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8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
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11	GINA HERNDON,	CASE NO. 10CV1441 DMS (JMA)
12	Plaintiff,	ORDER GRANTING MOTION TO
13	VS.	PROCEED IN FORMA PAUPERIS AND DISMISSING COMPLAINT
14		WITHOUT PREJUDICE FOR FAILING TO STATE A CLAIM
15	SAN DIEGO POLICE DEPARTMENT, Defendant.	UPON WHICH RELIEF CAN BE GRANTED PURSUANT TO 28 U.S. C. S. 1015(2)(D)(ii)
16	Defendant.	28 U.S.C. § 1915(e)(2)(B)(ii)
17	Plaintiff, a non-prisoner proceeding prose, has submitted a Complaint, Motion and Declaration	
18	Under Penalty of Perjury in Support of Motion to Proceed In Forma Pauperis ("IFP"), and a request	
19	for appointment of counsel.	
20	Motion to Proceed IFP	
21	All parties instituting any civil action, suit or proceeding in a district court of the United States,	
22	except an application for writ of habeas corpus, must pay a filing fee of \$350. See 28 U.S.C. §	
23	1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff	
24	is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d	
25	1176, 1177 (9th Cir. 1999). This Court finds Plaintiff's affidavit of assets is sufficient to show she	
26	is unable to pay the fees or post securities required to maintain this action. See Civil Local Rule	
27	3.2(d). Accordingly, the Court GRANTS Plaintiff's Motion to Proceed IFP pursuant to 28 U.S.C. §	
28	1915(a).	

10cv1441

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 dismissal by the court to the extent it is frivolous, malicious, fails to state a claim upon which relief 4 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 pursuant to the IFP provisions of section 1915 make and rule on its own motion to dismiss before 11 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 (9th Cir. 1998) (noting the "the language of § 1915(e)(2)(B)(ii) parallels the language of Federal Rule 15 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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1	Conclusion and Order	
2	For these reasons, IT IS HEREBY ORDERED that Plaintiff's Motion to Proceed IFP is	
3	GRANTED and the Complaint is DISMISSED without prejudice for failure to state a claim. ¹	
4	IT IS SO ORDERED.	
5	DATED: August 31, 2010	
6	John m. Salom	
7	HON. DANA M. SABRAW	
8	United States District Judge	
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20	¹ In light of the Court's dismissal of Plaintiff's Complaint, the Court denies Plaintiff's request for appointment of coursel as moot.	