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

HAROLD WAYNE MOSLEY,

Plaintiff,

vs.

CITY OF CORONADO, et al.,

Defendants.

CASE NO. 16cv65-LAB (DHB)

**ORDER OF DISMISSAL**

Last year, Harold Wayne Mosley, a homeless pro se litigant, sued various city entities and officers for violations of his civil rights. For example, he alleged that he was “unlawfully arrested” and while incarcerated, a dentist inflicted “torture” on him by performing dental work without novocaine. He also says the “Mayor/City Manager/D.A.” put “out an illegal (“most wanted”) status + orders to extract [Mosley] at all costs from their public properties.” Mosley demanded \$4 million in damages.

Judge Huff dismissed Mosley’s complaint, but granted him leave to amend. Mosley filed another complaint and Judge Huff dismissed it *sua sponte* for failing to fix the errors she previously identified. She offered Mosley another opportunity to amend. Instead, he filed the same complaint. Judge Huff recused and the case was transferred to this Court. Defendants have moved to dismiss.

The Defendants argue the case should be dismissed with prejudice for failure to comply with a court order under Fed. R. Civ. P. 41(b). The Court agrees. Mosley has filed

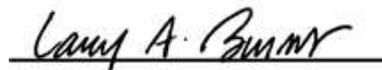
1 about four complaints. The most recent is the same complaint Judge Huff dismissed *sua*  
2 *sponte* last summer. Judge Huff read Mosley's complaint as charitably as possible and  
3 patiently explained the issues he needed to address to state a viable claim. He didn't. The  
4 Court finds dismissal is proper under the factors discussed in *Bautista v. Los Angeles*  
5 *County*, 216 F.3d 837, 841 (9th Cir. 2000).

6 Even if Mosley had complied with court orders, the Court must "dismiss the case at  
7 any time" when it determines the action is "frivolous." 28 U.S.C. § 1915. The *in forma*  
8 *pauperis* "statute accords judges not only the authority to dismiss a claim based on an  
9 indisputably meritless legal theory, but also the unusual power to pierce the veil of the  
10 complaint's factual allegations and dismiss those claims whose factual contentions are  
11 clearly baseless." *Neitzke v. Williams*, 490 U.S. 319, 327 (1989). The closest Mosley came  
12 to making a legal argument was an email to the Court referencing *Pottinger v. City of Miami*,  
13 810 F. Supp. 1551, 1561 (S.D. Fla. 1992), where the City of Miami was found liable for  
14 having an unconstitutional policy of arresting homeless people. But Judge Huff addressed  
15 Mosley's claims against the City of Coronado in her order of dismissal. The Court finds  
16 Mosley's factual contentions baseless. *Neitzke*, 490 U.S. at 327.

17 Mosley has repeatedly sent the Court inappropriate *ex parte* emails. Two weeks ago,  
18 the Court addressed this issue in an order and arranged for the Clerk's Office to reach out  
19 to Mosley. Nonetheless, Mosley emailed the Court again.<sup>1</sup> The Court orders Mosley not to  
20 contact Chambers through email or phone. If Mosley disregards this order, the Court will hold  
21 him in contempt. The case is **DISMISSED WITH PREJUDICE**.

22 **IT IS SO ORDERED.**

23 DATED: April 5, 2017

24 

25 **HONORABLE LARRY ALAN BURNS**  
26 United States District Judge

27 <sup>1</sup> Here's an excerpt from Mosley's most recent email to the Court: "Notice &, motions  
28 to strike quash or otherwise disembowel defenses hanous to obstruct justice & lying  
repeatedly under oath. With prejudice!!! If the court goes along with his farse it should be  
held accountable as well by Grand Jury. This is primafacea evidence. If you can't read it  
I'll buy u glasses What size u need?"