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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 REVEREND DR. KAMAL K. ROY,

12 Plaintiff,

13 v.

14 FEDERAL ELECTION et al.,

15 Defendants.

Case No. 08-01480-RSL-JPD

REPORT AND RECOMMENDATION

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17 Plaintiff Reverend Dr. Kamal K. Roy, proceeding *pro se*, has filed an application to
18 proceed *in forma pauperis* (“IFP”) in this proposed civil rights lawsuit against numerous
19 defendants, including “Federal Election,” Senator Barack Obama, Senator John McCain, and
20 “GOP National Committee.” Dkt. No. 1-2 at 1. After careful consideration of plaintiff’s IFP
21 application, proposed complaint, supporting materials, the governing law and the balance of
22 the record, the Court recommends that his case be DISMISSED without prejudice and his IFP
23 application DENIED as moot.

24 Pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court may deny an application to proceed
25 IFP and should dismiss a complaint if it is frivolous or fails to state a claim upon which relief
26 can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii); *O’Loughlin v. Doe*, 920 F.2d 614, 616

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1 (9th Cir. 1990). An action is frivolous if “it lacks an arguable basis either in law or in fact.”
2 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The fact that plaintiff is not a prisoner does not
3 change this analysis. *See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (“[S]ection
4 1915(e) applies to all in forma pauperis complaints, not just those filed by prisoners.”).

5 In order to state a claim for relief under 42 U.S.C. § 1983, a plaintiff must assert that he
6 suffered a violation of rights protected by the U.S. Constitution or created by federal statute,
7 and that the violation was proximately caused by a person acting under color of state or federal
8 law. *See Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991).

9 Plaintiff has failed to do so here. Indeed, his proposed complaint is incomprehensible.
10 It is a fifteen-page combination of handwritten pages and copies of various documents,
11 including printouts from internet websites and miscellaneous pre-printed forms. Each
12 document contains handwritten comments scrawled around the borders of the page or between
13 paragraphs, making many pages impossible to read. *See* Dkt. No. 1-2. In sum, the proposed
14 complaint sets forth a string of rambling statements that: (a) fail to specifically identify what
15 federal statutory or constitutional rights were allegedly violated; and (b) fail to show how the
16 named defendants personally participated in depriving plaintiff of his federal or constitutional
17 rights. Additionally, several of the named defendants do not appear to be state actors subject to
18 suit under § 1983. Because this action appears frivolous and fails to state a claim upon which
19 relief can be granted, it is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B) and Federal
20 Rule of Civil Procedure 12(b)(6).

21 The Court notes that this is not the first time that plaintiff has lodged a frivolous
22 complaint in this district. *See, e.g., Roy v. McCain*, C08-919-TSZ, *Roy v. All State Bd. of*
23 *Elections*, C07-1419-RSL; *Roy v. Roberts et al.*, C07-1157-TSZ; *Roy v. Bush et al.*, C07-484-
24 JCC. To this end, the Court advises plaintiff of his responsibility to research the facts and law
25 before filing a complaint in order to determine whether his claim for relief is frivolous. If
26 plaintiff files another frivolous action, he may be sanctioned. *See* Fed. R. Civ. P. 11. **If**

1 **plaintiff continues to file numerous frivolous or malicious complaints, the Court may bar**
2 **him from proceeding in this court.** *See DeLong v. Hennessey*, 912 F.2d 1144, 1146-48 (9th
3 Cir. 1990) (discussing bar order requirements).

4 Accordingly, the Court recommends that plaintiff's case be DISMISSED without
5 prejudice and his IFP application DENIED as moot. 28 U.S.C. § 1915(e)(2)(B). A proposed
6 Order accompanies this Report and Recommendation.

7 DATED this 14th day of October, 2008.

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10 JAMES P. DONOHUE
11 United States Magistrate Judge
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