

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICKARD ANDERSON,

No. C 11-2845 SI (pr)

Plaintiff,

**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**

v.

CRESTWOOD MANOR; et al.,

_____ /

Rickard Anderson, formerly a patient at the San Francisco General Hospital and now residing at Crestwood Recovery & Rehab Center in Vallejo, commenced this action by filing *pro se* a document entitled "introduction legal letter" and later a civil rights complaint under 42 U.S.C. § 1983. Although Anderson has been incarcerated in the past and has filed more than a hundred actions in this court, he apparently was not incarcerated at the time of filing of this action. The action is not governed by 28 U.S.C. § 1915A, which applies only to actions filed by prisoners. However, he has applied to proceed *in forma pauperis* and therefore is subject to the non-prisoner provisions of 28 U.S.C. § 1915.

Under 28 U.S.C. § 1915(e), notwithstanding any filing fee or any portion thereof that may have been paid, "the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . is frivolous or malicious." 28 U.S.C. § 1915(e)(2)(B)(i). A claim that is incomprehensible may be dismissed as frivolous as it is without an arguable basis in law. See Jackson v. Arizona, 885 F.2d 639, 641 (9th Cir. 1989). Anderson's complaint is incomprehensible and therefore is subject to dismissal under § 1915(e)(2)(B)(i). Before dismissing the action, however, the court will give Anderson an opportunity to attempt to file a pleading that states a claim.

1 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that
2 a right secured by the Constitution or laws of the United States was violated, and (2) that the
3 violation was committed by a person acting under the color of state law. *See West v. Atkins*, 487
4 U.S. 42, 48 (1988). For each instance of a constitutional violation, Anderson should name each
5 person who violated his constitutional right(s), describe what each person did to violate his
6 right(s), state where the violation occurred, and when the violation occurred.

7 For the foregoing reasons, the complaint is DISMISSED with leave to amend. An
8 amended complaint must be filed no later than **September 30, 2011**. The amended complaint
9 must include the caption and civil case number used in this Order and the words AMENDED
10 COMPLAINT on the first page. Failure to timely file the amended complaint will result in the
11 dismissal of the action.

12 IT IS SO ORDERED.

13 Dated: September 1, 2011



SUSAN ILLSTON
United States District Judge

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