

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Collier v. Robertsons

Collier · No. 23-cv-368-GPC · Decided March 14, 2023

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 IRINA COLLIER, Case No.: 23-cv-368-GPC 12 Plaintiff, ORDER
GRANTING PLAINTIFF’S 13 v. MOTION TO PROCEED IN FORMA PAUPERIS; SUA
SPONTE 14 ROBERTSONS et al., DISMISSING COMPLAINT; AND 15 Defendants.
DENYING MOTION TO APPOINT COUNSEL AS MOOT 16 17 [ECF Nos. 2, 3] 18 On
February 27, 2023, Plaintiff Irina Collier (“Collier” or “Plaintiff”), proceeding 19 pro se, filed a
Complaint against Defendants “Robertsons et al” (“Defendants”).¹ ECF 20 No. 1.

Plaintiff concurrently filed a Motion to Proceed in forma pauperis (“IFP”) and a 21 22 23 24 1
The Court is unable to decipher exactly who Plaintiff filed suit against. The first page of her
Complaint identifies the Defendants as “Robertsons et al.” ECF No. 1 at 1.

The Civil 25 Cover Sheet says “Robinsons et al,” which seems to include U.S. District Court
Judge 26 Todd Robinson; San Diego County Superior Court Judge Alana Robinson; and “Lawyer
Chad White.” ECF No. 1-1. 27 1 Motion to Appoint Counsel. ECF Nos. 2, 3.

For the reasons below, the Court GRANTS 2 Plaintiff’s Motion to Proceed IFP; sua sponte
DISMISSES Plaintiff’s Complaint for 3 failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)
(B)(ii); and DENIES Plaintiff’s 4 Motion to Appoint Counsel as MOOT. 5 I. Motion to Proceed In
Forma Pauperis 6 All parties instituting any civil action, suit, or proceeding in a United States 7
District Court, except an application for writ of habeas corpus, must pay a filing fee of 8 \$402.

See 28 U.S.C. § 1914(a).² An action may proceed despite a plaintiff’s failure to 9 prepay the
entire fee only if she is granted leave to proceed IFP pursuant to § 1915(a). 10 See *Andrews v.*
Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*, 169 11 F.3d 1176, 1177 (9th
Cir. 1999).

The plaintiff must submit an affidavit demonstrating her 12 inability to pay the filing fee, and the
affidavit must include a complete statement of the 13 plaintiff’s assets. 28 U.S.C. § 1915(a)(1).
“To satisfy the requirements of 28 U.S.C. § 14 1915, applicants must demonstrate that because of
poverty, they cannot meet court costs 15 and still provide themselves, and any dependents, with
the necessities of life.” *Soldani v.* 16 Comm’r of Soc.

Sec., 2019 WL 2160380, at *1 (E.D. Cal. Jan. 31, 2019). Courts may consider the federal poverty guidelines set by the United States Department of Health and Human Services as well as income in the context of overall expenses and other factors, including savings and debts, in ruling on IFP applications. *McKinley v. Cnty. of Fresno*, 2021 WL 3007162, at *1 (E.D.

Cal. July 15, 2021). Effective December 1, 2020, civil litigants must pay an additional administrative fee of \$52, in addition to the \$350 filing fee set by statute. See 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff. Dec. 1, 2020)).

The \$52 administrative fee does not apply to persons granted leave to proceed IFP. *Id.* Here, the Court finds IFP status is appropriate. Plaintiff's affidavit shows that she receives \$6,640 in alimony each month. ECF No. 2 at 1. She states she has not been employed in the past two years and has no money in a checking account. *Id.* at 2. Plaintiff also states she is "in debt every month" and that she does not have enough money for "food and transport and medical care." *Id.* at 5.

Thus, the Court finds that Plaintiff has proven she cannot meet court costs and still provide the "necessities of life" for herself and her dependent son. *Soldani*, 2019 WL 2160380, at *1. The Court GRANTS Plaintiff's Motion to Proceed IFP. II. Sua Sponte Dismissal Pursuant to 28 U.S.C. § 1915(e)(2) A complaint filed by any person proceeding IFP pursuant to 28 U.S.C. § 1915(a) is subject to mandatory sua sponte review and dismissal by the Court if it is "frivolous, or malicious; fails to state a claim upon which relief may be granted; or seeks monetary relief against a defendant immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir.

2001) ("[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners."); *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000). 28 U.S.C. § 1915(e)(2) mandates that a court reviewing a complaint filed pursuant to the IFP provisions of 28 U.S.C. § 1915 rule on its own motion to dismiss before directing that the complaint be served by the U.S. Marshal pursuant to Federal Rule of Civil Procedure 4(c)(2).

Lopez, 203 F.3d at 1127. The requirements under 28 U.S.C. § 1915(e)(2)(B)(ii) are analogous to those under Federal Rule of Civil Procedure ("Rule") 12(b)(6). Under Rule 8(a)(2), a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). While a plaintiff need not give "detailed factual allegations," a plaintiff must plead sufficient facts that, if true, raise a right to relief above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007).

To state a claim upon which relief may be granted "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v.*

Iqbal, 556 U.S. 662, 678 (2009) (quoting Twombly, 550 U.S. at 547). A claim is 3 facially plausible when the factual allegations permit “the court to draw the reasonable 4 inference that the defendant is liable for the misconduct alleged.” Id. 5 Plaintiff’s Complaint is difficult to understand.

The Complaint caption states the 6 case is for “misuse of the Government privilege to seal to cover up crimes, 13th 7 violations, DVRO violations, [illegible].” ECF No. 1 at 1. She states that “[a]ll of the 8 Defendants in this and the related cases conspired in attempted elimination of the 9 Plaintiff’s family as part of the clandestine internal terror activity, theologically based.” 10 Id. at 2.

She requests that the Court “apply ex parte law in DVRO violations,” “stop 11 Robinsons et al. from misusing VA military power to injure Plaintiff’s family with intent 12 to eliminate,” “investigate the misuse of government seal,” “subpoena internal 13 investigations in this and all prior enclosed cases,” “unmask undercover agents used by 14 the opposition to subvert state and US laws,” “stop pre-meditated deadly harms to the 15 Plaintiff’s family,” “stop online education scam,” “apply rules of law and rules of 16 evidence,” “vacate arrest of plaintiff, habeas corpus law was broken,”³ “unmask Chad 17 White as a lawyer for the opposition,” “restrain co-conspirators and their lawyers 18 engaged in breaking all laws in their [illegible] in order to harm Plaintiff’s family.” Id. at 19 3-4.

20 28 U.S.C. § 1915(e)(2)(B)(i) allows courts to dismiss a claim filed IFP if it is 21 frivolous. A complaint is frivolous where “it lacks an arguable basis either in law or in 22 fact.” *Nietzke v. Williams*, 490 U.S. 319, 325 (1989).

In the most succinct form, 23 Plaintiff’s Complaint appears to allege that the Defendants “united to cover up crimes of 24 internal terrorism.” Id. at 1. The Civil Cover Sheet alleges violations of 10 U.S.C. § 920, 25 26 3 Plaintiff does not appear to be presently incarcerated. 27 1 18 U.S.C. § 1017, 18 U.S.C. § 77, VAWA Act. ECF No. 1-1. She states that the 2 government misused the “privilege seal to cover up rape.” Id. Because the Court 3 struggles to make sense of the factual allegations and legal theories Plaintiff intends to 4 pursue, the Court finds her factual allegations do not support any cause of action and her 5 legal conclusions do not seem viable.

6 Further, IFP complaints that are “[d]uplicative or repetitious litigation of virtually 7 identical causes of action [are] subject to dismissal.” *Anderson Adams v. Hernandez*, 8 1993 WL 548812, at *2 (N.D. Cal. Dec. 21, 1993). “Where a plaintiff repeats pending or 9 previously litigated claims, it is proper to dismiss it as frivolous under 28 U.S.C. § 1915.” 10 *Collier v. Collier*, 2023 WL 1767012, at *3 (S.D.

Cal. Feb. 3, 2023) (citing *Cato v. 11 United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995)). “[I]n assessing whether the 12 second action is duplicative of the first, [courts] examine whether the

causes of action 13 and relief sought, as well as the parties or privies to the action, are the same.” Id. 14 (quoting *Adams v. Cal. Dep’t of Health Servs.*, 487 F.3d 684, 689 (9th Cir.

2007)). 15 As stated by Judge Sabraw, Plaintiff Collier’s claims “are not new to the federal 16 courts.” Collier, 2023 WL 1767012, at *3. Plaintiff has brought “nearly identical claims 17 before the Northern District of California, the Ninth Circuit, the Federal Circuit, and the 18 United States Supreme Court.” Id. In addition, Plaintiff has brought multiple actions in 19 the Southern District of California.

See e.g., *Collier v. White*, 23-cv-385 (S.D. Cal.); 20 *Collier v. Collier*, 23-cv-170 (S.D. Cal.). In this action, Plaintiff brings suit against Judge 21 Todd Robinson, Judge Alana Robinson, and Lawyer Charles White—Defendants Judge 22 Todd Robinson and Judge Alana Robinson have not been sued in this District; however, 23 Chad White has been sued by Plaintiff in this District.

See *Collier v. White*, 23-cv-385 24 (S.D. Cal.). Although it is difficult to make out Plaintiff’s cause(s) of action, it appears 25 this action, like the others filed by Collier, “stem[s] from a California family law matter.” 26 Collier, 2023 WL 1767012, at *3. Plaintiff seems to allege various federal violations 27 1 || (e.g., 10 U.S.C. § 920; VAWA, (see ECF No. 1-1)), but “the underlying conduct stems 2 an alleged disagreement regarding child custody.” Id.

These claims have been 3 || presented in this District and others, and have repeatedly been dismissed as frivolous. 4 || Thus, the Court finds Plaintiff’s Complaint shall be DISMISSED WITH PREJUDICE 5 ||and without leave to amend. See *Lopez v. Smith*, 203 F.3d 1122, 1127 n.8 (9th Cir. 2000) 6 || (“When a case may be classified as frivolous or malicious, there is, by definition, no 7 merit to the underlying action and so no reason to grant leave to amend.”).

8 CONCLUSION 9 For the reasons above, Plaintiff’s Motion to Proceed IFP is GRANTED, and the 10 Complaint is DISMISSED WITH PREJUDICE and without leave to amend. Plaintiffs 11 || Motion for Appointment of Counsel is hereby DENIED as MOOT. 12 IT IS SO ORDERED. 13 Dated: March 14, 2023 =< 15 United States District Judge 16 17 18 19 20 21 22 23 24 25 26 27 28 23-cv-368-GPC