

HONORABLE RICHARD A. JONES

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HOUSTON BYRD,  
  
Plaintiff,  
  
v.  
  
HON. JUDGE A. HARPER, et al.,  
  
Defendants.

Case No. 2:18-cv-00479 RAJ  
  
ORDER

**I. INTRODUCTION**

This matter is before the Court on Plaintiff’s motion for default judgment. Dkt. # 12. For the reasons below, Plaintiff’s motion is denied as moot and the Court dismisses the action without prejudice.

**II. DISCUSSION**

A district court may sua sponte dismiss a *pro se* complaint filed in forma pauperis under 28 U.S.C. § 1915(d) where the complaint is “frivolous” in that it lacks any arguable basis in law or fact. *Denton v. Hernandez*, 504 U.S. 25 (1992); *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989).

From what the Court can ascertain, Plaintiff alleges that a King County judge committed perjury and other acts of judicial misconduct in a state court case involving Plaintiff. The Complaint, however, fails to put forth any facts supporting Plaintiff’s allegations and instead quotes numerous statutes and cases concerning fraud on the court.

1 Dkt. # 5 at 9-10.

2 Furthermore, it is settled that “[j]udges are immune from suit arising out of their  
3 judicial acts, without regard to the motives with which their judicial acts are performed,  
4 and notwithstanding such acts may have been performed in excess of jurisdiction, provided  
5 there was not a clear absence of all jurisdiction over the subject matter.” *Sires v. Cole*, 320  
6 F.2d 877, 879 (9th Cir. 1963); *see also Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)  
7 (explaining that a judge will not be deprived of immunity because the action he took was  
8 in error, was done maliciously, or was in excess of his authority).

9 While it appears that any amendment to the Complaint will fall within the purview  
10 of judicial immunity, the Court will allow Plaintiff an opportunity to amend to allege  
11 actions that fall outside of the immunity doctrine. *McQuillion v. Schwarzenegger*, 369  
12 F.3d 1091, 1099 (9th Cir. 2004). Accordingly, the Court dismisses the action without  
13 prejudice and **DENIES** as moot Plaintiff’s motion for default judgment and motion for  
14 objection. Dkt. ## 10, 12. Any amendment must be filed within 14 days of this Order.

### 15 III. CONCLUSION

16 For the reasons stated above, the Court dismisses the action and **DENIES** as moot  
17 Plaintiff’s motion for default judgment and motion for objection. Dkt. ## 10 and 12.

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19 DATED this 18th day of June, 2019.

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22 The Honorable Richard A. Jones  
23 United States District Judge  
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