

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 19 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ROBIN HOOD WHO, on behalf of all
victims of such a "Abomination
Govenment",

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF
THE TREASURY,

Defendant-Appellee.

No. 19-35723

D.C. No. 3:19-cv-01028-SI
District of Oregon,
Portland

ORDER

Before: McKEOWN, W. FLETCHER, and RAWLINSON, Circuit Judges.

The motion for reconsideration en banc (Docket Entry No. 8) is denied on
behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings will be entertained in this closed case.

... by the same 3 (BIAS) Judges ???

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OCT 24 2019

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ORDER

Before: McKEOWN, W. FLETCHER, and RAWLINSON, Circuit Judges.

Upon a review of the record and the response to the court's August 30, 2019 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 2), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Appellant's "Motion to Serve documents for response to Clerk's Order" is denied.

DISMISSED.

UNITED STATES COURT OF APPEALS

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AUG 30 2019

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ORDER

A review of the district court's docket reflects that the district court has certified that this appeal is not taken in good faith and has revoked appellant's in forma pauperis status. *See* 28 U.S.C. § 1915(a). This court may dismiss a case at any time, if the court determines the case is frivolous. *See* 28 U.S.C. § 1915(e)(2).

Within 35 days after the date of this order, appellant must:

(1) file a motion to dismiss this appeal, *see* Fed. R. App. P. 42(b), or

(2) file a statement explaining why the appeal is not frivolous and should go

forward.

If appellant does not respond to this order, the Clerk will dismiss this appeal for failure to prosecute, without further notice. *See* 9th Cir. R. 42-1. If appellant files a motion to dismiss the appeal, the Clerk will dismiss this appeal, pursuant to

Federal Rule of Appellate Procedure 42(b). If appellant submits any response to this order other than a motion to dismiss the appeal, the court may dismiss this appeal as frivolous, without further notice.

The briefing schedule for this appeal is stayed.

The Clerk shall serve on appellant: (1) a form motion to voluntarily dismiss the appeal, and (2) a form statement that the appeal should go forward. Appellant may use the enclosed forms for any motion to dismiss the appeal or statement that the appeal should go forward.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Joseph Williams
Deputy Clerk
Ninth Circuit Rule 27-7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

**ROBIN HOOD WHO, on behalf of all
victims of such a "Abomination
Government",**

Plaintiff,

v.

U.S. TREASURY,

Defendant.

Case No. 3:19-cv-1028-SI

JUDGMENT

Michael H. Simon, District Judge.

Based on the Court's ORDER,

IT IS ADJUDGED that this case is DISMISSED.

DATED this 23rd day of July, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

**ROBIN HOOD WHO, on behalf of all
victims of such a "Abomination
Government",**

Plaintiff,

v.

U.S. TREASURY,

Defendant.

Michael H. Simon, District Judge.

Case No. 3:19-cv-1028-SI

ORDER

Plaintiff "Robin Hood Who" is a fictitious name of "Gus Who," which is a pseudonym for the plaintiff, who wishes to remain anonymous. Plaintiff filed *pro se* claims against Defendant "United States Treasury, et al.," although Plaintiff did not name in the caption of the complaint any other defendant. The body of the complaint appears also to allege claims against President Donald J. Trump. Service of process has not yet occurred. Additionally, Plaintiff filed an application to proceed *in forma pauperis* (ECF 2) and an objection to the assignment of this case to the undersigned judge (ECF 4). The Court overrules Plaintiff's objection to the judicial assignment of this case and grants Plaintiff's application to proceed *in forma pauperis*, but finds that even under the liberal pleading standards afforded a *pro se* plaintiff, Plaintiff fails to state a claim upon which relief may be granted. Accordingly, for the reasons stated below, this case is dismissed.

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STANDARDS

A complaint filed *in forma pauperis* may be dismissed at any time, including before service of process, if the Court determines that the action is: (1) “frivolous or malicious”; (2) “fails to state a claim on which relief may be granted”; or (3) “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous “where it lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see also Martin v. Sias*, 88 F.3d 774, 775 (9th Cir. 1996). The term “frivolous,” when used to describe a complaint, “embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Neitzke*, 490 U.S. at 325.

A complaint fails to state a claim when there is no cognizable legal theory or the factual allegations are insufficient to support a claim for relief. *Shroyer v. New Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010). In evaluating the sufficiency of a complaint’s factual allegations, the court must accept as true all well-pleaded material facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *Wilson v. Hewlett-Packard Co.*, 668 F.3d 1136, 1140 (9th Cir. 2012); *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010). But to be entitled to a presumption of truth, the complaint must do more than simply allege legal conclusions couched as factual allegations. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). The plaintiff “may not simply recite the elements of a cause of action, but must [provide] sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively.” *Starr v. Baca*, 652 F.3d 1202, 1216 (9th Cir. 2011). The underlying factual allegations must “plausibly suggest an entitlement to relief.” *Id.* (emphasis added). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007)).

Pro se plaintiffs receive special dispensation. A court must liberally construe the filings of a *pro se* plaintiff and afford the plaintiff the benefit of any reasonable doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). “Unless it is absolutely clear that no amendment can cure the defect, . . . a pro se litigant is entitled to notice of the complaint’s deficiencies and an opportunity to amend prior to dismissal of the action.” *Garity v. APWU Nat’l Labor Org.*, 828 F.3d 848, 854 (9th Cir. 2016) (alteration in original) (quoting *Lucas v. Dep’t of Corrections*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam)). Even a *pro se* plaintiff, however, must offer more than “‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555).

DISCUSSION

Plaintiff alleges a claim under the Racketeer Influence and Corrupt Organizations (“RICO”) Act, 18 U.S.C. § 1962. It appears that Plaintiff is alleging that the U.S. Treasury and President Trump were involved in some type of fraud relating to trades that were made through the U.S. Stock exchange on December 28, 2018. These trades occurred 1,290 days after President Trump announced his candidacy for President, which Plaintiff alleges shows that President Trump is the “abomination that causes desolation,” as “spoken by Jesus” in the Bible, “Matthew 24:15,” and as prophesied as occurring in a timeline of 1,290 days in “Daniel 12:11.”¹

Plaintiff references and copies news articles discussing how the stock market was at a 14-month low in mid-December 2018 when there was a late-day historically high volume of “buy orders” on December 27, 2018 and then even more on December 28, 2018, which were attributed

¹ Plaintiff also queries whether President Trump is the “anti-Christ, according to such visions and prophesies.”

to pension managers.² One commentator questioned whether the December 28th buys were actually from pension reallocation trades or from “someone trying to fake out the [algorithms] into buying.” ECF 1 at 5. This commentator then noted that “if this is a fake breakout, we may see some truly historic downward TICK prints over the next 90 minutes.” *Id.* at 6. Plaintiff does not allege that those resulting “truly historic downward TICK prints” actually occurred. Plaintiff simply alleges in a conclusory fashion that the “US government was behind this ‘ABOMINATION’ of buying stocks.” *Id.* at 4.

“RICO was intended to combat organized crime, not to provide a federal cause of action and treble damages to every tort plaintiff.” *Oscar v. University Students Co-operative Ass’n*, 965 F.2d 783, 786 (9th Cir. 1992), *abrogated on other grounds by Diaz v. Gates*, 420 F.3d 897 (9th Cir. 2005). To state a civil claim under RICO, a plaintiff must show that a defendant engaged in a *pattern* of racketeering activity. *Ticor Title Ins. Co. v. Florida*, 937 F.2d 447, 450 (9th Cir. 1991). This requires a plaintiff to “show that the racketeering predicates are related, *and* that they amount to or pose a threat of continued criminal activity.” *H.J. Inc. v. Nw. Bell Telephone Co.*, 492 U.S. 229, 239 (1989) (emphasis in original). The relationship requirement is satisfied by a showing that the racketeering predicates “have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.” *Id.* at 240. “To satisfy the continuity prong of the test, one need only show that the predicates pose a threat of continued criminal activity, such as when the illegal conduct is ‘a regular way of conducting [a] defendant’s ongoing legitimate business.’” *Ticor*, 937 F.2d at 450 (quoting *H.J.*, 492 U.S. at 239). The heightened standard of Rule 9(b) of the Federal Rules of Civil Procedure also applies to RICO claims alleging predicate

² One article noted that pensions had \$60 billion to rebalance, “among the most ever.”

acts involving fraud. *See, e.g., Lancaster Cnty. Hosp. v. Antelope Valley Hosp. Dist.*, 940 F.2d 397, 405 (9th Cir. 1991); *Alan Neuman Prods., Inc. v. Albright*, 862 F.2d 1388, 1392-93 (9th Cir. 1988).

Plaintiff's complaint does not allege any facts, let alone contain the requisite specificity, supporting that the U.S. Treasury or President Trump were involved in the December 28, 2018 buy orders. The commentary by Mr. Tyler Durden questions whether pension buyers actually placed the orders and warns people to be prepared for immediate historic downward ticks if pensions buyers did not place the orders. This article provides no factual support that the U.S. Treasury or President Trump placed the orders. Nor does Plaintiff allege any facts demonstrating a *pattern* of racketeering activity or a realistic threat of ongoing criminal acts by the U.S. Treasury or President Trump relating to the alleged stock market buys on December 28, 2018. Furthermore, Plaintiff's complaint does not allege in an understandable manner the remedy sought. Plaintiff states in his conclusion:

Once the word gets out that the defendants caused this "Abomination that caused Desolation" . . . as the global economy collapses [sic] . . . I Robin Hood, declare that his gang still has to feed the Poor and will legally take the "Cents" needed to do so, with or without defendants' consent and have "All Rights Reserved" . . . as such "documented proof" to this subject matter becomes available [sic], in such globalization time, - as "free market cents" (.02c) is required [sic] for such to be legit, Any and all rights coming from this subject matter- real or intellectual stay in control of plaintiffs and owner of such "Word." (legal authority) given that such court of law would have the same weight in any other so called country or state. Given 2 cents of Gus Who Casino is on the line to the so called 6 trillion cents from Trump's casino in question being worth equal or less-than on such a leger [sic] sheet.

ECF 1 at 7 (alterations in original).

Even interpreting Plaintiff's Complaint under the liberal *pro se* pleading standard and affording Plaintiff "the benefit of any reasonable doubt," the Complaint contains no facts that

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could support a cause of action. For these reasons, the Court holds that the Complaint fails to state a claim on which relief may be granted and is frivolous. *See* 28 U.S.C. § 1915(e)(2). The Court also finds that allowing an amendment would be futile because it is clear that no amendment could cure the defects identified in this Order.

CONCLUSION

Plaintiff's objections to the assignment of the undersigned judge (ECF 4) are overruled. Plaintiff's application to proceed *in forma pauperis* (ECF 2) is GRANTED. Plaintiff's Complaint (ECF 1) is DISMISSED as frivolous and for failure to state a claim upon which relief may be granted, and amendment would be futile. The Court further finds that any appeal from this Order would not be taken in good faith and Plaintiff's *in forma pauperis* status should be revoked pursuant to 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

DATED this 23rd day of July, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge