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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 JOSEPH ALLDREDGE aka Christ Tea  
12 Party 1773, CDCR #P-48941,  
13 Plaintiff,

14 vs.

15 SHE D'EVIL KLINTON; DAEMON  
16 KRAUT KOMMOUISTA TRAITORS;  
17 SATAN OBAMA,  
18 Defendants.

Case No.: 16-CV-1918 JLS (JLB)

**ORDER: (1) GRANTING MOTIONS  
TO PROCEED *IN FORMA*  
*PAUPERIS*, AND  
(2) DISMISSING COMPLAINT AS  
FRIVOLOUS PURSUANT TO  
28 U.S.C. §§ 1915(e)(2)(B) AND  
1915A(b)**

(ECF Nos. 11, 13)

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20 Plaintiff "Papa" Joseph Alldredge, aka "Christ Tea Party 1773," a state prisoner  
21 currently incarcerated at Kern Valley State Prison located in Delano, California, and  
22 proceeding pro se, has filed a civil action. (Compl., ECF No. 1). In addition, Plaintiff has  
23 filed two Motions to Proceed *In Forma Pauperis* (IFP) pursuant to 28 U.S.C. § 1915(a).  
24 (IFP Mots., ECF Nos. 11, 13.)

25 **IFP MOTIONS**

26 All parties instituting any civil action, suit or proceeding in a district court of the  
27 United States, except an application for writ of habeas corpus, must pay a filing fee of

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1 \$400.<sup>1</sup> *See* 28 U.S.C. § 1914(a). An action may proceed despite the plaintiff’s failure to  
2 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C.  
3 § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v.*  
4 *Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the plaintiff is a prisoner and he  
5 is granted leave to proceed IFP, he nevertheless remains obligated to pay the entire fee in  
6 “increments,” *Bruce v. Samuels*, 136 S. Ct. 627, 629 (2016); *Williams v. Paramo*, 775 F.3d  
7 1182, 1185 (9th Cir. 2015), regardless of whether his action is ultimately dismissed, *see* 28  
8 U.S.C. § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

9 Under 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act (PLRA),  
10 a prisoner seeking leave to proceed IFP must also submit a “certified copy of the trust fund  
11 account statement (or institutional equivalent) for . . . the six-month period immediately  
12 preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2); *Andrews v. King*, 398 F.3d  
13 1113, 1119 (9th Cir. 2005). From the certified trust account statement, the Court assesses  
14 an initial payment of 20% of (a) the average monthly deposits in the account for the past  
15 six months, or (b) the average monthly balance in the account for the past six months,  
16 whichever is greater, unless the prisoner has no assets. *See* 28 U.S.C. § 1915(b)(1); *Taylor*,  
17 281 F.3d at 850. The institution having custody of the prisoner then collects subsequent  
18 payments, assessed at 20% of the preceding month’s income, in any month in which the  
19 prisoner’s account exceeds \$10, and forwards them to the Court until the entire filing fee  
20 is paid. *See* 28 U.S.C. § 1915(b)(2); *Bruce*, 136 S. Ct. at 629

21 In support of his IFP Motions, Plaintiff has submitted a certified copy of his trust  
22 account statement pursuant to 28 U.S.C. § 1915(a)(2) and Civil Local Rule 3.2. *Andrews*,  
23 398 F.3d at 1119. These statements shows that Plaintiff had an available balance of zero.  
24 (*See* ECF No. 11 at 7; ECF No. 13 at 3.)

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27 <sup>1</sup> In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013, must pay  
28 an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees,  
District Court Misc. Fee Schedule) (eff. May 1, 2013). However, the additional \$50 administrative fee is  
waived if the plaintiff is granted leave to proceed IFP. *Id.*

1           Therefore, the Court assesses no initial partial filing fee pursuant to 28 U.S.C.  
2 § 1915(b)(1). The Court does, however, direct the Secretary of the California Department  
3 of Corrections and Rehabilitation (CDCR), or his designee, to instead collect the entire  
4 \$350 balance of the filing fees required by 28 U.S.C. § 1914 and forward them to the Clerk  
5 of the Court pursuant to the installment payment provisions set forth in 28 U.S.C.  
6 § 1915(b)(1).

## 7           **SCREENING PURSUANT TO 28 U.S.C. §§ 1915(E)(2) & 1915A(B)**

### 8           **I. Legal Standard**

9           The PLRA also obligates the Court to review complaints filed by all persons  
10 proceeding IFP and by those, like Plaintiff, who are “incarcerated or detained in any facility  
11 [and] accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of  
12 criminal law or the terms or conditions of parole, probation, pretrial release, or diversionary  
13 program,” “as soon as practicable after docketing.” *See* 28 U.S.C. §§ 1915(e)(2), (h) and  
14 1915A(a). Under these provisions of the PLRA, the Court must *sua sponte* dismiss  
15 complaints, or any portions thereof, which are frivolous, malicious, fail to state a claim, or  
16 which seek damages from defendants who are immune. *See* 28 U.S.C. §§ 1915(e)(2)(B)  
17 and 1915A(b); *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing 28  
18 U.S.C. § 1915A(b)); *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (discussing  
19 § 1915(e)(2)) (en banc).

20           “[W]hen determining whether a complaint states a claim, a court must accept as true  
21 all allegations of material fact and must construe those facts in the light most favorable to  
22 the plaintiff.” *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000); *Barren v. Harrington*,  
23 152 F.3d 1193, 1194 (9th Cir. 1998) (“The language of § 1915(e)(2)(B)(ii) parallels the  
24 language of Federal Rule of Civil Procedure 12(b)(6).”). In addition, the Court’s duty to  
25 liberally construe a pro se’s pleadings, *see Karim-Panahi v. Los Angeles Police Dep’t*, 839  
26 F.2d 621, 623 (9th Cir. 1988), is “particularly important in civil rights cases,” *Ferdik v.*  
27 *Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992) (citing *Eldridge v. Block*, 832 F.2d 1132,  
28 1137 (9th Cir. 1987)). In giving liberal interpretation to a pro se civil rights complaint,

1 however, the court may not “supply essential elements of the claim that were not initially  
2 pled.” *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). “Vague  
3 and conclusory allegations of official participation in civil rights violations are not  
4 sufficient to withstand a motion to dismiss.” *Id.* (citing *Johnson v. Wells*, 566 F.2d 1016  
5 (5th Cir. 1978); *Kennedy v. H & M Landing, Inc.*, 529 F.2d 987 (9th Cir. 1976); *Keker v.*  
6 *Proconier*, 398 F.Supp. 756, 766 (E.D. Cal. 1975)).

7 Section 1983 imposes two essential proof requirements upon a claimant: (1) that a  
8 person acting under color of state law committed the conduct at issue, and (2) that the  
9 conduct deprived the claimant of some right, privilege, or immunity protected by the  
10 Constitution or laws of the United States. *See* 42 U.S.C. § 1983; *see also Nelson v.*  
11 *Campbell*, 541 U.S. 637, 643 (2004); *Haygood v. Younger*, 769 F.2d 1350, 1354 (9th Cir.  
12 1985) (en banc).

## 13 **II. Analysis**

### 14 **A. Rule 8**

15 Plaintiff’s Complaint is difficult to decipher, as many of the claims Plaintiff is  
16 attempting to allege are disjointed and incomprehensible. Rule 8 of the Federal Rules of  
17 Civil Procedure provides that to state a claim for relief, a pleading must contain “a short  
18 and plain statement of the grounds for the court’s jurisdiction” and “a short and plain  
19 statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(1)  
20 & (2). Here, the Court finds that Plaintiff’s Complaint falls shorts of complying with Rule  
21 8.

### 22 **B. Frivolous Claims**

23 Plaintiff’s Complaint also sets forth claims that appear to be delusional. A complaint  
24 “is frivolous where it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*,  
25 490 U.S. 319, 325 (1989). Plaintiff’s pleading is entitled “1773 First Amendment Motion  
26 & Petition for ‘Grand Jury’ Indictment Treason.” (ECF No. 1.) His Complaint names as  
27 Defendants “\$he D’evil Klinton” and “Satan Obama.” (*See id.*) There are no coherent  
28 statements, sentences, or factual allegations found anywhere in these filings.

1 The Court therefore finds the claims in Plaintiff’s Complaint to be frivolous because  
2 they lack even “an arguable basis either in law or in fact” and appear “fanciful,” “fantastic,”  
3 or “delusional.” *Neitzke*, 490 U.S. at 325, 328.

4 **CONCLUSION**

5 Good cause appearing therefor, **IT IS HEREBY ORDERED** that:

6 1. Plaintiff’s IFP Motions (ECF Nos. 11, 13) are **GRANTED**.

7 2. The Secretary of California Department of Corrections and Rehabilitation, or  
8 his designee, **SHALL COLLECT** from Plaintiff’s prison trust account the \$350 balance  
9 of the filing fee owed in this case by collecting monthly payments from the account in an  
10 amount equal to twenty percent (20%) of the preceding month’s income and **FORWARD**  
11 payments to the Clerk of the Court each time the amount in the account exceeds \$10 in  
12 accordance with 28 U.S.C. § 1915(b)(2). **ALL PAYMENTS SHALL BE CLEARLY**  
13 **IDENTIFIED BY THE NAME AND NUMBER ASSIGNED TO THIS ACTION.**

14 3. The Clerk of the Court is **DIRECTED** to serve a copy of this Order on Scott  
15 Kernan, Secretary, California Department of Corrections and Rehabilitation, 1515 S Street,  
16 Suite 502, Sacramento, California 95814.

17 4. Plaintiff’s Complaint (ECF No. 1) is **DISMISSED** as frivolous pursuant to 28  
18 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). Because the Court finds further amendment futile,  
19 leave to amend is **DENIED**. *See Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 339 (9th Cir.  
20 1996) (holding that denial of leave to amend is not an abuse of discretion where further  
21 amendment would be futile).

22 5. The Court **CERTIFIES** that an IFP appeal from this Order of dismissal would  
23 not be taken “in good faith” pursuant to 28 U.S.C. § 1915(a)(3). *See Coppedge v. United*  
24 *States*, 369 U.S. 438, 445 (1962); *Gardner v. Pogue*, 558 F.2d 548, 550 (9th Cir. 1977)  
25 (holding that an indigent appellant is permitted to proceed IFP on appeal only if the appeal  
26 would not be frivolous).

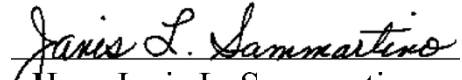
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1           This Order concludes the litigation in this matter. The Clerk of the Court shall enter  
2 judgment and close the file.

3           **IT IS SO ORDERED.**

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5 Dated: September 9, 2016

  
6 Hon. Janis L. Sammartino  
7 United States District Judge

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