APPENDIX

APPENDIX

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UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

SCOTT YORK, an individual,
Plaintiff.

v.

UNITED STATES OF AMERICA; et al.
Defendants.

D.C. No. 2:22-cv-09127-JAK-SP
JUDGMENT

Pursuant to the Memorandum and Order Denying Application for Preliminary Injunction and Temporary Restraining Order, and Summarily Dismissing Complaint,

IT IS HEREBY ADJUDGED that the Complaint and this action are dismissed with prejudice and without leave to amend.

Dated: February 2, 2023

JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE

II. Memorandum and Order [Dimissing Entire Lawsuit Sua Sponte] issued by United States District Court for the Centra District of California, Ninth Circuit

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UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

SCOTT YORK, an individual,
Plaintiff.
v.
UNITED STATES OF AMERICA; et al.
Defendants.

D.C. No. 2:22-cv-09127-JAK-SP

MEMORANDUM AND ORDER
DENYING APPLICATION FOR
PRELIMINARY INJUNCTION AND

TEMPORARY RESTRAINING ORDER,
AND SUMMARILY DISMISSING
COMPLAINT

I. INTRODUCTION

On December 14, 2022, plaintiff Scott York filed a Complaint against the United States of America and various federal and state agencies and officials, alleging he has been subjected to mind and body control in violation of his civil rights and the Federal Tort Claims Act ("FTCA"). On January 25, 2023, plaintiff filed an application for a temporary restraining order ("TRO") and preliminary injunction, asking the Court to prohibit defendants from engaging in mind and body control activities. Docket no.

A review of plaintiff's Complaint show it fails to allege any plausible facts

that might allow the Court to draw the reasonable inference that defendants are liable, nor is there any reason to believe this could be corrected by amendment. For that reason, as explained in further detail below, the Complaint will be summarily dismissed. Consequently, plaintiff also is not entitled to injunctive relief in this case, and the application for a TRO and preliminary injunction therefore will also be denied.

II. BACKGROUND

Plaintiff alleges he has been subjected to mind and body control through the use of "remote directed energy technologies/weapons" for many years. Compl. ¶ 1. He states these technologies attempt to coerce him into a fabricated, artificial reality, severely limiting him in his personal and professional life. Compl. ¶¶ 5, 17. He alleges defendants coordinated with and included plaintiff's immediate family in the use these technologies against him. Compl. ¶ 10. He contends defendants use these technologies against him in a coordinated effort to violate his constitutional rights. Compl. ¶ 30.

Based on these allegations, plaintiff brings claims for violation of his civil rights under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d 619 (1971), 42 U.S.C. 1983, 42 U.S.C. 1985, and the FTCA. Plaintiff has additionally applied for a TRO and preliminary injunction based on the same allegations.

III. DISCUSSION

A. The Complaint Will Be Summarily Dismissed for Failure to State a Plausible Claim for Relief and as Frivolous

The Federal Rules of Civil Procedure permit a defendant to file a motion to dismiss a complaint for "failure to state a claim upon which relief can be granted."

Fed. R. Civ. P. 12(b)(6). Here, to the Court's knowledge, no defendant has yet been served, and none has filed a motion to dismiss. But the Court is not limited to defendants' motions in its screening of the Complaint. "A trial court may dismiss a claim sua sponte under Fed. R. Civ. P. 12(b)(6). Such a dismissal may be made without notice where the claimant cannot possibly win relief." Omar v. Sea-Land Service, Inc., 813 F.2d 986, 991 (9th Cir. 1987) (citing *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981)). That is the case here.

The dismissal for failure to state a claim "can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory." *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990). In making such a determination, a complaint's allegations must be accepted as true and construed in the light most favorable to the plaintiff. *Love v. U.S.*, 915 F.2d 1242, 1245 (9th Cir. 1990). Further, since plaintiff is appearing pro se, the Court must construe the allegations of the Complaint liberally and must afford plaintiff the benefit of any doubt. *Karim-Panahi v. L.A. Police Dep't*, 839 F.2d 621, 623 (9th Cir. 1988). But the "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). Thus, a complaint must contain "enough facts to state a claim to relief that is

plausible on its face." Id. at 570. "A claim has facial plausibility when the plaintiff pleads enough factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009).

Plaintiff's claims are all based on the same set of facts, as summarized in the previous section. These claims suffer from multiple defects. First, the Complaint fails to indicate what each defendant did to violate plaintiff's civil rights and the FTCA. A complaint must allege a minimum factual and legal basis for each claim

that is sufficient to give each defendant fair notice of what plaintiff's claims are and the grounds upon which they rest. See *Brazil v. U.S. Dep't of Navy*, 66 F.3d 193, 199 (9th Cir. 1995); *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991). While plaintiff makes lengthy allegations about the mind/body control technologies being used on him, plaintiff makes no specific factual allegations connecting defendants to the use of those technologies. Plaintiff draws conclusions about defendants' use of the technologies as a group, but does not support these statements with factual allegations.

The failure to allege facts connecting each defendant to the use of the technologies in question is

something that might be remedied with amendment. But even with such connection, plaintiff's fundamental allegations that he is being controlled by remote directed energy technologies/weapons are lengthy but largely conclusory, and are utterly implausible. There is no reason to believe plaintiff's fantastical allegations could be rendered plausible by amendment of the Complaint. For this reason, the Complaint will be dismissed without leave to amend.

B. Plaintiff Is Not Entitled to a TRO or Preliminary Injunction

Plaintiff also applies for a TRO and preliminary injunction. A preliminary injunction is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972, 117 S. Ct. 1865, 138 L. Ed. 2d 162 (1997) (per curiam) (internal quotations marks and citation omitted). The moving party bears the burden to establish that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008) (citations omitted). Where the moving party has

not made the minimum showing of irreparable injury, it is not necessary for the court to decide whether the movant is likely to succeed on the merits. *Oakland Tribune, Inc. v. Chronicle Publ'g Co.*, 762 F.2d 1374, 1378 (9th Cir. 1985). Likewise, if the moving party "fails to show that he has some chance on the merits, that ends the matter." *Developmental Servs. Network v. Douglas*, 666 F.3d 540, 544 (9th Cir. 2011) (citation omitted).

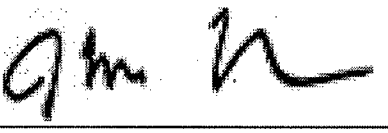
"The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons it should not be required." Fed. R. Civ. P. 65(b)(1).

Here, given that the allegations in the Complaint are implausible and frivolous as discussed above, plaintiff has failed to show he has any chance on the merits, and this ends the matter. As such, plaintiff is not entitled to a TRO or preliminary injunction.

IV. CONCLUSION

IT IS THEREFORE ORDERED that: (1) plaintiff's Application for Temporary Restraining Order and Preliminary Injunction (docket no. 14) is denied; and (2) Judgment be entered summarily dismissing this action without leave to amend.

Dated: February 2, 2023



JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE

III. Memorandum issued by Ninth Circuit Court of Appeals – Filed January 24, 2024

Case: 23-55122, 01/24/2024, ID: 12851879, DktEntry: 7-1, Page 1 of 3

FILED
JAN 24, 2024
MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SCOTT YORK, an individual,
Plaintiff-Appellant.
v.
UNITED STATES OF AMERICA; et al.
Defendants-Appellees.

No. 23-55122

D.C. No. 2:22-cv-09127-JAK-SP

MEMORANDUM[1]

Appeal from the United States District Court for the Central District of California
John A. Kronstadt, District Judge, Presiding

Submitted January 17, 2024[2]

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Scott York appeals pro se from the district court's judgment dismissing his action alleging various federal claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a sua sponte dismissal under Federal Rule of Civil Procedure 12(b)(6). *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir.

1987). We affirm.

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[1] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[2] The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

The district court properly dismissed York's action because York failed to allege facts sufficient to state any plausible claim. *See id.* (explaining that a district court may dismiss sua sponte under Rule 12(b)(6) "without notice where the claimant cannot possibly win relief"); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (explaining that to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face," and that "[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" (citation and internal quotation marks omitted)).

The district court did not abuse its discretion in dismissing without leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper if amendment would be futile).

The district court did not abuse its discretion in denying York's requests for injunctive relief because York failed to demonstrate a likelihood of success on the merits of his claims. *See Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (setting forth standard of review and explaining that a plaintiff seeking a preliminary injunction must establish that the plaintiff is

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likely to succeed on the merits).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

York's motion for injunctive relief on appeal and judicial notice (Docket
Entry No. 6) is denied.

AFFIRMED.

IV. Denial of Plaintiff-Appellant-Petitioner's Request for Rehearing en banc issued by Ninth Circuit Court of Appeals – Filed January 24, 2024

Case: 23-55122, 04/30/2024, ID: 12881448, DktEntry: 9, Page 1 of 1

FILED
APR 30, 2024
MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SCOTT YORK, an individual,
Plaintiff-Appellant.
v.

UNITED STATES OF AMERICA; et al.
Defendants-Appellees.

No. 23-55122

D.C. No. 2:22-cv-09127-JAK-SP
Central District of California, Los Angeles

ORDER

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. See Fed. R. App. P. 35.

York's petition for rehearing en banc (Docket Entry No. 8) is denied.

No further filings will be entertained in this closed case.