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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 THOMAS CURTIS W.,

Case No. 2:16-cv-01586-RFB-PAL

8 Plaintiff,

9 v.

**REPORT OF FINDINGS AND
RECOMMENDATION**

10 FEDERAL BUREAU OF
11 INVESTIGATIONS,

12 Defendant.

13 This matter is before the court on a screening of Plaintiff Thomas Curtis W.'s Amended
14 Complaint (ECF No. 4). This screening is referred to the undersigned pursuant to 28 U.S.C.
15 § 636(b)(1)(B) and LR IB 1-4 of the Local Rules of Practice.

16 Mr. Curtis is proceeding in this civil rights action *pro se* and has received permission to
17 proceed *in forma pauperis* ("IFP"). See Order (ECF No. 2). Upon review of the initial complaint
18 (ECF No. 3), the court instructed Curtis to file an amended complaint to correct certain defects in
19 his pleading. The court will now review the Amended Complaint (ECF No. 4).

20 After granting a litigant's IFP request, a federal court must screen the complaint and any
21 amended complaints filed prior to a responsive pleading pursuant to § 1915(e). *Lopez v. Smith*,
22 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc) (§ 1915(e) applies to "all in forma pauperis
23 complaints"). When a court dismisses a complaint pursuant to § 1915(e), a plaintiff is ordinarily
24 given leave to amend with directions as to curing its deficiencies, unless it is clear from the face
25 of the complaint that the deficiencies could not be cured by amendment. *Cato v. United States*, 70
26 F.3d 1103, 1106 (9th Cir. 1995). Allegations in a *pro se* complaint are held to less stringent
27 standards than formal pleading drafted by lawyers. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007);
28 *Hebbe v. Pliler*, 627 F.3d 338, 342 n.7 (9th Cir. 2010). However, *pro se* litigants "should not be

1 treated more favorably than parties with attorneys of record,” *Jacobsen v. Filler*, 790 F.2d 1362,
2 1364 (9th Cir. 1986); rather, they must follow the same rules of procedure that govern other
3 litigants. *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995).

4 Federal courts are required to dismiss an IFP action if the complaint fails to state a claim
5 upon which relief may be granted, is legally “frivolous or malicious,” or seeks monetary relief
6 from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). In determining whether
7 a complaint is frivolous and therefore warrants complete or partial dismissal, a court is not bound
8 to accept without question truth of plaintiff’s allegations. *Denton v. Hernandez*, 504 U.S. 25, 32
9 (1992). Allegations are frivolous when they are “clearly baseless,” *id.*, or lack an arguable basis
10 in law and fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Frivolous claims include those
11 based on legal conclusions that are untenable (*e.g.*, claims against defendants who are immune
12 from suit or claims of infringement of a legal interest that clearly does not exist), as well as claims
13 based on fanciful factual allegations (*e.g.*, fantastic or delusional scenarios). *Id.* at 327–28;
14 *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

15 A properly pled complaint must provide “a short and plain statement of the claim showing
16 that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2); *accord Bell Atlantic Corp. v. Twombly*,
17 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual allegations, it
18 demands “more than labels and conclusions” or a “formulaic recitation of the elements of a cause
19 of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). Mere recitals of the
20 elements of a cause of action supported only by conclusory allegations do not suffice. *Id.* at 679–
21 80. Where the claims in the complaint have not crossed the line from plausible to conceivable, the
22 complaint should be dismissed. *Twombly*, 550 U.S. at 570. Stated differently, the factual
23 allegations “must plausibly suggest an entitlement to relief, such that it is not unfair to require the
24 opposing party to be subjected to the expense of discovery and continued litigation.” *Starr v.*
25 *Baca*, 652 F.3d 1202, 1216 (9th Cir. 2011).

26 The Amended Complaint (ECF No. 4) names the Federal Bureau of Investigation (“FBI”)
27 as the sole defendant. Mr. Curtis alleges that the FBI violated his rights to see, breath, hear, talk,
28 and walk by removing his eyes, jaws, head, brain, heart, lungs, arms, and legs. *Id.* at 3–4. He

1 alleges the FBI used biologic pathogens and biological chemicals and weapons on him and put
2 cables and electrical DNA strips on him to electrify him 24-hours a day. *Id.* at 3. The FBI
3 purportedly removed most of his organs from the brain down and sexually assaulted him by
4 implanting an “electric penis” and “cables in [his] a** crack.” *Id.* at 4. The FBI allegedly
5 contaminated his house, walls, attic, and cars “with all sorts of chemicals, DNA mutations, [and]
6 photogenic pathogens.” *Id.* at 5.

7 The court finds that Mr. Curtis’s factual claims describe fantastic and delusional scenarios
8 and do not state a claim upon which relief can be granted. *Iqbal*, 556 U.S. at 696 (Souter, J.
9 dissenting) (noting that courts are not bound to accept as true allegations that are “sufficiently
10 fantastic to defy reality as we know it: claims about little green men, or the plaintiff’s recent trip
11 to Pluto, or experiences in time travel).¹ A finding of factual frivolousness is appropriate here
12 because the facts alleged “rise to the level of the irrational or the wholly incredible.” *Denton*, 504
13 U.S. at 33. Because the Amended Complaint does not set forth a plausible claim and the allegation
14 of additional facts would not cure these deficiencies, the court finds that Curtis is not entitled to
15 an opportunity to amend. Mr. Curtis’s allegations and claims are so fantastic and delusional that
16 amendment would be futile. *See Lopez*, 203 F.3d at 1126. The court will therefore recommend
17 that the complaint be dismissed with prejudice.

18 Accordingly,

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23 ¹ *See, e.g., Cram v. U.S. Interior*, No. 2:16-cv-02870-JAD-CWH, Order (ECF No. 13) (dismissing with
24 prejudice as delusional and frivolous complaint alleging that plaintiff and her newborn baby were both
25 stabbed, beheaded, and murdered by white-haired ventriloquists who were “members of a roving gang”);
26 *Head v. F.B.I.*, No. 2:08-cv-01028-KJD-PAL, Order (ECF No. 10) (dismissing with prejudice as “fantastic,
27 delusional, irrational, and frivolous” complaint alleging that plaintiff was forced by FBI and other law
28 enforcement agencies to engage in sexual activity with state and political officials so law enforcement could
“extort, control, and blackmail them”); *Griffin v. Bush*, No. 2:07-cv-00617-RCJ-GWF, Order (ECF No. 7)
(dismissing with prejudice frivolous complaint alleging that President George W. Bush was involved in
injecting plaintiff’s brain with chemicals used to place subliminal and hypnotic messages into his brain
causing torture and mind control).

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- Dated this 21st day of June, 2017.


PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE

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