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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IVONNE ORTIZ

Plaintiff(s),

No. C 08-0312 PJH

v.

**ORDER DISMISSING
COMPLAINT**

TAYLOR BEAN AND WHITAKER

Defendant(s).
_____ /

Before the court is plaintiff Ivonne Ortiz' application to proceed in forma pauperis and "Petition for Libel of Review of an Administrative Judgment," both of which were filed January 16, 2008.

The Court may authorize a plaintiff to file an action in federal court without prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security therefor. 28 U.S.C. § 1915(a). The in forma pauperis statute also provides that the Court shall dismiss the case if at any time the Court determines that the allegation of poverty is untrue, or that the action (1) is frivolous or malicious, (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Here, plaintiff's application fails to establish a viable allegation of poverty, and the petition itself fails to state any claim upon which relief may be granted. First, in her IFP application, plaintiff states that she is employed by "Gymbori [sic]" and that her gross salary per month is "\$2,800." She then goes on to state, however, that her past employment earned her "\$28,000" per month. Furthermore, she states that she owns a home with an estimated market value of "\$560,000" and a "\$4200" mortgage, as well as a 2007 Honda with an outstanding loan in the amount of "\$191,000," and that her monthly expenses equal

1 \$840. These conflicting allegations make it impossible for the court to determine whether
2 plaintiff warrants IFP status. On the one hand, a salary of \$2800 gross per month, in view
3 of \$840 worth of monthly expenses, and a mortgage amount of \$4,200, would indicate that
4 plaintiff is sufficiently indebted so as to qualify for IFP status. On the other hand, ownership
5 of a home worth \$560,000 and a 2007 Honda vehicle counsel against any allegations of
6 poverty.

7 Regardless whether such discrepancies can ultimately be clarified further, however,
8 plaintiff's complaint fails to state a claim. Plaintiff alleges, for example, that she is
9 petitioning the court for a "Review of Foreign Judgment," without indicating the foreign
10 judgment for which she seeks review. She also asserts that all parties are "U.S. Vessels
11 and fit the legal definition of a U.S. Vessel," such that the "Public Vessels Act" applies, but
12 never alleges any conduct allegedly falling under the Act. Similarly, she invokes the First
13 Judiciary Act, Foreign Sovereign Immunity Act, Bills of Lading Act, and Admiralty Extension
14 Act, without ever clearly defining the nature of any conduct or grievances that fall under any
15 of these Acts. Finally, while plaintiff seeks relief in relation to an alleged
16 "agreement/contract" and further seeks to have the court "enforce the Administrative
17 findings in the perfected agreement," plaintiff fails to sufficiently identify the nature of the
18 alleged agreement or any administrative decision. In sum, the court can discern no basis
19 upon which relief may be granted to plaintiff.

20 Accordingly, the instant complaint is hereby DISMISSED, pursuant to 28 U.S.C. §
21 1915(e)(2)(B), and plaintiff's corresponding application to proceed in forma pauperis is
22 furthermore DENIED as moot. The dismissal is with prejudice. The clerk shall close the
23 file.

24 **IT IS SO ORDERED.**

25 Dated: January 31, 2008



PHYLLIS J. HAMILTON
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

IVONNE ORTIZ,
Plaintiff,

Case Number: CV08-00312 PJH

CERTIFICATE OF SERVICE

v.

TAYLOR BEAN AND WHITAKER 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 February 1, 2008, I SERVED a true and correct copy(ies) of the attached, 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.

Ivonne Ortiz
178 Leeward Court
Vacaville, CA 95687

Dated: February 1, 2008



Richard W. Wieking, Clerk
By: Nichole Heuerman, Deputy Clerk