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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

Melvin Jr. Bailey,

Plaintiff,

v.

Nevada Parole & Probation, et al.,

Defendants.

Case No. 2:22-cv-01822-GMN-BNW

ORDER

Plaintiff Melvin Jr. Bailey brings this lawsuit and moves to proceed *in forma pauperis* (IFP). *See* ECF No. 1. Plaintiff submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees or costs or give security for them. Accordingly, the Court will grant his request to proceed *in forma pauperis*.

The Court now screens Plaintiff's complaint (ECF No. 1-1).

I. Analysis

A. Screening standard

Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "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) (internal quotation marks and citation omitted). The court liberally construes *pro se* complaints and may only dismiss them "if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir. 2014) (*quoting Iqbal*, 556 U.S. at 678).

1 In considering whether the complaint is sufficient to state a claim, all allegations of
2 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylar*
3 *Summit P'ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
4 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
5 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
6 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
7 Unless it is clear the complaint's deficiencies could not be cured through amendment, a *pro se*
8 plaintiff should be given leave to amend the complaint with notice regarding the complaint's
9 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

10 **B. Screening the Complaint**

11 Plaintiff's complaint contains very few factual allegations. *See* ECF No. 1-1. He alleges
12 that he was denied the opportunity to provide an explanation at "the hearing" and two officers
13 "both continue to ignore a perfectly valid constitutional defense." *See id.* at 4. As a result,
14 Plaintiff alleges that he has been denied "the civil right to enforce my civil right to personal
15 liberty." *Id.* at 6. Plaintiff asks the Court to determine if the "defendants' authority stems from
16 valid criminal proceedings" *Id.* Even liberally construing Plaintiff's complaint, it does not
17 state sufficient factual allegations about the underlying dispute and the defendants' role in the
18 matter to state a claim.

19 If Plaintiff chooses to file an amended complaint, the document must be titled "Amended
20 Complaint." The amended complaint must contain a short and plain statement of the grounds for
21 the Court's jurisdiction. *See* Fed. R. Civ. P. 8(a)(1). Additionally, the amended complaint must
22 contain a short and plain statement describing the underlying case and the defendants'
23 involvement in the case. *See* Fed. R. Civ. P. 8(a)(2). Although the Federal Rules of Civil
24 Procedure adopt a flexible pleading standard, Plaintiff still must give each defendant fair notice of
25 his claims against it and of Plaintiff's entitlement to relief.

26 Additionally, Plaintiff is advised that if he files an amended complaint, the original
27 complaint (ECF No. 1-1) no longer serves any function in this case. As such, the amended
28 complaint must be complete in and of itself without reference to prior pleadings or other

1 documents. The Court cannot refer to a prior pleading or other documents to make Plaintiff's
2 amended complaint complete.

3 **II. CONCLUSION**


4 **IT IS THEREFORE ORDERED** that Plaintiff Melvin Jr. Bailey's application to
5 proceed *in forma pauperis* (ECF No. 1) is GRANTED.

6 **IT IS FURTHER ORDERED** that the Clerk of Court must detach and separately file
7 Plaintiff's complaint (ECF No. 1-1).

8 **IT IS FURTHER ORDERED** that Plaintiff's complaint is dismissed without prejudice.

9 **IT IS FURTHER ORDERED** that if Plaintiff wishes to file an amended complaint, he
10 must do so by December 21, 2022. Failure to comply with this order will result in a
11 recommendation that this case be dismissed.

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13 DATED: November 21, 2022

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16 BREND A WEKSLER
17 UNITED STATES MAGISTRATE JUDGE
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