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

8 TERRELL RAKAI WALL,

9 Plaintiff,

10 v.

11 MARK LINDQUIST, et al.,

12 Defendants.

CASE NO. C17-5439 BHS

ORDER DENYING MOTION
TO PROCEED IN FORMA
PAUPERIS AND DISMISSING
COMPLAINT

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14 This matter comes before the Court on Plaintiff Terrell Rakai Wall's ("Wall")
15 motion to proceed *in forma pauperis* (Dkt. 1) and proposed complaint (Dkt. 1-1).

16 On June 7, 2017, Wall filed his motion and complaint. Dkts. 1, 1-1. By attaching
17 numerous letters sent from an entity called the "New Century Justice Network" to various
18 agencies and entities in Washington State, as well as communications between himself
19 and his court-appointed counsel in state court criminal proceedings, Wall appears to
20 allege that the Defendants somehow conspired to remove from the Pierce County Clerk's
21 records a court filing in a proceeding before the Pierce County Superior Court. *See* Dkt.
22 1-1.

1 The district court may permit indigent litigants to proceed *in forma pauperis* upon
2 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a); W.D. Wash.
3 Local Rules LCR 3(b). However, the “privilege of pleading *in forma pauperis* . . . in civil
4 actions for damages should be allowed only in exceptional circumstances.” *Wilborn v.*
5 *Escalderon*, 789 F.2d 1328 (9th Cir. 1986). The court has broad discretion in denying an
6 application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir.
7 1963), *cert. denied* 375 U.S. 845 (1963). Here, Wall’s affidavit and *in forma pauperis*
8 application show that he is unable to prepay fees and costs. *See* Dkt. 1.

9 However, even if a plaintiff satisfies the financial requirements for eligibility to
10 proceed *in forma pauperis*, the Court’s review of the application and underlying
11 complaint is not complete. Under the *in forma pauperis* statute, the Court must dismiss
12 the case *sua sponte* if it determines at any time that (1) the allegation of poverty is untrue,
13 (2) the action is frivolous or malicious, (3) the complaint fails to state a viable claim, or
14 (3) the action seeks monetary relief against an immune defendant. 28 U.S.C. §
15 1915(e)(2). Indeed, “1915(e) not only permits but requires a district court to dismiss an *in*
16 *forma pauperis* complaint that fails to state a claim.” *Lopez v. Smith*, 203 F.3d 1122, 1127
17 (9th Cir. 2000) (citing *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998)).

18 In this case, Wall has failed to show that he is entitled to proceed *in forma*
19 *pauperis* because his complaint fails to state a claim for relief. Wall states that he is
20 bringing a claim against Defendants pursuant to 18 U.S.C. § 2071 for concealment,
21 removal, or mutilation of documents filed with a clerk in a public office. Dkt. 1-1 at 4.
22 However, 18 U.S.C. § 2071 is a criminal statute that does not provide a private cause of

1 action or a basis for a civil lawsuit. *Winslow v. Romer*, 759 F. Supp. 670, 674 (D. Colo.
2 1991) (“Nothing in the language or history of 18 U.S.C. §§ 2071 or 31096 indicates that
3 either statute was intended to create a private right of action.”); *Dugar v. Coughlin*, 613
4 F.Supp. 849, 852 n. 1 (S.D.N.Y. 1985) (no private right of action under § 2071). Because
5 Wall cannot possibly win relief, the Court must dismiss the complaint.

6 Therefore, Wall’s motion to proceed *in forma pauperis* (Dkt. 1) is **DENIED** and
7 his complaint is **DISMISSED**.

8 **IT IS SO ORDERED.**

9 Dated this 8th day of June, 2017.

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BENJAMIN H. SETTLE
13 United States District Judge
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