

PAGE #21, "THE SUPREME COURT

4-19-2024

THE UNITED STATES  
Supreme Court

24-842

Appendix A

DOCKET # 24-842

- 1 - ORDER 3.27.2024 Dismissal
- 2 - GENERAL DOCKET SHEET "Decided"
- 3 - GENERAL DOCKET SHEET "Open/Closed"

Original

**EXHIBIT**

ONE

Page # 22 ) The Supreme Court

## UNITED STATES COURT OF APPEALS

## FOR THE NINTH CIRCUIT

FILED

MAR 27 2024

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

GREGORY SCOTT VAN HUISEN,

No. 24-842

Plaintiff - Appellant,

D.C. No.

v.

2:24-cv-00018-TLN-KJN

UNITED STATES OF AMERICA, PR, et  
al.,Eastern District of California,  
Sacramento

Defendants - Appellees.

ORDER

Before: FRIEDLAND, VANDYKE, and MENDOZA, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable.

*See Serine v. Peterson*, 989 F.2d 371, 372-73 (9th Cir. 1993) (magistrate judge's findings and recommendations not appealable; premature appeal not cured by subsequent entry of final judgment by district court). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

No further filings will be entertained in this appeal.

**DISMISSED.**

PUBLIC DOCKET FOR

*Copy*

United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 24-842

Docketed: 02/16/2024

Case Name: Van Huisen v. United States of America, et al.

Status:  Decided

Nature of Suit: 2550 Prisoner-Civil Rights

Appeal From: Sacramento, Eastern California

Fee Status: IFP

Case Type Information

1. Prisoner
2. United States
3. Civil Rights

Originating Court Information

District: : 2:24-cv-00018-TLN-KJN

Trial Judge: Troy L. Nunley, District Judge

Date Order/Judgment Date Order/Judgment EOD Date NOA Filed Date Rec'd COA

Associated Cases

Role (To)	Case Number (Connected To)	Connected To	Starting	Ending
Prior-Rel	23-55077	Gregory Van Huisen v. Charles Brown, et al.	02/16/2024	
Related	24-1529	Van Huisen v. Chief of Staff, et al.	03/14/2024	
Related	24-898	Van Huisen v. United States House of Representatives, et al.	02/21/2024	
Related	24-964	Van Huisen v. Warner Brothers, et al.	02/22/2024	

Party and Attorney Listing

PAGE 25, "THE Supreme Court"  
PUBLIC DOCKET FOR

United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 24-842

Docketed: 02/16/2024

Case Name: Van Huisen v. United States of America, et al.

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Party and Attorney Listing

TLN-KJN has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit.

The U.S. Court of Appeals docket number 24-842 has been assigned to this case. All communications with the court must indicate this Court of Appeals docket number. Please carefully review the docket to ensure the name(s) and contact information are correct. It is your responsibility to alert the court if your contact information changes.

#### Resources Available

For more information about case processing and to assist you in preparing your brief, please review the Case Opening Information (for attorneys and pro se litigants) and review the Appellate Practice Guide. Counsel should consider contacting the court's Appellate Mentoring Program for help with the brief and argument. [Entered: 02/16/2024 12:59 PM]

02/16/2024 2	SCHEDULE NOTICE. Appeal Opening Brief (No Transcript Due) (Appellant) 3/27/2024. All briefs shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1. Failure of the petitioner(s)/appellant(s) to comply with this briefing schedule will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1. [Entered: 02/16/2024 01:05 PM]
02/23/2024 3	MOTION to Proceed In Forma Pauperis filed by Appellant Gregory Scott Van Huisen. [Entered: 02/23/2024 03:49 PM]
02/27/2024 4	Miscellaneous Pro Se Filings Filed: Certificate of funds. [Entered: 02/27/2024 03:27 PM]
03/08/2024 5	Miscellaneous Pro Se Filings Filed [Entered: 03/08/2024 03:51 PM]
03/22/2024 6	OPENING BRIEF submitted for filing by Appellant Gregory Scott Van Huisen. [Entered: 03/22/2024 01:41 PM]
03/22/2024 7	CLERK ACTION: Opening Brief submitted at DE 6 by Appellant Gregory Scott Van Huisen is filed. Original and 0 copies. (IFP motion pending, briefing remains stayed) [Entered: 03/22/2024 01:42 PM]
03/22/2024 8	MOTION to Proceed In Forma Pauperis filed by Appellant Gregory Scott Van Huisen. [Entered: 03/22/2024 03:21 PM]
03/22/2024 9	REQUEST for Public Information filed by Appellant Gregory Scott Van Huisen. [Entered: 03/22/2024 03:22 PM]

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY SCOTT VAN HUISEN,

No. 2:24-cv-0018 TLN KJN P

Plaintiff,

v.

CLINTON ADMINISTRATION, et al.,

FINDINGS AND RECOMMENDATIONS

Defendants.

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis. On September 25, 2023, plaintiff filed an amended complaint. On January 8, 2024, plaintiff's complaint was dismissed with leave to amend. On January 12, 2024, plaintiff filed an amended complaint. On January 30, 2024, plaintiff filed a second amended complaint. Because plaintiff's first amended complaint was superseded by the filing of his second amended complaint, the undersigned now screens plaintiff's second amended complaint.

As discussed below, it is recommended that plaintiff's second amended complaint be dismissed as legally frivolous and without leave to amend.

Screening Standards

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally

1 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek  
 2 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

3 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
 4 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
 5 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an  
 6 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
 7 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
 8 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
 9 Cir. 1989); Franklin, 745 F.2d at 1227.

10 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon  
 11 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in  
 12 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467  
 13 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt  
 14 Lake Log Owners Ass'n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under  
 15 this standard, the court must accept as true the allegations of the complaint in question, Hosp.  
 16 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light  
 17 most favorable to the plaintiff, and resolve all doubts in the plaintiff's favor, Jenkins v.  
 18 McKeithen, 395 U.S. 411, 421 (1969).

19 Discussion

20 As set forth above, a complaint is legally frivolous within the meaning of 28 U.S.C.  
 21 § 1915 “where it lacks an arguable basis either in law or in fact.” Neitzke, 490 U.S. at 325. “The  
 22 court may . . . dismiss a claim as frivolous where it is based on an indisputably meritless legal  
 23 theory or where the factual contentions are clearly baseless.” Howell v. Johnson, 2021 WL  
 24 3602139, at \*1 (E.D. Cal. 2021) (citing Neitzke, 490 U.S. at 327). “The critical inquiry is  
 25 whether a . . . claim, however inartfully pleaded, has an arguable legal and factual basis.” Id.  
 26 (citations omitted).

27 Here, plaintiff's second amended complaint is based on indisputably meritless legal  
 28 theories. Examples of claims based on an indisputably meritless legal theory include claims of

1 infringement of a legal interest which clearly does not exist. Neitzke, 490 U.S. at 327. Plaintiff  
2 purports to bring this suit against President Joe Biden and Vice President Kamala Harris, and  
3 former presidents Barack Obama, Bill Clinton and the Clinton Administration, and George Bush  
4 Jr. and Sr., among others, but there appears to be no plausible connection between plaintiff and  
5 such defendants.

6 For example, as to Vice President Harris, plaintiff declares:

7 Protecting an incumbent, diminution, civil conspiracy, illicit  
8 cohabitation. An immoral contract on the plaintiff. Pue Autzie Vie.  
9 The Hatch Act, Isaiah 59:5. Non possesori incumbit necessitas  
10 probandi possessions ad se pertinere, "A person in possession is not  
11 bound to prove that possessions belong to him." . . . The plaintiff's  
12 life runs on all fours. "Silence is gold but speech is silver." Ancient  
13 writings. Ecclesiastes Chapter III. A time to speak and a time to  
14 refrain from speaking. The revolution. Possession is 9 tenths of the  
15 law. See Van Huisen vs. House of Representatives, 2:23-cv-1869  
16 CKD (P). A case of 1st impression. Concise. "It is their right, it is  
17 their duty, to throw off such government and provide new guards for  
18 their future security. Civil rights, personal trespass.

19 (ECF No. 14 at 35.) As to George Bush, Jr., plaintiff declares:

20 The Hatch Act. . . . Even the corruption of the best is the worst of all.  
21 Defendant did to plaintiff, undue influence -- outlawry. They hatch  
22 eggs & weave the spiders, those who eat of their eggs die and from  
23 that which is crushed a viper breaks out. The Hatch Act, prospering  
24 while in insurrection. . . .

25 (ECF No. 14 at 43.) Later, plaintiff raises three claims:

26 1. Eighth Amendment violation based on "tyranny, lost leader, color of state law, civil  
27 conspiracy, involuntary servitude, Capitol Hill has lost its value. . . ." (ECF No. 14 at 56.)  
28  
2. Thirteenth Amendment violation "despot, posterity, piracy, interpose, bribery and theft  
by deception," based on the Declaration of Independence, abolishing the free system of English  
laws. . . . (ECF No. 14 at 57.)  
29  
3. Fourteenth Amendment violation "fore-judger! Reconstruction amendments -- crude  
oil against thereof," based on Psalms, "the revolution. . . ." (ECF No. 14 at 58.)

30 Plaintiff's factual allegations are incomprehensible and appear to be baseless. Clearly  
31 baseless factual allegations include those "that are 'fanciful,' 'fantastic,' and 'delusional.'"  
32 Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) (quoting Neitzke, 490 U.S. at 325, 327, 328).

1 Thus, “a finding of factual frivolousness is appropriate when the facts alleged rise to the level of  
2 the irrational or the wholly incredible, whether or not there are judicially noticeable facts  
3 available to contradict them.” Denton, 304 U.S. at 33. Plaintiff’s factual allegations are  
4 incomprehensible. Although plaintiff provides a separate declaration for each of the 27 named  
5 defendants, all of the declarations are similarly incomprehensible.

6 Therefore, the undersigned concludes that plaintiff’s second amended complaint is legally  
7 frivolous, fails to state any claims that are plausible, and the undersigned recommends that this  
8 action be dismissed.

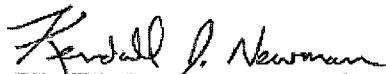
9 Because the second amended complaint is incomprehensible with no basis in fact or law,  
10 it is recommended that plaintiff should not be granted leave to amend; leave to amend would be  
11 futile. See Lopez v. Smith, 203 F.3d 1122, 1127 n.8 (9th Cir. 2000) (“When a case may be  
12 classified as frivolous or malicious, there is, by definition, no merit to the underlying action and  
13 so no reason to grant leave to amend.”); accord Badfoot v. Estelle, 874 F.2d 815 and n.1, 4 (9th  
14 Cir. 1989) (Unreported, Table) (affirming dismissal of prisoner’s complaint without leave to  
15 amend based on finding it incomprehensible).

16 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s second amended  
17 complaint be dismissed without leave to amend, and this action be terminated.

18 These findings and recommendations are submitted to the United States District Judge  
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
20 after being served with these findings and recommendations, plaintiff may file written objections  
21 with the court and serve a copy on all parties. Such a document should be captioned  
22 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that  
23 failure to file objections within the specified time may waive the right to appeal the District  
24 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

25 Dated: February 2, 2024

26  
27 /vanh0018.56  
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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY SCOTT VAN HUISEN,

No. 2:24-cv-0018-TLN-KJN

Plaintiff,

v.

CLINTON ADMINISTRATION, et al.,

Defendant.

**ORDER**

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 2, 2024, the magistrate judge filed findings and recommendations herein which were served on Plaintiff, and contained notice to Plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff filed objections to the findings and recommendations. (ECF No. 16.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

///

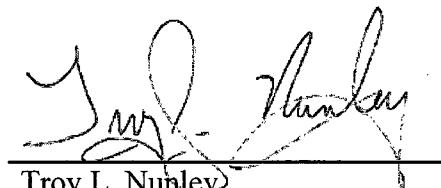
1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed February 2, 2024 (ECF No. 15) are  
3 ADOPTED IN FULL;

4 2. Plaintiff's Second Amended Complaint is DISMISSED without leave to amend;  
5 and

6 3. The Clerk of Court is directed to close this case.

7 Date: February 26, 2024

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10   
11 Troy L. Nunley  
12 United States District Judge  
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**Additional material  
from this filing is  
available in the  
Clerk's Office.**