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

KENNETH BLANTON,
#060763-0

Plaintiff,

vs.

UNKNOWN,

Defendants.

Civil No. 10-2289 MMA (BGS)

**ORDER SUA SPONTE DISMISSING
COMPLAINT AS FRIVOLOUS
PURSUANT TO 28 U.S.C. § 1915A(b)**

Plaintiff, Kenneth Blanton, currently housed at Atascadero State Hospital located in Atascadero, California and proceeding pro se, has filed a Complaint. Plaintiff has not prepaid the initial civil filing fee nor has he filed a Motion to Proceed *In Forma Pauperis* (“IFP”).

I. Initial Screening per 28 U.S.C. § 1915A(b)

The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to review complaints filed by anyone “incarcerated or detained in any facility who is accused of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions of parole, probation, pretrial release, or diversionary program,” “as soon as practicable after docketing” and regardless of whether the prisoner prepays filing fees or moves to proceed IFP. *See* 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any

1 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may
2 be granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

3 Plaintiff's Complaint is incomprehensible. The Complaint mainly consists of what appear
4 to be complaints directed to staff at Atascadero State Hospital. A complaint is frivolous "where
5 it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).
6 Here, the Court finds Plaintiff's claims to be frivolous under § 1915A because they lack even
7 "an arguable basis either in law or in fact," and appear "fanciful," "fantastic," or "delusional."
8 *Neitzke*, 490 U.S. at 325, 328. Thus, the Court dismisses the entirety of Plaintiff's Complaint
9 as frivolous pursuant to 28 U.S.C. § 1915A.

10 **II. Conclusion and Order**

11 Good cause appearing, **IT IS HEREBY ORDERED** that:


12 1. Plaintiff's Complaint is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915A.
13 Moreover, because the Court finds amendment of Plaintiff's claims would be futile at this time,
14 leave to amend is **DENIED**. *See Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 339 (9th Cir.
15 1996) (denial of a leave to amend is not an abuse of discretion where further amendment would
16 be futile); *see also Robinson v. California Bd. of Prison Terms*, 997 F. Supp. 1303, 1308 (C.D.
17 Cal. 1998) ("Since plaintiff has not, and cannot, state a claim containing an arguable basis in
18 law, this action should be dismissed without leave to amend; any amendment would be futile.")
19 (citing *Newland v. Dalton*, 81 F.3d 904, 907 (9th Cir. 1996)).

20 2. Further, this Court **CERTIFIES** that any IFP appeal from this Order would not
21 be taken "in good faith" pursuant to 28 U.S.C. § 1915(a)(3). *See Coppedge v. United States*, 369
22 U.S. 438, 445 (1962); *Gardner v. Pogue*, 558 F.2d 548, 550 (9th Cir. 1977) (indigent appellant
23 is permitted to proceed IFP on appeal only if appeal would not be frivolous).

24 The Clerk shall enter judgment for the Defendants and close the file.

25 **IT IS SO ORDERED.**

26
27 DATED: November 8, 2010



Hon. Michael M. Anello
United States District Judge