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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CLARENCE D. JOHNSON,

Plaintiff,

v.

POPE FRANCIS PAUL, et al.,

Defendants.

Case No.: 20-CV-2174-JLS (WVG)

**ORDER: (1) GRANTING MOTION
TO PROCEED *IN FORMA
PAUPERIS*; (2) DISMISSING
COMPLAINT; AND (3) DENYING
MOTION TO APPOINT COUNSEL**

(ECF Nos. 1, 2, 3)

Presently before the Court is Plaintiff Clarence D. Johnson’s Motion to Proceed *In Forma Pauperis* (“IFP”) (“IFP Mot.,” ECF No. 2) and Motion to Appoint Counsel (“Mot.,” ECF No. 3). Plaintiff, proceeding pro se, has filed a Complaint against Defendants Pope Francis Paul, Russell Moore, President Obama, President Trump, Mike Pompeo, Senator Kamala Harris, Angela Byers, and members of the United Nations. *See generally* ECF No. 1 (“Compl.”). Plaintiff claims Defendants committed “crimes in religion over 12 yr period . . . human trafficking crimes, Biblical crimes . . . extortion, conspiracies . . . public kidnappings,” and other unclear allegations. *See* Compl. at 2. The Court addresses the Motions and the sufficiency of the Complaint below.

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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 \$400.¹ See 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to
5 prepay the entire fee only if the party is granted leave to proceed in forma pauperis pursuant
6 to 28 U.S.C. § 1915(a). See *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). A
7 federal court may authorize the commencement of an action without the prepayment of
8 fees if the party submits an affidavit, including a statement of assets, showing that the party
9 is unable to pay the required filing fee. 28 U.S.C. § 1915(a).

10 Plaintiff has filed an affidavit indicating his total monthly income is \$0 and that he
11 is currently unemployed and has no other assets. IFP Mot. at 1–2. Taken at face value,
12 Plaintiff’s application demonstrates that he is unable to pay the requisite fees. Given these
13 facts, the Court can conclude that Plaintiff is unable to pay the requisite fees and costs.
14 Accordingly, the Court **GRANTS** Plaintiff’s Motion to Proceed IFP (ECF No. 2).

15 **II. Screening Pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)**

16 Notwithstanding IFP status, the Court must screen every civil action brought
17 pursuant to 28 U.S.C. § 1915(a) and dismiss any case it finds “frivolous or malicious,”
18 “fails to state a claim on which relief may be granted,” or “seeks monetary relief against a
19 defendant who is immune from relief.” 28 U.S.C. § 1915(e)(2)(B); see also *Calhoun v.*
20 *Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B)
21 are not limited to prisoner.”); *Lopez v. Smith*, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en
22 banc) (noting that 28 U.S.C. § 1915(e) “not only permits but requires a district court to
23 dismiss an in forma pauperis complaint that fails to state a claim”).

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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of \$50. See
28 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14) (eff.
Dec. 1, 2014). The additional \$50 administrative fee does not apply to persons granted leave to proceed
IFP. *Id.*

1 The Court finds that Plaintiff’s Complaint is both frivolous and fails to state a
2 plausible claim. A pleading is “factual[ly] frivolous[.]” if “the facts alleged rise to the level
3 of the irrational or the wholly incredible, whether or not there are judicially noticeable facts
4 available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 25–26 (1992). “[A]
5 complaint, containing as it does both factual allegations and legal conclusions, is frivolous
6 where it lacks an arguable basis either in law or in fact. . . . [The] term ‘frivolous,’ when
7 applied to a complaint, embraces not only the inarguable legal conclusion, but also the
8 fanciful factual allegation.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). When
9 determining whether a complaint is frivolous, the court need not accept the allegations as
10 true, but must “pierce the veil of the complaint’s factual allegations,” *id.* at 327, to
11 determine whether they are “‘fanciful,’ ‘fantastic,’ [or] ‘delusional.’” *Denton*, 504 U.S. at
12 33 (quoting *Neitzke*, 490 U.S. at 328).

13 Here, Plaintiff filed a 4-page Complaint, alleging violations that are incoherent in
14 nature. *See* Compl. at 2. The Complaint includes an unsubstantiated list of crimes asserted
15 against various government officials. *See id.* Additionally, Plaintiff requests monetary
16 damages of \$1 billion. *Id.* at 3. The exorbitant nature of Plaintiff’s requested relief
17 suggests to the Court that Plaintiff’s action lacks serious purpose or value. After review of
18 the foregoing, it is clear to the Court that Plaintiff’s Complaint is frivolous.²

19 In addition to being frivolous, Plaintiff fails to state a cognizable claim. All
20 complaints must contain a “short and plain statement of the claim showing that the pleader
21 is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required,

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25 ² Plaintiff has filed two supplemental documents in support of his Complaint. *See* ECF Nos. 6, 8. Plaintiff
26 lists additional unsubstantiated allegations, including “misuse of PPE labor,” “CDC kidnappings,” and
27 “financial embezzlement.” ECF 6 at 1. Plaintiff also included a letter from the California Victim
28 Compensation Board (CalVCB), simply stating that his application has been received and “it is currently
being reviewed for completeness and eligibility.” *Id.* at 5. The Court has no way of knowing the basis of
Plaintiff’s application to CalVCB or how it relates to the present action without additional facts.

1 but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
2 conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing
3 *Bell Atl. Corp. v. Twombly*, 550 U.S. 554, 555 (2007)).

4 Here, the Court finds it difficult to identify Plaintiff’s grievances against the
5 Defendants. Based on the Court’s interpretation of the Complaint, Plaintiff alleges
6 Defendants engaged in a list of crimes, including “extortion, conspiracies . . . child
7 trafficking etc.” Compl. at 2. Because Plaintiff provides no further support for the
8 allegations, Plaintiff’s “facts do not permit the court to infer more than the mere possibility
9 of misconduct” and therefore “the complaint has alleged—but it has not ‘show[n]’—‘that
10 the pleader is entitled to relief.’” *See Iqbal*, 556 U.S. at 677 (citing *Twombly*, 550 U.S. at
11 556). Because Plaintiff fails to support his stated legal conclusions with facts, these legal
12 conclusions are not assumed to be accurate for the purposes of the Court’s review. *See*
13 *Iqbal*, 556 U.S. at 679. Unable to assume the truth of these unsubstantiated legal
14 conclusions, the Court finds that Plaintiff fails to state a claim upon which relief can be
15 granted. Accordingly, the Court **DISMISSES** Plaintiff’s action.

16 **III. Motion to Appoint Counsel**

17 There is no constitutional right to counsel in a civil case. *Lassiter v. Dep’t of Soc.*
18 *Servs.*, 452 U.S. 18, 25 (1981). Nonetheless, under 28 U.S.C. § 1915(e)(1), district courts
19 have some limited discretion to “request” that an attorney represent an indigent civil
20 litigant. *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). This
21 discretion may be exercised only under “exceptional circumstances.” *Id.*; *see also Terrell*
22 *v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). A finding of exceptional circumstances
23 requires “an evaluation of the likelihood of the plaintiff’s success on the merits and an
24 evaluation of the plaintiff’s ability to articulate his claims ‘in light of the complexity of the
25 legal issues involved.’” *Agyeman*, 390 F.3d at 1103 (quoting *Wilborn v. Escalderon*, 789
26 F.2d 1328, 1331 (9th Cir. 1986)).

27 Here, the Court found above that Plaintiff has not shown that success is likely on the
28 merits. Based on the foregoing, the Court **DENIES** Plaintiff’s Motion to Appoint Counsel.

1 **IV. Conclusion**

2 Based on the foregoing, the Court **GRANTS** Plaintiff's Motion to Proceed IFP,
3 (ECF No. 2). The Court **DENIES** Plaintiff's Motion to Appoint Counsel, (ECF No. 3).
4 The Court hereby **DISMISSES WITHOUT PREJUDICE** this action *sua sponte* for filing
5 a frivolous action and for failure to state a claim upon which relief can be granted. Plaintiff
6 **MAY FILE** an amended complaint within thirty (30) days of the date on which this Order
7 is electronically docketed. Should Plaintiff fail to file an amended complaint within the
8 time provided, the Court may enter a final order dismissing this civil action with prejudice.

9 **IT IS SO ORDERED.**

10 Dated: November 20, 2020

A rectangular box containing a handwritten signature in black ink. The signature appears to be "David L. Vannoy".