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

<p>ESMAEIL FARSHI,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>JUDGE CHRISTINE K. GOLDSMITH, individually and in her official capacity as Justice of the Superior Court of San Diego County,</p> <p style="text-align: right;">Defendant.</p>		
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CASE NO. 11-CV-1473-MMA (CAB)

ORDER:

**GRANTING PLAINTIFF’S
MOTION TO PROCEED *IN
FORMA PAUPERIS*;**

[Doc. No. 2]

***SUA SPONTE* DISMISSING
COMPLAINT WITH PREJUDICE**

On July 5, 2011, Plaintiff Esmaeil Farshi, proceeding *pro se*, filed the instant action in federal court. [Doc. No. 1.] Plaintiff also submitted a motion for leave to proceed *in forma pauperis* (“IFP”).

I. Motion to Proceed *In Forma Pauperis*

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 IFP under 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

According to Plaintiff’s declaration, he is currently unemployed, with no significant sources of income or assets. [Doc. No. 2.] The Court has reviewed Plaintiff’s affidavit of assets

1 and finds it is sufficient to show that Plaintiff is unable to pay the fees or post securities required to
2 maintain this action. Accordingly, the Court **GRANTS** Plaintiff’s Motion to Proceed IFP under
3 28 U.S.C. § 1915(a).

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

5 When a court authorizes the commencement of an action by granting IFP status, the court
6 is also obligated to dismiss the case “at any time” upon making a determination that the action
7 “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii); *see also*
8 *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (“It is also clear that section 1915(e) not only
9 permits but *requires* a district to dismiss an in forma pauperis complaint that fails to state a claim.”
10 (emphasis added)); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (per curiam) (finding that
11 the provisions of § 1915(e)(2)(B) “are not limited to prisoners”).

12 Plaintiff brings his complaint pursuant to 42 U.S.C. § 1983, alleging violations of his rights
13 as guaranteed under the Fourth, Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution.
14 [Doc. No. 1.] According to Plaintiff, Defendant Christine K. Goldsmith, a judge of the San Diego
15 Superior Court, violated Plaintiff’s rights when she granted his ex-wife the use, control, and
16 possession of certain real property in the course of proceedings held in family court. [*Id.* at p.2.]
17 Plaintiff claims that Defendant “did not consider” certain evidence submitted regarding the
18 impending foreclosure on his house, resulting in deprivation of property under the Fifth and
19 Fourteenth Amendments. [*Id.*] In addition, Plaintiff claims that Defendant delayed his case in
20 court in violation of the Sixth Amendment, and restrained him from selling his property in
21 violation of the Fourth Amendment. [*Id.*] Plaintiff requests injunctive and declaratory relief, as
22 well as reimbursement for the costs of litigation. [*Id.* at p.3.]

23 Defendant is shielded from Plaintiff’s claims by the doctrine of judicial immunity. It is a
24 well-established and generally recognized principle of law “that a judicial officer, in exercising the
25 authority vested in him, [should] be free to act upon his own convictions, without apprehension of
26 personal consequences to himself.” *Stump v. Sparkman*, 435 U.S. 349, 356 (1978) (quoting
27 *Bradley v. Fisher*, 13 Wall. 335, 347 (1872)). As a result, “judges of courts of superior or general
28 jurisdiction are not liable to civil actions for their judicial acts, even when such acts . . . are alleged

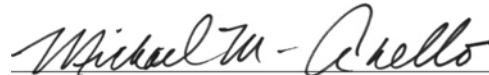
1 to have been done maliciously or corruptly.” *Id.* at 356 (quoting *Breadley*, 13 Wall. at 351).

2 The only relevant inquiry for determining whether a defendant judge is immune in any
3 given instance “is whether at the time he took the challenged action he had jurisdiction over the
4 subject matter before him.” *Id.* Here, Defendant, as a judge in a court of general jurisdiction, was
5 not acting outside of her authority in issuing an order regarding the distribution of assets between
6 Plaintiff and his ex-wife. Therefore, Defendant is entitled to absolute immunity for any actions
7 taken in her official capacity, and Plaintiff cannot state a valid claim against her under § 1983. *See*
8 *Olsen v. Idaho Bd. of Med.*, 363 F.3d 916, 922 (9th Cir. 2004).

9 Accordingly, Plaintiff’s Complaint is hereby **DISMISSED** with prejudice. The Clerk of the
10 Court is ordered to close the file.

11 **IT IS SO ORDERED.**

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13 DATED: July 19, 2011



14 Hon. Michael M. Anello
15 United States District Judge
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