

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TED SPICE,

Plaintiff,

v.

LAW OFFICE OF BRIAN ROESCH, et al.,

Defendants.

No. 12-cv-6005-RBL

ORDER

(Dkt. #1, 2)

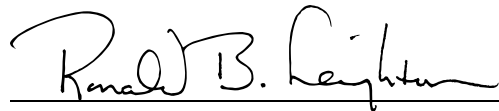
Plaintiff has applied for *in forma pauperis* status in his proposed suit for alleged violations of his civil rights under 42 U.S.C. § 1983.

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad discretion in resolving the application, but “the privilege of proceeding *in forma pauperis* in civil actions for damages should be sparingly granted.” *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit.” *Tripati v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

1 Here, the Court must deny leave to proceed *in forma pauperis* because Plaintiff's
2 proposed Complaint has no basis in law. Plaintiff "seeks removal or remand" of his state court
3 case, which apparently involves claims for slander (and is apparently on-going). (*See* Compl. at
4 2, Dkt. #1.) The Complaint is confusing, but from what the Court can discern, Plaintiff alleges
5 that Defendants slandered him in state court, and he seeks a remedy in federal court.
6 Unfortunately, a claim under § 1983 requires that a defendant act under color of law, and
7 Defendants here certainly do not. 42 U.S.C. § 1983 ("[e]very person who under color of any
8 statute, ordinance, regulation custom or usage . . ."). Moreover, federal courts are not courts of
9 appeal for state cases. In short, the Complaint presents no basis for federal jurisdiction.

10 Because this Court lacks jurisdiction to hear Plaintiff's claims, the application to proceed
11 *in forma pauperis* (Dkt. #1) is **DENIED**, and the case is **DISMISSED WITH PREJUDICE**.

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13 Dated this 30th day of November 2012.

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16 Ronald B. Leighton
17 United States District Judge
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