UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

KUANG-BAO P. OU-YOUNG,

Plaintiff,

v.

JOHN G. ROBERTS, JR., Chief Justice, Supreme Court of the United States, et al.,

Defendants.

Case No. 5:14-mc-80174-BLF

ORDER DENYING LEAVE TO FILE LAWSUIT

Plaintiff Kuang-Bao P. Ou-Young has been declared a vexatious litigant; he must obtain leave of court before "filing any further suits alleging any violations of the federal criminal statutes, pursuant to 18 U.S.C. § 1512(b), 18 U.S.C. § 1512 (c), and 18 U.S.C. § 371, and the FTCA, codified at 28 U.S.C. § 2671 *et seq.*, involving parties that he named in" certain lawsuits that he previously filed in this Court. (Order Granting United States' Motion to Dismiss and Declaring Plaintiff a Vexatious Litigant ("Vexatious Litigant Order"), ECF 40 in Case No. 3:13-cv-04442-EMC)

Plaintiff has submitted for filing a new complaint that asserts 251 claims based upon violations of the statutes identified above; the claims are asserted against defendants that Plaintiff previously named as well as additional defendants. (Received Compl., ECF 1)

The proposed complaint does not allege any potentially cognizable claims. Plaintiff's claims against the defendants previously sued are barred by the Vexatious Litigant Order, which ordered that those claims were "dismissed with prejudice and without leave to amend."

Plaintiff's claims against the additional defendants are dismissed *sua sponte* under Federal Rule of Civil Procedure 12(b). *See Omar v. Sea-Land Service, Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6). . . . Such a

dismissal may be made without notice where the claimant cannot possibly win relief.") As explained in the Vexatious Litigant Order, this Court lacks jurisdiction over Plaintiff's claims against judges, prosecutors, and court staff, because they are immune from suit. (*See Vexatious Litigant Order* at 7-8) Moreover, the federal criminal statutes upon which Plaintiff relies do not provide a private right of action. (*Id.* at 9) Finally, Plaintiff has failed to exhaust administrative remedies with respect to any FTCA claims. (*Id.* at 10-11)

Because the Court lacks subject matter jurisdiction over Plaintiff's claims and because Plaintiff cannot state a claim for relief, Plaintiff is DENIED leave to file the proposed complaint. The Clerk shall close the file.

IT IS SO ORDERED.

Dated: July 8, 2014

BETH LABSON FREEMAN
United States District Judge

United States District Court
Northern District of California