

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CURT-ALLEN: OF THE FAMILY
BYRON,

Plaintiff,

v.

JOHN LOVICK, et al.,

Defendants.

CASE NO. C10-0609JLR

ORDER DENYING MOTIONS FOR
DEFAULT

Before the court are eight motions for entry of default filed by Plaintiff Curt-Allen: of the family Byron against numerous high-ranking government officials, including the Governors of Washington and California, the United States Secretary of State, and the United States President. (Dkt. ## 27-34.) The court DENIES the motions. Plaintiff failed to serve the parties he now seeks default against – service is a prerequisite to filing a motion for default, *see* Fed. R. Civ. P. 55 – and therefore has no basis for

1 moving for default judgment. In addition to failing to serve the parties, Plaintiff also has
2 no colorable claim against any of the parties he now seeks default against.

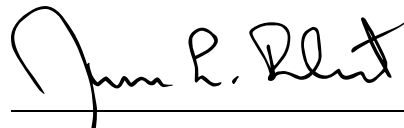
3 Plaintiff has attempted to bring claims against Defendants in this case as well as
4 those identified in a related case he filed against the Arlington Police Department,
5 Snohomish County Sheriff's Department, and a number of high-ranking government
6 officials. *See Curt Allen v. Arlington Police Dep't, et al.*, No. 10-1086JLR (W.D. Wash.
7 filed July 1, 2010). In both cases, Plaintiff has inundated the court with frivolous
8 motions, the frequency of which seems to be increasing. (*See* No. 10-1086JLR (Dkt. ##
9 6, 8, 9) (Plaintiff's motions requesting to freeze assets held by a towing company and to
10 enjoin the municipal court from proceeding in a related criminal proceeding); No. 10-
11 0609 (Dkt. ## 10, 16, 17, 27-34) (In addition to the current motions for default, Plaintiff
12 has also filed a motion to deny the individual Defendants a right to a government attorney
13 and a motion to amend his pleadings to add additional high-ranking government
14 officials.) Although Plaintiff's conduct has not arisen to a level, *yet*, that would require
15 the court to begin the process of declaring him a vexatious litigant, the court is compelled
16 to caution Plaintiff that his most recent filings are of concern to the court and to educate
17 Plaintiff on his obligation to abstain from frivolous litigation.

18 Federal courts have the discretion to enjoin certain litigants from engaging in
19 frivolous litigation. *See* 28 U.S.C. § 1651; *Clinton v. United States*, 297 F.2d 899 (9th
20 Cir. 1961). Litigation misconduct is also sanctionable under the court's inherent powers.
21 *See* Local Rules W.D. Wash. GR 3(d) (giving the court authority to sanction a party who
22 "presents to the court unnecessary motions or unwarranted opposition . . . , or who

1 otherwise so multiplies or obstructs the proceedings in a case as to increase the cost
2 thereof unreasonably and vexatiously”); Fed. R. Civ. P. 11 (allowing for sanctions where
3 “a filing is frivolous, legally unreasonable, or without factual foundation, or is brought
4 for an improper purpose”); *see also Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001).
5 Accordingly, the court has the inherent authority to both enjoin Plaintiff’s future filings
6 and to issue sanctions if he continues to abuse the judicial process by acting vexatiously,
7 wantonly, or with oppressive motives. *See Gomez v. Vernon*, 255 F.3d 1118, 1133-34
8 (9th Cir. 2001) (citing *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766 (1980)).

9 When faced with litigation abuses by a *pro se* party, a court “cannot . . . decline to
10 impose a sanction, where a violation has arguably occurred, simply because plaintiff is
11 proceeding *pro se*.” *See Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir. 1994). The
12 sanctions that may be imposed under any or all of the above authorities include monetary
13 sanctions and the imposition of a standing bar order that limits a plaintiff’s ability to file
14 future actions *pro se*.

15 Dated this 9th day of August, 2010.

16
17 

18 _____
19 JAMES L. ROBART
20 United States District Judge
21
22