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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 GABRIEL ANDREW RANGEL,
12 Booking No. 16173523,

13 Plaintiff,

14 vs.

15 PACHECO, et al.,

16 Defendants.
17

Case No.: 3:17-cv-00743-BTM-JLB

**ORDER DISMISSING CIVIL
ACTION AS FRIVOLOUS
PURSUANT TO
28 U.S.C. § 1915A(b)(1)**

18 GABRIEL ANDREW RANGEL (“Plaintiff”), while detained at the San Diego
19 County Jail (“SDCJ”) and proceeding pro se, has filed a 2-page Complaint drafted in the
20 form of a letter, claiming he is the target of “political assassina[tion]” by Defendants,
21 identified only as “Sheriff’s Officers” and “DDA’s of past and presen[t]” who have
22 connected his “biometric[] nano central nervous system” to “electric fields” and are
23 committing “neurocognitive ... torture upon [his] person.” *See* ECF No. 1. Plaintiff further
24 claims he has been a “torture victim before birth” due to his “rare blood of double OO ODT
25 plus positive,” and his Apache Chiricahua descent, and he seeks injunctive relief from an
26 “appropriate federal agency” pursuant to the War Crimes Act, Federal Tort Claims Act,
27 “Alien Statu[t]e Tort Claim,” the “Embryonic Embryo Act,” the Geneva Convention, and
28 the “Law of England 186 (1789).” *Id.* at 1-2.

1 Plaintiff has not prepaid the \$400 filing fee required to commence civil action
2 pursuant to 28 U.S.C. § 1914(a), nor has he filed a Motion to Proceed In Forma Pauperis
3 (“IFP”) pursuant to 28 U.S.C. § 1915(a).

4 Plaintiff has, however, filed miscellaneous supplemental documents including a
5 Motion for Preliminary Injunction (ECF No. 3) and a Motion for Leave to Appear (ECF
6 No. 7). In his Motion for Preliminary Injunction, Plaintiff repeats allegations that he is a
7 “human subject to a ... program of savant talent,” and a “bio blood extraction victim” of
8 “radiation clandestine crystalline army sigma elite CIA 805th Chemical Corporation,” and
9 on that basis, he seeks “emergency release [from] incarceration” due to his torture through
10 “illegal securus technologies thermal heat mazer lasers,” employed by the Ku Klux Klan,
11 “Luminati,” and “Freemasons,” who together with “law enforcement officials, “murder ...
12 Afro-American m[e]n and young virgin women as sacrifice every month for four years,”
13 “then Monday through Friday pass out double life sentences for [the] same offenses.” *See*
14 ECF No. 3 at 1-3.

15 **I. Discussion**

16 Because Plaintiff has not paid the filing fees required to commence a civil action,
17 his case is subject to immediate dismissal on that basis alone. *See* 28 U.S.C. § 1914(a).
18 And while “a federal litigant who is too poor to pay court fees may proceed *in forma*
19 *pauperis*,” *Coleman v. Tollefson*, 135 S. Ct. 1759, 17621 (2015), Plaintiff does not seek
20 leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d
21 1047, 1051 (9th Cir. 2007).

22 Ordinarily, under these circumstances, the Court would grant Plaintiff leave to
23 submit a properly supported IFP Motion in order to proceed further. However, the Court
24 finds such leave unnecessary and unjustified in this case because a preliminary review of
25 Plaintiff’s Complaint, his Motion for Preliminary Injunction, and his other supplemental
26 documents reveal a suit that is patently frivolous. *See Denton v. Hernandez*, 504 U.S. 25,
27 25-26 (1992). A pleading is “factual[ly] frivolous[.]” if “the facts alleged rise to the level
28 of the irrational or the wholly incredible, whether or not there are judicially noticeable facts

1 available to contradict them.” *Id.*

2 “A court may screen a complaint pursuant to 28 U.S.C. § 1915A ... if, at the time
3 the plaintiff files the complaint, he is “incarcerated or detained in any facility [because he]
4 is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of
5 criminal law or the terms or conditions of parole, probation, pretrial release, or diversionary
6 program.” *Olivas v. Nevada ex rel. Dept. of Corr.*, 856 F.3d 1281, 1284 (9th Cir. 2017)
7 (citing 28 U.S.C. § 1915(h), 1915A(c); 42 U.S.C. § 1997e(h)).

8 Section 1915A “mandates early review—‘before docketing [] or [] as soon as
9 practicable after docketing’—for all complaints ‘in which a prisoner seeks redress from a
10 governmental entity or officer or employee of a governmental entity.” *Chavez v. Robinson*,
11 817 F.3d 1162, 1168 (9th Cir. 2016). The mandatory screening provisions of § 1915A
12 apply to all prisoners, no matter their fee status, who bring suit against a governmental
13 entity, officer, or employee. *See, e.g. Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir.
14 2000). “On review, the court shall ... dismiss the complaint, or any portion of the
15 complaint,” if it “(1) is frivolous, malicious, or fails to state a claim upon which relief may
16 be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.”
17 *Olivas*, 856 F.3d at 1283 (quoting 28 U.S.C. § 1915A(b)).

18 While it is difficult to discern any arguable legal basis for Plaintiff’s suit, it is clear
19 that his allegations of being a “vampire biotech super soldier” and an “underground clone
20 top shelf prime target of savant talent,” who is subject to nanotechnology torture” at the
21 hands of “DDAs” and unidentified SDCJ Sheriff’s Department officials, while rambling,
22 disjointed, and practically incoherent, are also “irrational” or “wholly incredible,” and
23 therefore, factually frivolous and subject to sua sponte dismissal pursuant to 28 U.S.C.
24 § 1915A(b)(1). *See Denton*, 504 U.S. at 25-26; *see also Neitzke v. Williams*, 490 U.S. 319,
25 324 (1989) (an action is frivolous if it lacks “an arguable basis in either law or fact.”).

26 Section 1915 gives courts “the unusual power to pierce the veil” of a Complaint like
27 Plaintiff’s and to “dismiss those claims whose factual contentions are clearly baseless.”
28 *Neitzke*, 490 U.S. at 327; *see also Athans v. Starbucks Coffee Co.*, No. CV-06-1841-PHX-

1 DGC, 2007 WL 1673883, at *2 (D. Ariz. June 11, 2007) (dismissing complaint presenting
2 a “fantastic and delusional scenario” pursuant to 28 U.S.C. § 1915 in which Starbucks and
3 law enforcement were alleged to have conspired to conduct surveillance of Plaintiff in his
4 home, and administered drugs to him at various Starbucks stores in order to prevent him
5 from stalking and murdering women); *Golden v. Clinton*, No. C 94–0499 EFL, 1994 WL
6 118280, at *1 (N.D. Cal. Mar. 23, 1994) (dismissing as frivolous action involving various
7 private and public officials alleged to have conspired to control the plaintiff through
8 electronic and “telemetric” devices); *Kierstead v. Suter*, 903 F. Supp. 801, 802–03 (D.N.J.
9 1995) (dismissing as frivolous civil complaint alleging government had conducted various
10 biomedical studies on plaintiff and had kept her under constant surveillance); *Adams v.*
11 *FBI*, No. C 06–07321 CRB, 2007 WL 627912, at *1–2 (N.D. Cal. Feb. 26, 2007)
12 (dismissing as frivolous complaint painting a “delusional portrait of extreme persecution”
13 involving hidden cameras in plaintiff’s home and having blood drawn while she was
14 rendered unconscious by a chemical substance).

15 If claims are classified as frivolous, “there is by definition no merit to the underlying
16 action and so no reason to grant leave to amend.” *Lopez v. Smith*, 203 F.3d 1122, 1127 n.8
17 (9th Cir. 2000) (en banc).

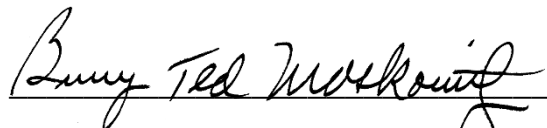
18 **II. Conclusion and Order**

19 For the reasons discussed, the Court **DISMISSES** this civil action as frivolous
20 pursuant to 28 U.S.C. § 1915A(b)(1), **DENIES** Plaintiff’s Motion for Preliminary
21 Injunction and for Leave to Appear (ECF Nos. 3, 7) as moot, and **CERTIFIES** that an IFP
22 appeal would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3).

23 The Clerk is **DIRECTED** to enter a final judgment of dismissal and close the file.

24 **IT IS SO ORDERED.**

25
26 Dated: 7/31/17



27 Hon. Barry Ted Moskowitz, Chief Judge
28 United States District Court