

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID NEHEMIAH MOHAMMED,)	
)	
Plaintiff(s),)	No. C09-02162 BZ
)	
v.)	SECOND ORDER DISMISSING
)	COMPLAINT WITH LEAVE TO
BARACK HUSSEIN OBAMA, et)	AMEND AND GRANTING IFP
al.,)	APPLICATION
)	
Defendant(s).)	
_____)	

On May 12, 2009, *pro se* plaintiff, David Mohammed ("Mohammed"), filed a complaint seeking relief and applied to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915(a). Having reviewed the complaint and application, I find that plaintiff has failed to state a claim upon which relief may be granted, and I therefore **DISMISS** his complaint with leave to amend.¹

Under 28 U.S.C. § 1915(e)(2), a court must dismiss a complaint filed *in forma pauperis* which, liberally construed, fails to state a claim upon which relief may be granted. See

¹ This Order supersedes the Order filed June 18, 2009 which was returned as undeliverable. Plaintiff is reminded of his obligation to advise the Court of any change of address or phone number.

1 28 U.S.C. § 1915(e)(2)(B); Marks v. Slocum, 98 F.3d 494, 495
2 (9th Cir. 1996) (*per curiam*); Franklin v. Murphy, 745 F.2d
3 1221, 1226-27 n.5 (9th Cir. 1984). Construed liberally in his
4 favor, plaintiff's complaint fails to allege facts sufficient
5 to state a claim.² Plaintiff appears to allege that President
6 Barack Obama has deprived mental patients of their religious
7 rights. From the few details he offers in his complaint,
8 however, I cannot be sure of the nature of his claim or if he
9 has specifically been harmed. Plaintiff's allegation against
10 Dr. Stefan Lampe and Dr. John Turns, as best I can understand,
11 alleges deception to mental health patients under their care.
12 Plaintiff must give defendants fair notice of the grounds on
13 which the complaint is based. See McKeever v. Block, 932 F.2d
14 795, 798 (9th Cir. 1991). In his complaint, plaintiff does
15 not provide facts sufficient to inform defendants of the
16 grounds of his complaint. Plaintiff's complaint therefore
17 fails to meet the basic requirement that it state a claim upon
18 which relief can be granted.

19 To file suit in federal court, a plaintiff must invoke
20 federal jurisdiction. Generally, this means filing a case
21 that involves a question of federal law, or in which the
22 parties are from different states and the amount in
23 controversy exceeds \$75,000. See 28 U.S.C. § 1331 and
24 1332(a). Here, it is not clear what, if any, federal claim
25 plaintiff is alleging or whether there is any reason for this

26
27 ² 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 case to be in federal court. While he has alleged his
2 complaint falls under 28 U.S.C. § 1345 and 1348, these are not
3 applicable here as the complaint does not list the United
4 States as plaintiff or a banking association as party.

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

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

17 1. Plaintiff's complaint is **DISMISSED** with leave to
18 amend. If plaintiff desires to proceed with this lawsuit, he
19 must file an amended complaint by **July 31, 2009**. The amended
20 complaint should be a short, legible statement in plain
21 English that clearly states the facts that form the basis for
22 plaintiff's suit against defendant. At a minimum, he should
23 state how he believes each defendant has harmed him personally
24 and what relief he seeks from each defendant. In amending his
25 complaint, plaintiff may wish to consult a manual the court
26 has adopted to assist *pro se* litigants in presenting their
27 case. This manual is available in the Clerk's Office and
28 online at: www.cand.uscourts.gov. If plaintiff does not amend

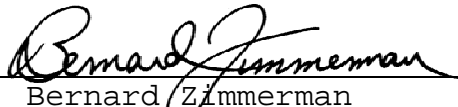
1 or otherwise comply with this Order by **July 31, 2009**, this
2 case may be dismissed.

3 2. Attached is information about the Volunteer Legal
4 Services Program's Legal Help Center for pro se litigants.
5 The court suggests that plaintiff make an appointment with the
6 Center.

7 3. By no later than **July 31, 2009**, plaintiff shall
8 consent to or decline to magistrate judge jurisdiction. A
9 form is available online at: www.cand.uscourts.gov

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

13 Dated: July 7, 2009

14 
15 Bernard Zimmerman
United States Magistrate Judge

16 G:\BZALL\BZCASES\MOHAMMED v. OBAMA\IFP2.wpd

17
18
19
20
21
22
23
24
25
26
27
28