

United States District Court

For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEONARD ROSS,

Plaintiff,

v.

SAN FRANCISCO GENERAL HOSPITAL,

Defendant.

No. C 06-05601 CRB

ORDER OF DISMISSAL

Now before the Court is plaintiff's application to proceed *in forma pauperis* ("IFP"). A court may authorize a plaintiff to prosecute an action in federal court without prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). Plaintiff has submitted the required documentation, and it is evident from his application that his assets and income are insufficient to enable plaintiff to prosecute the action.

Viewing plaintiff's application in isolation, it appears that she should be allowed to proceed IFP. A court is under a continuing duty, however, to dismiss a case whenever it determines that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B)(i)-- (iii).

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1 Plaintiff's complaint, filed just two days after his unpleasant experience, fails to state
2 a claim against the San Francisco General Hospital. If plaintiff's allegations are true,
3 plaintiff has good cause to be upset by how he was treated by Hospital staff on September 11
4 of this year. The Hospital's challenged conduct, however, does not rise to the level of a
5 violation of plaintiff's civil rights. According to plaintiff, he left the hospital of his own
6 accord "without incident." The nurse who allegedly shouted at plaintiff even told him where
7 he could file a complaint with the patient advocate. This is not a federal case. If plaintiff
8 wishes to pursue this matter further he should file a written grievance with the Hospital's
9 patient advocate.

10 For the foregoing reasons, plaintiff's complaint is DISMISSED with prejudice.

11 **IT IS SO ORDERED.**

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13 Dated: September 25, 2006

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE