(b)(1) for lack of federal question jurisdiction). A claim is legally frivolous when it  
26 lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989). A  
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28 <sup>2</sup> Citation to the “Rule(s)” are to the Federal Rules of Civil Procedure, unless otherwise noted.

1 court may dismiss a claim as frivolous where it is based on an indisputably meritless legal theory  
2 or where the factual contentions are clearly baseless. Id. at 327; Rule 12(h)(3).

3 **Analysis**

4 Plaintiff brings this suit against Nevada County Behavior Health, Nevada County Public  
5 Guardian, Siena Kindred Health Care, and Siena Nursing Staff. (ECF No. 1 at 1.) Plaintiff  
6 alleges he is being falsely imprisoned at the Nevada County Behavioral Health Center and that  
7 defendants are involved in a conspiracy to kill him with prescriptions in order to own his estate.  
8 (ECF No. 1 at 3.) Plaintiff further claims he was poisoned to death twice and “teletransported” to  
9 Napa State Hospital “with a time warp.” (Id.) Attached to plaintiff’s complaint is a petition for  
10 reappointment of conservator dated June 22, 2023, which states that plaintiff is gravely disabled  
11 because of a mental disorder. (Id. at 9-11.) The petition indicates that the Public Guardian of the  
12 County of Nevada was appointed conservator of plaintiff on August 30, 2022. (Id. at 9.)

13 Upon review of plaintiff’s complaint, the undersigned finds that plaintiff’s allegations are  
14 implausible rather than merely unlikely. While the court sympathizes with plaintiff’s  
15 understanding of his situation, the court concludes that plaintiff’s complaint is legally frivolous  
16 and recommends dismissal. See e.g., Monaghan v. Trebex, 35 F. App’x 651, 651 (9th Cir. 2002)  
17 (unpublished) (affirming dismissal as frivolous where plaintiff alleged that he was “the object of a  
18 nationwide conspiracy”); Sameer v. Khera, 2018 WL 6338729, at \*2 (E.D. Cal. Dec. 5, 2018)  
19 (dismissing the case with prejudice for lack of subject matter jurisdiction as “the only appropriate  
20 response” to “fanciful allegations” in complaint that “alleges the existence of a vast conspiracy  
21 bent on plaintiff’s destruction”).

22 The court finds that granting further leave to amend would be futile, and therefore  
23 recommends denying leave to amend.

24 **ORDER**

25 IT IS HEREBY ORDERED that:

- 26 1. Clerk of Court assign a district judge to this action.  
27 2. All pleading, discovery, and motion practice in this action are stayed pending  
28 resolution of these findings and recommendations. Other than objections to the

1 findings and recommendations or non-frivolous motions for emergency relief, the  
2 court will not entertain or respond to any pleadings or motions until the findings and  
3 recommendations are resolved.

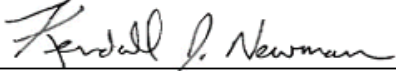
4 **FINDINGS AND RECOMMENDATIONS**

5 IT IS RECOMMENDED that:

- 6 1. The action be DISMISSED WITH PREJUDICE;  
7 2. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) be DENIED AS MOOT;  
8 and  
9 3. The Clerk of Court be directed to CLOSE this case.

10 These findings and recommendations are submitted to the United States District Judge assigned to  
11 the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after  
12 being served with these findings and recommendations, plaintiff may file written objections with  
13 the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and  
14 Recommendations." Plaintiff is advised that failure to file objections within the specified time  
15 may waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455  
16 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

17 Dated: February 5, 2024

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

20 hatt.1970