

1 **Sua Sponte Screening per 28 U.S.C. § 1915(e)(2)**

2 Notwithstanding payment of any filing fee or portion thereof, a complaint filed by any person
3 proceeding IFP pursuant to 28 U.S.C. § 1915(a) is subject to a mandatory and *sua sponte* review and
4 dismissal by the court to the extent it is frivolous, malicious, fails to state a claim upon which relief
5 may be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §
6 1915(e)(2)(B); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (“[T]he provisions of 28 U.S.C.
7 § 1915(e)(2)(B) are not limited to prisoners.”); *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000)
8 (en banc). Prior to its amendment by the Prison Litigation Reform Act, the former 28 U.S.C. §
9 1915(d) permitted *sua sponte* dismissal of only frivolous and malicious claims. *Id.* at 1130. The
10 newly enacted 28 U.S.C. § 1915(e)(2), however, mandates that the court reviewing a complaint filed
11 pursuant to the IFP provisions of section 1915 make and rule on its own motion to dismiss before
12 directing that the complaint be served by the U.S. Marshal pursuant to Fed. R. Civ. P. 4(c)(2). *Lopez*,
13 203 F.3d 1127 (“[S]ection 1915(e) not only permits, but requires a district court to dismiss an in forma
14 pauperis complaint that fails to state a claim.”); *see also Barren v. Harrington*, 152 F.3d 1193, 1194
15 (9th Cir. 1998) (noting the “the language of § 1915(e)(2)(B)(ii) parallels the language of Federal Rule
16 of Civil Procedure 12(b)(6).”).

17 As currently pleaded, Plaintiff’s complaint is subject to *sua sponte* dismissal under 28 U.S.C.
18 § 1915(e)(2)(B)(ii) because it fails to state a claim upon which relief may be granted. Plaintiff’s
19 Complaint consists of a one paragraph statement indicating that several police officers antagonized
20 her and refused to process a report. Plaintiff does not indicate what claims she is asserting. The “Civil
21 Cover Sheet” included with Plaintiff’s Complaint indicates she is suing for slander, harassment, failure
22 to file, and falsifying information, but these are not listed in the Complaint. Further, if those are the
23 claims she is asserting, they do not provide a basis for this Court to exercise jurisdiction over the
24 matter. Plaintiff’s Complaint also lacks factual detail regarding the alleged incident. Accordingly, the
25 Court hereby finds that Plaintiff’s Complaint must be dismissed for failing to state a claim upon which
26 relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii); *Calhoun*, 254 F.3d at 845; *Lopez*, 203 F.3d
27 at 1127.

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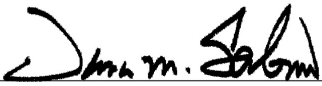
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Conclusion and Order

For these reasons, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Proceed IFP is **GRANTED** and the Complaint is **DISMISSED** without prejudice for failure to state a claim.¹

IT IS SO ORDERED.

DATED: August 31, 2010



HON. DANA M. SABRAW
United States District Judge

¹ In light of the Court's dismissal of Plaintiff's Complaint, the Court denies Plaintiff's request for appointment of counsel as moot.