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2
3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 * * *

6 GEORGE MERCIER,

7 Plaintiff,

2:06-cv-01433-PMP-LRL

8 v.

9 UNITED STATES DISTRICT COURT, *et al.*,

10 Defendants.
11

12 **REPORT & RECOMMENDATION**

13 George Mercier, acting *pro se*, is suing the United States District Court; he names the United
14 States of America as a real party in interest, and the State of Nevada as an interested party. Plaintiff
15 filed a Motion to Proceed *In Forma Pauperis* and Complaint on November 13, 2006 (#1).

16 **BACKGROUND**

17 George Mercier has filed upwards of sixty cases in this court in the last year. He has sought to
18 proceed *in forma pauperis* in each instance.

19 **DISCUSSION**

20 Because plaintiff is proceeding *in forma pauperis*, this court must review the instant action.
21 28 U.S.C. § 1915(e)(2); *Denton v. Hernandez*, 504 U.S. 25, 27 (1992). Pleadings prepared by *pro*
22 *se* litigants should be held to less stringent standards and thus be liberally construed. *Haines v.*
23 *Kerner*, 404 U.S. 519, 520 (1972) (per curiam); *see also King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir.
24 1986). However, “[p]ro se litigants must [still] follow the same rules of procedure as other
25 litigants.” *King*, 814 F.2d at 567 (citations omitted). In determining whether a plaintiff has satisfied
26 Rule 12(b)(6), all material allegations in the complaint are accepted as true and are construed in the

1 light most favorable to the plaintiff. *See Russell v. Landrieu*, 621 F.2d 1037, 1039 (9th Cir. 1980)
2 (citations omitted).

3 Upon review the court must dismiss a case at any time if it determines that the action is
4 frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary
5 relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). A complaint,
6 or portion thereof, should be dismissed for failure to state a claim upon which relief may be granted
7 “if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that
8 would entitle him to relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992). A
9 complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or
10 delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327–28 (1989). Moreover, “a
11 finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational
12 or the wholly incredible, whether or not there are judicially noticeable facts available to contradict
13 them.” *Denton*, 504 U.S. at 33.

14 Plaintiff claims that President Bush requires the United States Army to fly helicopters over
15 plaintiff’s residence and place of employment.¹ He also argues that his Sixth Amendment rights
16 have been violated because a “stranger,” a very distinctive European, approached him as he was
17 leaving the courthouse. (Complaint (#1-3) at 3). The same day a state helicopter, sent by Nevada,
18 flew over him at a low altitude. This incident connects to the stranger, claims plaintiff, because
19 “encounters from strangers against George Mercier, would necessarily be from the [sic] Nevada, in
20 some way.” *Id.* Plaintiff concludes, therefore, that the stranger went back to Europe, telephoned
21 Governor Guinn, and defamed plaintiff’s character.

22 Finally, plaintiff claims he is being bugged by aliens, the same ones that are bugging
23 President Bush, to push plaintiff into an institution. Plaintiff wishes to impose sanctions against the
24 aliens by challenging “each and every single NATIONAL SECURITY LETTER issued out by the
25

26 ¹ On his application to proceed in forma pauperis Mercier claims that he does not work.

1 local United States District Court for the District of Nevada” *Id.* at 5.

2 **ORDER**

3 IT IS ORDERED that the Application to Proceed *in Forma Pauperis* (#1) is GRANTED.
4 Plaintiff shall not be required to pre-pay the filing fee of three hundred fifty dollars (\$350.00).

5 IT IS FURTHER ORDERED that the Clerk of Court shall file the Complaint.

6 **RECOMMENDATION**

7 Based on the foregoing, it is the recommendation of the undersigned United States
8 Magistrate Judge that the Complaint should be dismissed with prejudice based on an indisputably
9 meritless legal theory and frivolity.

10 DATED this 20th day of November, 2006.

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13 **LAWRENCE R. LEAVITT**
14 **UNITED STATES MAGISTRATE JUDGE**