

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

MARIYAM AKMAL,

Plaintiff,

v.

CITY OF KENT, et al.,

Defendants.

CASE NO. C13-0379JLR

ORDER OF DISMISSAL

Before the court is Plaintiff Mariyam Akmal’s fourth amended complaint (4th Am. Compl. (Dkt. # 61)), and Defendant Michael Alston’s motion to dismiss (Mot. (Dkt. # 56).) Ms. Akmal is proceeding pro se and *in forma pauperis* (“IFP”) in this action. (See Dkt.) Under 28 U.S.C. § 1915(e), district courts have authority to review IFP complaints and must dismiss them if “at any time” it is determined that a complaint is frivolous or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2); *see also* 28 U.S.C. § 1915A(b)(1). The court has examined the complaint in this case in great detail and has concluded that dismissal under 28 U.S.C. § 1915 is appropriate at this

1 time. In prior orders, the court explained specific reasons for why Ms. Akmal has failed
2 to state a claim against particular defendants. For related reasons, the court now
3 concludes that Ms. Akmal’s complaint is frivolous with respect to all defendants, fails to
4 state a claim, and must be DISMISSED without prejudice.

5 I. BACKGROUND

6 Ms. Akmal filed this action on March 5, 2013, and has since amended her
7 complaint four times. (*See* Compl. (Dkt. # 4); Am. Compl. (Dkt. # 27); 2d Am. Compl.
8 (Dkt. # 43); 3d Am. Compl. (Dkt. # 53); 4th Am. Compl.) Ms. Akmal’s five complaints
9 are similar to one another. In each, she alleges a laundry list of civil rights violations
10 against roughly 60 defendants, including the City of Kent, the Kent Police Department
11 (“Kent Police”), and others such as Mr. Alston, the State of Washington, the State of
12 Washington Department of Social and Health Services, Wells Fargo National Bank, the
13 law firm of Puckett & Redford PLLC, and numerous John and Jane Doe defendants. (*See*
14 *generally* 3d Am. Compl.) The crux of her allegations is that Kent Police and other
15 public officials and private actors are engaged in a “civil conspiracy” against her. (*See* 2d
16 Am. Compl. ¶ 34.) In connection with these allegations, she alleges violations of 42
17 U.S.C. § 1981, § 1985, § 1986, § 1988, both the United States and Washington
18 Constitutions, and privacy torts. (3d Am. Compl. ¶ 17.) She seeks monetary, declaratory
19 and injunctive relief. (*Id.* at 23.)

20 At the heart of Ms. Akmal’s conspiracy allegations are claims that the Kent Police
21 discriminated against her on the basis of religion, race, and gender. (*Id.* ¶ 18.) Ms.
22 Akmal is an African-American Muslim. (*Id.*) She claims that Kent Police “repeatedly,

1 over a decade, refused to allow her to lodge crime reports,” complaining that she has
2 been “harassed both electronically and in real life, as well as stalked by a networked
3 group of mostly anonymous individuals.” (*Id.*)

4 Further, she claims that the City retaliated against her for attempting to lodge those
5 complaints. She alleges that she gave her contact information to the City for
6 investigatory purposes at the City Clerk’s request. Subsequently, she claims that her
7 complaints were not investigated and that the City used her personal information to stalk
8 her and invade her private life. (*Id.* ¶ 33.) This included allegedly “entering her home
9 while in her absence, taking items from her home, going through her personal
10 correspondence, computers, etc. and then using this gleaned knowledge to anonymously
11 stalk, track, and taunt her. . . .” (*Id.*) In addition to these searches, Ms. Akmal claims that
12 she was threatened by agents of the City. (*Id.*) She states, “[t]o date, they continue to
13 send her veiled threats of physical harm—‘I can hurt you,’ ‘you know what they say
14 about the squeaky wheel,’ references to playing ‘Cowboys & Muslims’ but dipping the
15 bullet in pig grease first” (*Id.*) Further, she claims that the Kent Police had her
16 fired, stole money from her bank account, and painted her in a false light by
17 disseminating a document containing her photograph and personal information to the
18 City. (*Id.* ¶¶ 36, 37, 39.) She alleges that the Kent Police justified disseminating her
19 information on the basis that she lawfully owns a firearm, creating issues of officer
20 safety. (*Id.* ¶ 39.)

21 The court has previously granted several motions to dismiss. On March 13, 2014,
22 the court granted Defendant Michael Alston’s motion to dismiss, finding that Ms. Akmal

1 had not stated plausible claims against Mr. Alston. (*See* 3/13/14 Order (Dkt. # 52).) The
2 City also moved to dismiss, and the court granted the City’s motion, explaining in great
3 detail why Ms. Akmal’s claims against the city should not proceed. (4/24/14 Order (Dkt.
4 # 57).)

5 Ms. Akmal recently amended her complaint for a fifth time. (*See* 4th Am.
6 Compl.) In her new complaint, she elaborates on the theories contained in her old
7 complaint. (*See id.*) For example, she explains the alleged role of “Jericho Specialized
8 Entry Training, LLC, [which] provides sworn law enforcement officers and Military
9 Special Forces/EOD personnel with the skills needed to pick and/or bypass locks, or
10 perform other surreptitious breaching techniques in the course of their duties.” (*Id.* ¶ 23.)
11 She adds that “[f]or the Court or any of the defendants to try to deny that the various
12 police agencies are not in touch with each other and do not have the ability to effortlessly
13 maintain electronic surveillance on anyone they so choose *with or without a warrant*,
14 *Constitutionally or not*, would be to deny in part that all of the funding they’ve been
15 receiving all of these years since the attacks of 911 so that they can participate and
16 prevail in the ‘war on terror’ that the money has been earmarked for has been wasted.”
17 (*Id.* ¶ 33.) Similarly, she seeks to bolster her allegations by reference to an attorney
18 named Keith S. Labella, who “filed a lawsuit in Eastern District of New York in which he
19 names the Federal Bureau of Investigations, USDOJ Office of Justice Programs, and the
20 United States Department of Justice as defendants.” (*Id.* ¶ 34.) In that lawsuit, Mr.
21 Labella seeks to demonstrate that the government has knowledge of “the phenomenon of
22 ‘gang stalking.’” (*Id.* ¶ 35.) Ms. Akmal further alleges that “Wells Fargo employees

1 MacKenzie Dooley and Anthony Willabring located in Minnesota, and employees Rose
2 Jackson and Timothy Brinkley, a convicted sex offender, arranged a lure, an altercation, a
3 theft from her bank account which was all blamed on the Plaintiff resulting in monetary
4 as well as other losses to the Plaintiff.” (*Id.* ¶ 44.)

5 II. ANALYSIS

6 Dismissal under 28 U.S.C. § 1915 is appropriate if “at any time” it is determined
7 that a complaint is frivolous or fails to state a claim on which relief may be granted. 28
8 U.S.C. § 1915(e)(2); *see also* 28 U.S.C. § 1915A(b)(1). A complaint is “frivolous” if it
9 has no basis in law or fact. *Knapp v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013). A
10 complaint fails to state a claim upon which relief may be granted if it is not “plausible” or
11 does not “plead a short and plain statement of the claim showing that the pleader is
12 entitled to relief.” Fed. R. Civ. P. 8(a)(2); *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).
13 Dismissal under Rule 12(b)(6) is appropriate where the complaint lacks sufficient facts to
14 support a cognizable legal theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699
15 (9th Cir. 1990). To sufficiently state a claim and survive a motion to dismiss, the
16 complaint “does not need detailed factual allegations” but the “[f]actual allegations must
17 be enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v.*
18 *Twombly*, 550 U.S. 544, 555 (2007). The complaint must contain “sufficient factual
19 matter, accepted as true, to state a claim to relief that is plausible on its face.” *Iqbal*, 556
20 U.S. at 663 (internal quotation marks omitted); *see also Telesaurus VPC, LLC v. Power*,
21 623 F.3d 998, 1003 (9th Cir. 2010). The court is not bound to accept as true labels,
22 conclusions, formulaic recitations of the elements, or legal conclusions couched as

1 factual allegations. *Twombly*, 550 U.S. at 555 (citing *Papasan v. Allain*, 478 U.S. 265,
2 286 (1986)). As the Supreme Court said in *Iqbal*, a complaint must do more than tender
3 “‘naked assertions’ devoid of ‘further factual enhancement.’” *Iqbal*, 556 U.S. at 678
4 (quoting *Twombly*, 550 U.S. at 557).

5 Ms. Akmal’s complaint is frivolous and does not state a plausible claim for any of
6 the relief she requests. As explained in detail in previous orders, her complaint suffers
7 from numerous defects. For example, many of her causes of action are not related to the
8 conduct she alleges. (*See, e.g.*, 4/24/14 Order at 6.) Equally problematic, Ms. Akmal
9 “does not support her theor[ies] . . . with factually sufficient allegations showing the court
10 that her entitlement to relief is ‘above the speculative level.’” (*Id.* at 7 (citing *Twombly*,
11 550 U.S. at 555).) This is true not only with respect to her allegations against the City,
12 Kent Police, and Mr. Alston, but with respect to her allegations against all defendants.
13 For example, she alleges that “the Defendants have used ‘national security’ and the ‘war
14 on terrorism’ as a pretext to circumvent her Fourth Amendment rights to security in her
15 home, papers, effects, etc. by constant intrusions into her home, her mail, her electronic
16 mail (email), electronic data stored by her internet service provider, etc.” (4th Am.
17 Compl. ¶ 90.) This is typical of Ms. Akmal’s claims: she makes a broad allegation of
18 wrongful action that the court is unable to in any way connect to the defendants in the
19 case. Her allegations describe conduct that would be unlawful and wrongful if true, but
20 the non-conclusory facts she alleges allow only a speculative inference that defendants
21 are liable for that conduct, or indeed engaged in that conduct at all.

1 Ms. Akmal's retaliation claims also illustrate the problems presented by her
2 complaint. As the court previously explained:

3 [Ms. Akmal] asserts that soon after she left her name and phone number
4 with the City Clerk, "they" began "entering her home, going through her
5 personal correspondence, [and] computers" and sending her "veiled threats
6 of physical harm- 'I can hurt you,' 'you know what they say about the
7 squeaky wheel,' references to playing 'Cowboys and Muslims'" and left
8 "an empty shell case" in her vehicle. (3d Am. Compl. ¶ 33.) Although
9 such harms might give rise to a cause of action, she does not allege facts
10 showing the court that "they" is the City. Ms. Akmal alleges only that
11 certain events occurred and that she personally believes the City committed
12 those harms. Ms. Akmal's speculative belief that the City harmed her does
13 not move her allegations from conceivable to plausible. *See Twombly*, 550
14 U.S. at 555. It is merely a conclusion that is not entitled to a presumption
15 of truth. *Id.*

16 The same is true for Ms. Akmal's claim that the City had her fired.
17 (3d Am. Compl. ¶ 36.) She asserts that whenever she went over the
18 police's head to lodge a complaint, she would suffer a "major loss of a
19 necessity." (*Id.*) The fact that two events occurred within a relatively short
20 time frame does not allow the court to draw a causal relation implicating
21 retaliation by the City. Without showing why her lodging a complaint and
22 losing her job are connected, Ms. Akmal does not allow the court to draw a
"reasonable inference that the defendant is liable for the misconduct
alleged." *See Iqbal*, 556 U.S. at 678. Because Ms. Akmal does not allege
sufficient facts implicating the City for the harms associated with her
general theory of liability, she does not state a claim for relief arising from
those events.

(4/24/14 Order at 9.) The same is true of her allegations against the other parties in this
action. She alleges that certain Wells Fargo employees stole money from her account
and blamed her for it, also calling her "rude," but her allegations in this regard are far too
conclusory and threadbare to draw more than a speculative inference that the Wells Fargo
employees in question stole money from Ms. Akmal. (*See* 4th Am. Compl. ¶ 44.)

For other claims, Ms. Akmal simply fails to plead the requisite elements. As the
court explained in its previous order, Ms. Akmal does not allege the necessary elements

1 for causes of action like defamation or constitutional claims under 28 U.S.C. § 1983.

2 (4/24/14 Order at 8-10.) This is a common theme in Ms. Akmal’s complaint. Ms. Akmal
3 appears to have pleaded numerous causes of action without regard to whether her
4 allegations actually supported the asserted claims.

5 The final common theme throughout Ms. Akmal’s complaints is an allegation that
6 officials at both the local and national level failed to investigate her claims. (See 4th
7 Amend. Compl. ¶¶ 26, 32, 50.) There is, however, no constitutional right to police
8 protection. *DeShaney v. Winnebago County Dep’t of Soc. Servs.*, 489 U.S. 189, 196-97
9 (1989) (“[O]ur cases have recognized that the Due Process Clauses generally confer no
10 affirmative right to governmental aid, even where such aid may be necessary to secure
11 life, liberty, or property interests of which the government itself may not deprive the
12 individual Although the liberty protected by the Due Process Clause affords
13 protection against unwarranted *government* interference . . . , it does not confer an
14 entitlement to such [governmental aid] as may be necessary to realize all the advantages
15 of that freedom.”) (internal quotations and citations omitted); *Estate of Macias v. Ihde*,
16 219 F.3d 1018, 1028 (9th Cir. 2000) (“It is well established that there is no constitutional
17 right to be protected by the state against being murdered by criminals or madmen.”)
18 (internal quotations and citations omitted). Accordingly, though Ms. Akmal repeatedly
19 alleges harms associated with the government’s refusal to investigate her claims, she does
20 not allege a plausible claim for relief based on these harms. See *Knapp*, 738 F.3d at
21 1109.

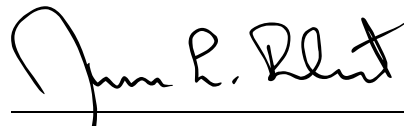
1 For all of these reasons, the court finds that Ms. Akmal's complaint is frivolous,
2 i.e., "without basis in law or fact," *see Knapp*, 738 F.3d at 1109, and fails to state a claim
3 on which relief may be granted. Consequently, the court DISMISSES this complaint
4 with respect to all defendants pursuant to its authority under 28 U.S.C. § 1915.

5 The court also denies any further leave to amend. Ms. Akmal has already
6 amended her complaint four times. It is difficult to imagine what good it would do to
7 permit further amendments. Leave to amend is mandatory for pro se plaintiffs unless it is
8 absolutely clear that amendment could not cure the defects. *Lucas v. Dep't of*
9 *Corrections*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam). Here, that standard is met. It
10 is absolutely clear that allowing Ms. Akmal to amend her complaint for a fifth time
11 would not cure the defects the court has identified therein.

12 III. CONCLUSION

13 This case is dismissed with respect to all claims against all parties. The clerk of
14 the court is DIRECTED to close this matter.

15 Dated this 6th day of May, 2014.

16
17 

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