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

GBEKE M. AWALA,	)	No. C 07-0179 JSW (PR)
	)	
Plaintiff,	)	<b>ORDER OF DISMISSAL</b>
	)	
vs.	)	
	)	
CHIEF JUSTICE JOHN G. ROBERTS, et	)	
al,	)	
	)	
Defendants.	)	

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Plaintiff, apparently an inmate incarcerated at the Moshannon Valley Correctional Center in Philipsburg, Pennsylvania, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. Plaintiff’s complaint is largely unintelligible, but appears to be related to political concerns related to the “Iraq war and war on terrorism.” The complaint fails to state a claim upon which relief will be granted and will be dismissed.

**DISCUSSION**

Plaintiff’s complaint is incomprehensible. Plaintiff apparently seeks to sue various politicians and judges for reasons that cannot be determined from the face of the complaint. Although the complaint is lengthy, it is extremely disjointed and does not establish any legal or factual bases for a civil rights action. Therefore, the complaint will be dismissed because Plaintiff fails to state a claim upon which relief may be granted.

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which

1 prisoners seek redress from a governmental entity or officer or employee of a  
2 governmental entity. *See* 28 U.S.C. § 1915A(a). In its review the court must identify  
3 any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to  
4 state a claim upon which relief may be granted, or seek monetary relief from a  
5 defendant who is immune from such relief. *See id.* at 1915A(b)(1),(2). Pro se  
6 pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d  
7 696, 699 (9th Cir. 1990).

8 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential  
9 elements: (1) that a violation of a right secured by the Constitution or laws of the  
10 United States was violated, and (2) that the alleged deprivation was committed by a  
11 person acting under the color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

#### 12 B. Plaintiff's Complaint

13 In this case, Plaintiff has sued multiple politicians and judges. However,  
14 Plaintiff's complaint fails to set forth any comprehensible allegations from which the  
15 Court can discern a legitimate basis for his complaint.

16 A claim is frivolous if it is premised on an indisputably meritless legal theory or  
17 is clearly lacking any factual basis. *See Neitzke v. Williams*, 490 U.S. 319, 327 (1989).  
18 Although a complaint is not "frivolous" within the meaning of sections 1915A and  
19 1915(e)(2) because it fails to state a claim under Federal Rule of Civil Procedure  
20 12(b)(6) ("Rule 12(b)(6)"), *see Neitzke*, 490 U.S. at 331, failure to state a claim is a  
21 separate basis for dismissal under sections 1915A and 1915(e)(2).

22 A dismissal as legally frivolous is proper only if the legal theory lacks an  
23 arguable basis, while under Rule 12(b)(6) a court may dismiss a claim on a dispositive  
24 issue of law without regard to whether it is based on an outlandish theory or on a close  
25 but ultimately unavailing one. *See id.* at 324-28. A claim that is totally  
26 incomprehensible may be dismissed as frivolous as it is without an arguable basis in  
27 law. *See Jackson v. Arizona*, 885 F.2d 639, 641 (9th Cir. 1989). The Court is unable  
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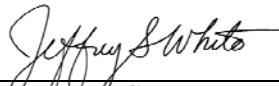
1 to ascertain a cognizable federal claim from Plaintiff's incomprehensible complaint.  
2 Moreover, it appears that most of the named Defendants are immune from suit. *See,*  
3 *Moore v. Brewster*, 96 F.3d 1240, 1243 (9th Cir. 1996) (federal judge is absolutely  
4 immune from civil liability for acts performed in his judicial capacity); *Bogan v. Scott-*  
5 *Harris*, 523 U.S. 44, 46 (1998) (legislators are entitled to absolute immunity from civil  
6 liability for their legislative functions).

7 **CONCLUSION**

8 For the forgoing reasons, Plaintiff's complaint is hereby DISMISSED. The  
9 Clerk shall close the file and enter judgment in this case.

10 IT IS SO ORDERED.

11 DATED: January 22, 2007

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14 JEFFREY S. WHITE  
15 United States District Judge  
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