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E-Filed 3/2/2009

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

DONG THANH VO,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

Case Number C 08-5103 JF (PVT)

ORDER¹ (1) DENYING RENEWED APPLICATION TO PROCEED *IN FORMA PAUPERIS*; (2) DENYING MOTION FOR EXTENSION OF TIME; AND (3) DISMISSING COMPLAINT WITHOUT PREJUDICE

[Docket Nos. 14, 15]

On November 7, 2008, Plaintiff Dong Thanh Vo filed a “motion for an order and other relief” in which he requested that the Court order the appropriate state agency to release Plaintiff’s property and award damages of \$1,000,000 per day for each day that his personal property is withheld and award damages of \$100,000 for each day that his vehicle is withheld. Plaintiff named as “Respondent” multiple parties, including the State of California, the Office of the Attorney General, the Santa Clara County Superior Court, the Department of Motor Vehicles, the People of Santa Clara County, the 7-11 Store at Tully/Senter, and AA Towing at El Sunset.

On the same day that he filed his request for relief, Plaintiff filed an application to

¹ This disposition is not designated for publication in the official reports.

1 proceed *in forma pauperis*. On December 12, 2008, the Court denied the application on the
2 ground that Plaintiff had not provided a basis for federal jurisdiction over his claim for relief.
3 Plaintiff did not renew his application or pay the filing fee. On January 14, 2009, the Court
4 issued an order instructing Plaintiff to file an amended complaint within thirty days, along with
5 the filing fee or with a renewed application to proceed *in forma pauperis*. On February 13, 2009,
6 Plaintiff filed a renewed application to proceed *in forma pauperis* but did not file an amended
7 pleading. On February 25, 2009, Plaintiff filed a motion for an extension of time to file an
8 amended complaint, pursuant to Fed. R. Civ. P. 15(a). Plaintiff presently seeks an additional
9 sixty days to file his amended pleading.

10 Pursuant to this Court's prior order of January 14, 2009, Plaintiff's complaint will be
11 dismissed without prejudice to Plaintiff filing a new cause of action. The Court reiterates that
12 Plaintiff must identify a federal statute so as to create subject matter jurisdiction. Plaintiff has
13 initiated several different cases in this Court, all of which appear to relate to one or more
14 incidents in which his vehicle was impounded by Santa Clara County law enforcement. *See, e.g.,*
15 *Vo v. Superior Ct. of Santa Clara County*, CV 08-4900 (JF) (Oct. 27, 2008); *Vo v. San Jose*
16 *Police Dep't*, No. C 05-02200, 2007 WL 127984 (N.D. Cal. Jan. 12, 2007). Federal district court
17 is not the appropriate forum for a tort claim or appeal of an agency action unless such claims are
18 accompanied by a claim that creates a basis for federal jurisdiction. *See Vo*, 2007 WL 127984, at
19 *1 ("Plaintiff [does not] identify a basis for the Court's subject matter jurisdiction; the parties are
20 not diverse, and the complaint does not identify a federal statute under which Plaintiff brings
21 suit.").

22 Accordingly, Plaintiff's renewed application to proceed *in forma pauperis* will be denied
23 because the operative complaint states no discernible basis for federal jurisdiction. *See*
24 *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990); *Tripati v. First National Bank & Trust*,
25 821 F.2d 1368, 1370 (9th Cir. 1987). Plaintiff's request for an extension of time also will be
26 denied because the request was filed ten days after the deadline imposed by this Court and
27 Plaintiff has not shown good cause for any further extensions. *See* Fed. R. Civ. P. 15(a)(2).
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1 IT IS SO ORDERED.

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4 DATED: March 2, 2009

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JEREMY FOGEL
United States District Judge

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1 This Order has been served upon the following persons:

2 Dong Thanh Vo
3 Post Office Box 24
4 San Jose, CA 95103

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