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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JARED BENJAMIN MIMMS, Booking #17141130,	Plaintiff,
vs.	
XAVIER BECERRA,	Defendant.

Case No.: 3:17-cv-02001-LAB-KSC

ORDER:

**1) DENYING MOTION TO
PROCEED IN FORMA PAUPERIS
[ECF No. 2]**

AND

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

JARED BENJAMIN MIMMS (“Plaintiff”), currently detained at San Diego Central Jail (“SDCJ”) and proceeding pro se, has filed a two-page Complaint against California State Attorney General Xavier Becerra seeking \$29 million in damages based on his alleged involvement in a treasonous plot to kidnap Plaintiff for ransom in order to “steal [his] fame.” *See* ECF No. 1 at 1-2.

Plaintiff has not prepaid the \$400 filing fee required to commence civil action pursuant to 28 U.S.C. § 1914(a), instead has he filed a Motion to Proceed In Forma Pauperis (“IFP”) pursuant to 28 U.S.C. § 1915(a). *See* ECF No. 2.

1 **I. Motion to Proceed IFP**

2 All parties instituting any civil action, suit or proceeding in a district court of the
3 United States, except an application for writ of habeas corpus, must pay a filing fee of
4 \$400. *See* 28 U.S.C. § 1914(a).¹ An action may proceed despite a plaintiff’s failure to
5 prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C.
6 § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). However, if the
7 plaintiff is a prisoner at the time of filing, he may be granted leave to proceed IFP, but he
8 nevertheless remains obligated to pay the entire fee in “increments,” *see Williams v.*
9 *Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015), regardless of whether his action is
10 ultimately dismissed. *See* 28 U.S.C. § 1915(b)(1) & (2); *Taylor v. Delatoore*, 281 F.3d
11 844, 847 (9th Cir. 2002). A “prisoner” is defined as “any person” who at the time of
12 filing is “incarcerated or detained in any facility who is accused of, convicted of,
13 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or
14 conditions of parole, probation, pretrial release, or diversionary program.” 28 U.S.C.
15 § 1915(h); *Taylor*, 281 F.3d at 847.

16 In order to comply with the PLRA, prisoners seeking leave to proceed IFP must
17 also submit a “certified copy of the[ir] trust fund account statement (or institutional
18 equivalent) ... for the 6-month period immediately preceding the filing of the complaint.”
19 28 U.S.C. § 1915(a)(2). From the certified trust account statement, the Court assesses an
20 initial payment of 20% of (a) the average monthly deposits in the account for the past six
21 months, or (b) the average monthly balance in the account for the past six months,
22 whichever is greater, unless the prisoner has no assets. *See* 28 U.S.C. § 1915(b)(1), (4);
23 *see Taylor*, 281 F.3d at 850. Thereafter, the institution having custody of the prisoner
24 collects subsequent payments, assessed at 20% of the preceding month’s income, in any

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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative
28 fee of \$50. *See* 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court
Misc. Fee Schedule, § 14 (eff. June. 1, 2016). The additional \$50 administrative fee does
not apply to persons granted leave to proceed IFP. *Id.*

1 month in which the prisoner’s account exceeds \$10, and forwards them to the Court until
2 the entire filing fee is paid. *See* 28 U.S.C. § 1915(b)(2).

3 While Plaintiff has filed a Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a),
4 he has not attached a certified copy of his SDCJ trust account statements for the 6-month
5 period immediately preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2);
6 S.D. CAL. CIVLR 3.2. Section 1915(a)(2) clearly requires that prisoners “seeking to bring
7 a civil action ... without prepayment of fees ... *shall* submit a certified copy of the trust
8 fund account statement (or institutional equivalent) ... for the 6-month period
9 immediately preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2) (emphasis
10 added).

11 Without Plaintiff’s trust account statements, Plaintiff’s IFP Motion is incomplete
12 and must be DENIED because the Court is unable to assess the appropriate amount of the
13 initial filing fee statutorily required to initiate the prosecution of this action. *See* 28
14 U.S.C. § 1915(b)(1).

15 **II. Screening of Complaint pursuant to 28 U.S.C. § 1915A**

16 In addition, while the Court would ordinarily grant Plaintiff leave to correct his IFP
17 Motion’s deficiencies, it instead finds it appropriate to screen his Complaint pursuant to
18 28 U.S.C. § 1915A because at the time of filing Plaintiff was, and remains, “incarcerated
19 or detained in any facility [because he] is accused of, convicted of, sentenced for, or
20 adjudicated delinquent for, violations of criminal law or the terms or conditions of parole,
21 probation, pretrial release, or diversionary program.” *Olivas v. Nevada ex rel. Dept. of*
22 *Corr.*, 856 F.3d 1281, 1284 (9th Cir. 2017) (citing 28 U.S.C. § 1915(h), 1915A(c); 42
23 U.S.C. § 1997e(h)).

24 Section 1915A “mandates early review—‘before docketing [] or [] as soon as
25 practicable after docketing’—for all complaints ‘in which a prisoner seeks redress from a
26 governmental entity or officer or employee of a governmental entity.’” *Chavez v.*
27 *Robinson*, 817 F.3d 1162, 1168 (9th Cir. 2016). The mandatory screening provisions of
28 § 1915A apply to all prisoners, no matter their fee status, who bring suit against a

1 governmental entity, officer, or employee. *See, e.g. Resnick v. Hayes*, 213 F.3d 443, 446-
2 47 (9th Cir. 2000). “On review, the court shall ... dismiss the complaint, or any portion of
3 the complaint,” if it “(1) is frivolous, malicious, or fails to state a claim upon which relief
4 may be granted; or (2) seeks monetary relief from a defendant who is immune from such
5 relief.” *Olivas*, 856 F.3d at 1283 (quoting 28 U.S.C. § 1915A(b)). “The purpose of
6 § 1915A is to ‘ensure that the targets of frivolous or malicious suits need not bear the
7 expense of responding.’” *Nordstrom v. Ryan*, 762 F.3d 903, 907 n.1 (9th Cir. 2014)
8 (quoting *Wheeler v. Wexford Health Sources, Inc.*, 689 F.3d 680, 681 (7th Cir. 2012)).

9 A pleading is “factual[ly] frivolous[.]” if “the facts alleged rise to the level of the
10 irrational or the wholly incredible, whether or not there are judicially noticeable facts
11 available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 25-26 (1992). Section
12 1915 gives courts “the unusual power to pierce the veil” of a Complaint like Plaintiff’s
13 and to “dismiss those claims whose factual contentions are clearly baseless.” *Neitzke v.*
14 *Williams*, 490 U.S. 319, 327 (1989)). Clearly baseless factual allegations include those
15 “that are ‘fanciful,’ ‘fantastic,’ and ‘delusional.’” *Denton*, 504 U.S. at 32-33 (quoting
16 *Neitzke*, 490 U.S. at 325, 327, 328).

17 Plaintiff invokes no arguable legal basis for his suit. What is more, his factual
18 allegations are plainly frivolous. *Id.*; *see also O’Loughlin v. Doe*, 920 F.2d 614, 617 (9th
19 Cir. 1990) (“An in forma pauperis complaint is frivolous if it has no arguable basis in fact
20 or law.” (citation and internal quotation marks omitted)). For example, Plaintiff claims he
21 is a “political prisoner” and related to President Donald Trump “by way of relational
22 business in real estate,” and due to his technological invention. *See* ECF No. 1 at 1.
23 Plaintiff further contends California’s Attorney General “and his people” have “taken a
24 fake statute to court” in order to “beat and kill ugly Plaintiff at [his] own expense” as part
25 of a treasonous plot to “ransom Plaintiff’s legal capital against President Donald Trump.”
26 *Id.* at 2.

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1 While conclusory, disjointed, and incoherent, these allegations also appear
2 grounded in delusion, are facially irrational, and wholly incredible. Therefore, Plaintiff's
3 Complaint demands sua sponte dismissal pursuant to 28 U.S.C. § 1915A(b)(1). *See*
4 *Denton*, 504 U.S. at 25-26; *Neitzke*, 490 U.S. at 324; *see also Suess v. Obama*, 2017 WL
5 1371289, at *2 (C.D. Cal. Mar. 10, 2017) (dismissing as frivolous complaint alleging
6 conspiracy among President, CIA, and FBI to torment plaintiff over six year period);
7 *Frost v. Vasan*, No. 16-CV-05883 NC, 2017 WL 2081094, at *1 (N.D. Cal. May 15,
8 2017) (dismissing as frivolous claims against a United States Senator, a university, two
9 corporate entities, and additional unspecified defendants for having allegedly conspired
10 with a secret elite group of businessmen and the CIA to torment him); *Sierra v. Moon*,
11 2012 WL 423483, at *2 (E.D. Cal. Feb. 8, 2012) (dismissing as frivolous an alleged
12 conspiracy by defendants with ex-military and CIA to defraud plaintiffs' interests and
13 murder him); *Demos v. United States*, 2010 WL 4007527, at *2 (D. Ore. Oct. 8, 2010)
14 (dismissing as frivolous complaint alleging plaintiff was captured by pirates disguised as
15 law enforcement officers); *Reid v. Mabus*, 2015 WL 9855875, at *1 (D. Ore. Nov. 16,
16 2015) (dismissing complaint alleging a massive conspiracy targeting 300,000 individuals
17 with "electronic harassment").

18 If a Plaintiff's claims are classified as frivolous, "there is by definition no merit to
19 the underlying action and so no reason to grant leave to amend." *Lopez v. Smith*, 203 F.3d
20 1122, 1127 n.8 (9th Cir. 2000) (en banc).

21 **III. Conclusion and Order**

22 For the reasons discussed, the Court:

- 23 1) **DENIES** Plaintiff's Motion to Proceed IFP [ECF No. 2];
- 24 2) **DISMISSES** this civil action as frivolous pursuant to 28 U.S.C.
25 § 1915A(b)(1);
- 26 3) **CERTIFIES** that an IFP appeal would not be taken in good faith pursuant
27 to 28 U.S.C. § 1915(a)(3); and

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