

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 Vincent d/b/a Vincent Patrick PRICE,
4 Plaintiff,
5 v.
6 SAN DIEGO POLICE DEPARTMENT,
7 A-Z Towing,
8 Defendants.

Case No.: 24-cv-1758-AGS-BLM

**ORDER GRANTING IN FORMA
PAUPERIS MOTION (ECF 2) AND
SCREENING AND DISMISSING
COMPLAINT (ECF 1)**

9 Plaintiff Vincent Patrick Price's motion to proceed without paying the initial filing
10 fee is granted. But his complaint does not state a claim for relief. The Court thus dismisses
11 the case with leave to amend.

12 **IFP MOTION**

13 Typically, parties instituting a civil action in a United States district court must pay
14 filing fees of \$405.¹ See 28 U.S.C. § 1914(a). But if granted the right to proceed in forma
15 pauperis, a plaintiff need not pay those fees. *Rodriguez v. Cook*, 169 F.3d 1176, 1177
16 (9th Cir. 1999).

17 Price claims to have assets of \$1,200 in cash and two cars valued at \$12,000. (ECF 2,
18 at 1–3.) But he is unemployed, only made \$100 dollars last month, and reports living
19 expenses that equal those earnings. (ECF 2, at 5.) Based on these claims, the Court finds
20 that Price has sufficiently shown an inability to pay the initial fees. See *Blount v. Saul*, No.
21 21-cv-0679-BLM, 2021 WL 1561453, at *1 (S.D. Cal. Apr. 21, 2021) (“It is well-settled
22 that a party need not be completely destitute to proceed IFP.”); see also *Escobedo v.*
23 *Applebees*, 787 F.3d 1226, 1228 (9th Cir. 2015) (granting IFP motion when the plaintiff
24 and his spouse earned about \$1,250 per month with \$2,350 in monthly expenses, no
25 savings, and additional assets totaling \$256,500).

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27 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional
28 administrative fee of \$55. See 28 U.S.C. § 1914(a); Judicial Conference Schedule of Fees,
District Court Misc. Fee Schedule, § 14 (eff. Dec. 1, 2023).

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28 U.S.C. § 1915(e) SCREENING


When reviewing an IFP motion, the court must screen the complaint and dismiss it if it is “frivolous or malicious,” “fails to state a claim,” or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000). “The standard for determining whether a plaintiff has failed to state a claim upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.” *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). Rule 12(b)(6) requires a complaint “contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (cleaned up). Courts must consider the complaint in its entirety,” including “documents incorporated into the complaint by reference” to be part of the pleading when determining whether the plaintiff has stated a claim upon which relief may be granted. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007).

Price brings a civil-right claim based on 42 U.S.C. § 1983 against the San Diego Police Department and A-Z Towing because his car was towed from a public street in San Diego. (ECF 1, at 4.) Price asserts that this towing violated his rights because the “license plate” he has “on this Automobile” says the car is “**EXEMPT**” due to U.C.C. provisions, “D.O.T. EXEMPT,” and a “PRIVATE - AUTOMOBILE.” (*Id.* at 4, 8.) Price seeks damages between “\$69,120,000–\$432,000,000” because that same license plate has a “Notice of FEE Schedule” whereby “you agree to pay \$10,000 for each minute delayed or detained from a non-emergency traffic stop.” (*Id.* at 4.) But in his complaint, he indicates he is willing “in good faith” to “mitigate damages to \$1,600 per minute.” (*Id.*) He also seeks injunctive relief (*Id.*)

To say that this claim as written is frivolous is to give it more than its due. A § 1983 civil-rights claim permits recovery against state officials for the “deprivation of any rights, privileges, or immunities secured by the *Constitution and laws.*” 42 U.S.C. § 1983 (emphasis added). A license plate that is apparently not issued by any sovereignty is not a

1 advantage of the opportunity to fix his complaint, a district court may convert the dismissal
2 of the complaint into dismissal of the entire action.” *Lira v. Herrera*, 427 F.3d 1164, 1169
3 (9th Cir. 2005).

4 Dated: November 27, 2024

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7 Andrew G. Schopler
8 United States District Judge
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