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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

GRACE L. SANDOVAL,

Plaintiff,

vs.

JENNIFER D. HILL,

Defendant.

CASE NO. 09cv2306-WQH-WMc

ORDER

HAYES, Judge:

The matters before the Court are the Motion for Leave to Proceed in Forma Pauperis and the Motion to Appoint Counsel. (Doc. # 2, 3).

BACKGROUND

On October 16, 2009, Plaintiff Grace L. Sandoval, a nonprisoner proceeding pro se, initiated this action by filing the Complaint. (Doc. # 1). On October 16, 2009, Plaintiff also filed the Motion for Leave to Proceed In Forma Pauperis (“Motion to Proceed IFP”), and the Motion to Appoint Counsel. (Doc. # 2, 3).

ANALYSIS

I. Motion to Proceed IFP

All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$350. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to prepay the entire fee only if the plaintiff is granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

1 In her affidavit accompanying the Motion to Proceed IFP, Plaintiff states that she is not
2 employed, receives no income, has a checking account with a balance of \$5.00, owns a 2002
3 Honda Civic for which she owes \$375.00, and does not have any other significant assets such
4 as real estate, stocks, bonds or securities. (Doc. # 2 at 2-3). The Court has reviewed Plaintiff's
5 affidavit of assets and finds it is sufficient to show that Plaintiff is unable to pay the fees or
6 post securities required to maintain this action. The Court grants the Motion to Proceed IFP
7 pursuant to 28 U.S.C. § 1915(a).

8 **II. Initial Screening Pursuant to 28 U.S.C. § 1915(e)(2)(b)**

9 After granting IFP status, the Court must dismiss the case if the case "fails to state a
10 claim on which relief may be granted" or is "frivolous." 28 U.S.C. § 1915(e)(2)(B).

11 The standard used to evaluate a motion to dismiss is a liberal one, particularly when the
12 action has been filed pro se. *See Estelle v. Gamble*, 429 U.S. 97, 97 (1976). However, even
13 a "liberal interpretation ... may not supply elements of the claim that were not initially pled."
14 *Ivey v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). The
15 Complaint does not allege any legal basis under which Plaintiff is entitled to relief. The
16 Complaint is written without paragraphs, in a stream of consciousness manner that is often
17 unintelligible and/or incoherent. The allegations in the Complaint are insufficient to put
18 Defendant on notice of the claims against her, as required by Rule 8 of the Federal Rules of
19 Civil Procedure.¹ The Court finds that Plaintiff fails to state a claim on which relief can be
20 granted.

21 A complaint "is frivolous where it lacks an arguable basis either in law or fact. [The]
22 term 'frivolous,' when applied to the complaint, embraces not only the inarguable legal
23 conclusion, but also the fanciful factual allegation." *Neitzke v. Williams*, 490 U.S. 319, 325
24 (1989); *see also Martin v. Sias*, 88 F.3d 774, 775 (9th Cir. 1996). When determining whether
25 a complaint is frivolous, the Court need not accept the factual allegations as true, but must

26
27 ¹ Federal Rule of Civil Procedure 8 provides: "A pleading that states a claim for relief
28 must contain: (1) a short and plain statement of the grounds for the court's jurisdiction...; (2)
a short and plain statement of the claim showing that the pleader is entitled to relief; and (3)
a demand for the relief sought...." Fed. R. Civ. P. 8(a). Rule 8(d) provides that "[e]ach
allegation must be simple, concise, and direct." Fed. R. Civ. P. 8(d).

1 “pierce the veil of the complaint,” to determine if the allegations are “fanciful,” “fantastic,”
2 or “delusional.” *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (quoting *Neitzke*, 490 U.S.
3 at 327-28).

4 The following is an example of the Complaint’s allegations:

5 Bap Russo planned with Jennifer DeBlase Hill to kidnap my two daughters ...
6 to be raped by illegals from Mexico, Indians from Rincon Indian Reservation,
7 ... to cause many injuries to my two daughters’ human esophagus, breast, lungs,
8 heart, brain, eyes, ears, nose, mouth, uterus, spine, bones, blood, etc. to keep
9 hostage to force surrogate mothers illegally to force to carry two (2) children
born premature with the drug Provera illegally every year, for years that were
all kidnaped by the orphan, massacre, enemy Patrick J. Clark and gay mate O.J.
Simpson to be deteriorated on entire human face and body from starvation at
birth....

10 (Compl. at 5, Doc. # 1). The Complaint contains nine pages of rambling, often-fantastic
11 allegations similar to the example quoted above. The Court dismisses the Complaint as
12 frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).


13 **III. Appointment of Counsel**

14 In light of the Court’s sua sponte dismissal of this action, Plaintiff’s request for
15 appointment of counsel is denied as moot.

16 **CONCLUSION**

17 IT IS HEREBY ORDERED that the Motion for Leave to Proceed in Formal Pauperis
18 (Doc. # 2) is **GRANTED**. The Complaint is **DISMISSED** without prejudice, and this case
19 shall be closed. The Motion to Appoint Counsel (Doc. # 3) is **DENIED** as moot.

20 DATED: October 21, 2009

21 
22 **WILLIAM Q. HAYES**
23 United States District Judge

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