

FILED

JUN 11 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
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10 DAVID NEHEMIAH MOHAMMED,)
11)
12 Plaintiff(s),)
13 v.)
14 BARACK HUSSEIN OBAMA, et)
15 al.,)
Defendant(s).)

No. C09-02162 BZ

ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND AND
GRANTING IFP APPLICATION

16 On May 12, 2009, *pro se* plaintiff, David Mohammed
17 ("Mohammed"), filed a complaint seeking relief and applied to
18 proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915(a).
19 Having reviewed the complaint and application, I find that
20 plaintiff has failed to state a claim upon which relief may be
21 granted, and I therefore **DISMISS** his complaint with leave to
22 amend.

23 Under 28 U.S.C. § 1915(e)(2), a court must dismiss a
24 complaint filed *in forma pauperis* which, liberally construed,
25 fails to state a claim upon which relief may be granted. See
26 28 U.S.C. § 1915(e)(2)(B); Marks v. Slocum, 98 F.3d 494, 495
27 (9th Cir. 1996) (*per curiam*); Franklin v. Murphy, 745 F.2d
28 1221, 1226-27 n.5 (9th Cir. 1984). Construed liberally in his

1 favor, plaintiff's complaint fails to allege facts sufficient
2 to state a claim.¹ Plaintiff appears to allege that President
3 Barack Obama has deprived mental patients of their religious
4 rights. From the few details he offers in his complaint,
5 however, I cannot be sure of the nature of his claim or if he
6 has specifically been harmed. Plaintiff's allegation against
7 Dr. Stefan Lampe and Dr. John Turns, as best I can understand,
8 alleges deception to mental health patients under their care.
9 Plaintiff must give defendants fair notice of the grounds on
10 which the complaint is based. See McKeever v. Block, 932 F.2d
11 795, 798 (9th Cir. 1991). In his complaint, plaintiff does
12 not provide facts sufficient to inform defendants of the
13 grounds of his complaint. Plaintiff's complaint therefore
14 fails to meet the basic requirement that it state a claim upon
15 which relief can be granted.

16 To file suit in federal court, a plaintiff must invoke
17 federal jurisdiction. Generally, this means filing a case
18 that involves a question of federal law, or in which the
19 parties are from different states and the amount in
20 controversy exceeds \$75,000. See 28 U.S.C. § 1331 and
21 1332(a). Here, it is not clear what, if any, federal claim
22 plaintiff is alleging or whether there is any reason for this
23 case to be in federal court. While he has alleged his
24 complaint falls under 28 U.S.C. § 1345 and 1348, these are not
25 applicable here as the complaint does not list the United

26
27 ¹ A *pro se* complaint must be liberally construed,
28 giving the plaintiff the benefit of any doubt. See
Karim-Panahi v. Los Angeles Police Dep't, 839 F.2d 621, 623
(9th Cir. 1988).

1 States as plaintiff or a banking association as party.

2 Moreover, plaintiff does not state sufficient facts to
3 show that he has standing to sue defendant. Federal courts
4 can only decide disputes which qualify as "cases and
5 controversies" under Article III of the United States
6 Constitution. Allen v. Wright, 468 U.S. 737, 750-751 (1984).
7 Article III requires that every litigant show that he has
8 standing to invoke the power of the federal court. Id. Here,
9 plaintiff fails to allege facts that show he suffered an
10 injury due to any defendant's alleged wrongful conduct.

11 Because I find that plaintiff's complaint fails to state
12 a claim upon which relief may be granted, **IT IS HEREBY ORDERED**
13 as follows:

14 1. Plaintiff's complaint is **DISMISSED** with leave to
15 amend. If plaintiff desires to proceed with this lawsuit, he
16 must file an amended complaint by **July 3, 2009**. The amended
17 complaint should be a short, legible statement in plain
18 English that clearly states the facts that form the basis for
19 plaintiff's suit against defendant. At a minimum, he should
20 state how he believes each defendant has harmed him personally
21 and what relief he seeks from each defendant. In amending his
22 complaint, plaintiff may wish to consult a manual the court
23 has adopted to assist *pro se* litigants in presenting their
24 case. This manual is available in the Clerk's Office and
25 online at: www.cand.uscourts.gov. If plaintiff does not amend
26 or otherwise comply with this Order by **July 3, 2009**, this case
27 may be dismissed.

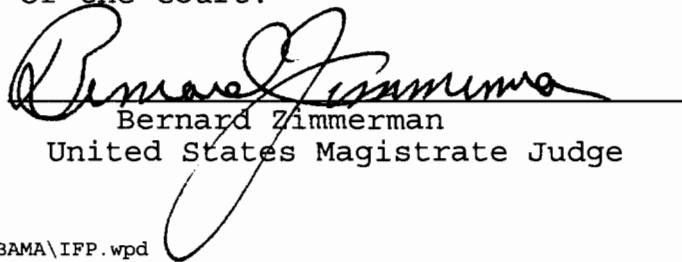
28 2. Attached is information about the Volunteer Legal

1 Services Program's Legal Help Center for pro se litigants.
2 The court suggests that plaintiff make an appointment with the
3 Center.

4 3. By no later than **July 3, 2009**, plaintiff shall
5 consent to or decline to magistrate judge jurisdiction. A
6 form is available online at: www.cand.uscourts.gov

7 4. Plaintiff's application to proceed *in forma pauperis*
8 is **GRANTED**. The marshal shall not serve the complaint,
9 pending further order of the Court.

10 Dated: June 9, 2009


Bernard Zimmerman
United States Magistrate Judge

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Are you representing yourself in Federal Court?

Do you need help with your case?

Volunteer Legal Services Program Legal Help Center

450 Golden Gate Avenue, 15th Floor, Room 2796

The Legal Help Center (the "Center") provides *pro se* litigants with:

- information about their legal rights and responsibilities and court procedures applicable to their cases,
- limited-scope legal advice,
- help preparing simple pleadings, and
- referrals to legal, social, and government services.

Assistance is provided by appointment only. If you are representing yourself in Federal Court and would like help with your civil case, you may make an appointment to meet with an attorney at the Center. Sign up in the appointment book on the table outside the door of the Center, located on the 15th floor of the Federal Courthouse, Room 2796, up to two weeks in advance. On the day of your appointment, bring relevant paperwork for your case, including drafts you may want the attorney to review, and wait just outside the Center for the attorney to call you in at the appointed time.

If you do not speak English or have difficulty with English, please bring someone to your appointment who can translate for you. We can not provide a translator.

If you seek help from the Center, you will still represent yourself. The attorney at the Center can not be your lawyer; the attorney can only give you information, advice, and basic legal help.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DAVID N. MOHAMMED,
Plaintiff,

Case Number: CV09-02162 BZ

CERTIFICATE OF SERVICE

v.

BARACK HUSSEIN OBAMA et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 11, 2009, I SERVED a true and correct copy(ies) of the attached **ORDER DISMISSING COMPLAINT WITH LEAVE TO AMEND AND GRANTING IFP APPLICATION**, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

David Nehemiah Mohammed
God: Spiritual Temple Trinity
Mosque, 22103-Redwood Road
New Jerusalem, East Bay
Castro Valley, CA 94546

Dated: June 11, 2009

Richard W. Wieking, Clerk
By: Rose Maher, Deputy Clerk

