

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

5 B. Legal Claims

6 Section 1915A accords judges the unusual power to pierce the veil of the
7 complaint's factual allegations and dismiss as frivolous those claims whose
8 factual contentions are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32
9 (1992). Examples are claims describing fantastic or delusional scenarios with
10 which federal district judges are all too familiar. See Neitzke v. Williams, 490
11 U.S. 319, 328 (1989). Generally speaking, a finding of factual frivolousness is
12 appropriate when the facts alleged rise to the level of the irrational or the wholly
13 incredible, whether or not there are judicially noticeable facts available to
14 contradict them. See Denton, 504 U.S. at 32-33.

15 Plaintiff's allegations that he is being attacked on a daily basis by "the
16 voice of God" or "similar technology" or "weapon" describes a delusional
17 scenario which will be dismissed under the authority of § 1915A(b). The facts
18 alleged rise to the level of the irrational or wholly incredible. See id.

19 **CONCLUSION**

20 For the foregoing reasons, the complaint is DISMISSED as factually
21 frivolous under the authority of 28 U.S.C. § 1915A(b).

22 The clerk shall enter judgment in accordance with this order, terminate all
23 pending motions as moot, and close the file.

24 SO ORDERED.

25 DATED: April 27, 2010


26 CHARLES R. BREYER
27 United States District Judge