

1 HONORABLE RONALD B. LEIGHTON

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 MICHELLE GILBERT,

10 Plaintiff,

11 v.

12 SOCIAL SECURITY
13 ADMINISTRATION, et al.,

14 Defendants.

CASE NO. C14-5115 RBL

ORDER DENYING IFP

[Dkt. #1]

15 THIS MATTER is before the Court on Plaintiff Gilbert's Motion for Leave to Proceed *in*
16 *forma pauperis* [Dkt. #1]. Gilbert is *pro se*. Her proposed Complaint is difficult to follow, but
17 she apparently claims that the Defendants violated FOIA and the Privacy Act of 1974 (5 U.S.C.
18 §552(a)) when they "willfully disclosed her son's records to her parents and their attorney." The
19 case appears to involve a State Court custody issue regarding Gilbert's disabled son. Gilbert was
20 determined to be in default, and an Order awarding joint custody over her son was awarded to
21 her parents. Indeed, it appears from the Findings and Conclusions in the underlying state court
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1 action that Gilbert agreed to this arrangement. All of these events occurred in 2001 and 2002.
2 There is no indication that Gilbert appealed the underlying decisions.

3 In any event, Gilbert claims that “Social Security” is paying her son’s social security
4 benefits to her parents, and not to her, based on what she claims were “fraudulent” state court
5 decisions.

6 A district court may permit indigent litigants to proceed *in forma pauperis* upon
7 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad
8 discretion in resolving the application, but “the privilege of proceeding *in forma pauperis* in civil
9 actions for damages should be sparingly granted.” *Weller v. Dickson*, 314 F.2d 598, 600 (9th
10 Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed
11 *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the
12 action is frivolous or without merit.” *Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369
13 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
14 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
15 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
16 1984).

17 It is apparent from the face of Gilbert’s complaint that her claims are time-barred, as they
18 accrued more than a decade ago. It is also clear that at least some of her claims ask this Court to
19 overturn various Clark County Superior Court decisions, the which this Court cannot do as a
20 matter of law. These defects cannot be cured by amendment.

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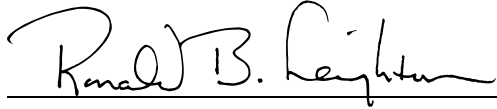
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1 The Motion for Leave to Proceed IFP is DENIED. Plaintiff shall pay the filing fee within
2 15 days of this Order, or the matter will be dismissed.

3 Dated this 18th day of February, 2014.

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE