



1 provided for in Federal Rule of Civil Procedure 12(b)(6), and the court applies the same  
2 standard under Section 1915(e)(2) when reviewing the adequacy of a complaint or amended  
3 complaint. Review under Rule 12(b)(6) is essentially a ruling on a question of law. See  
4 *Chappel v. Laboratory Corp. of America*, 232 F.3d 719, 723 (9<sup>th</sup> Cir. 2000). Dismissal for  
5 failure to state a claim is proper only if it is clear that the plaintiff cannot prove any set of facts  
6 in support of the claim that would entitle him or her to relief. See *Morley v. Walker*, 175 F.3d  
7 756, 759 (9<sup>th</sup> Cir. 1999). In making this determination, the court takes as true all allegations  
8 of material fact stated in the complaint, and the court construes them in the light most  
9 favorable to the plaintiff. See *Warshaw v. Xoma Corp.*, 74 F.3d 955, 957 (9<sup>th</sup> Cir. 1996).

10 Allegations in a *pro se* complaint are held to less stringent standards than formal  
11 pleadings drafted by lawyers. See *Hughes v. Rowe*, 449 U.S. 5, 9 (1980); *Haines v. Kerner*,  
12 404 U.S. 519, 520-21 (1972) (*per curiam*). All or part of a complaint may therefore be  
13 dismissed *sua sponte* if the claims lack an arguable basis either in law or in fact. This includes  
14 claims based on legal conclusions that are untenable (e.g. claims against defendants who are  
15 immune from suits or claims of infringement of a legal interest which clearly does not exist),  
16 as well as claims based on fanciful factual allegations (e.g. fantastic or delusional scenarios).  
17 See *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989); see also *McKeever v. Block*, 932 F.2d  
18 795, 798 (9<sup>th</sup> Cir. 1991).

19 Although *pro se* Plaintiffs are given great latitude in the United States District Court  
20 and are not held to strict pleading requirements, a fundamental requirement is that the  
21 documents filed by a *pro se* Plaintiff must be subject to comprehension. The Civil Rights  
22 Complaint lodged by the Plaintiff on April 9, 2009 (Doc. #1), fails this initial requirement as  
23 it is incomprehensible and does not appear to name a viable, identifiable defendant.

24 The court should dismiss this action. In view of the obviously frivolous nature of the  
25 case, it would be appropriate to dismiss the case without leave to amend.

26 **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis*  
27 (Doc. #1) is **GRANTED**.

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**IT IS FURTHER ORDERED** that the Clerk shall **FILE** Plaintiff's Complaint.

**RECOMMENDATION**

**IT IS HEREBY RECOMMENDED** that the District Court enter an order dismissing this action with prejudice and entering judgment accordingly.

The parties should be aware of the following:

1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules of Practice, specific written objections to this Report and Recommendation within ten (10) days of receipt. These objections should be titled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the District Court.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1), Fed. R. Civ. P., should not be filed until entry of the District Court's judgment.

DATED: April 15, 2009.



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UNITED STATES MAGISTRATE JUDGE