

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CODY LOUIS HOPKINS,

Plaintiff,

v.

BENTON COUNTY, BENTON
COUNTY JAIL and KASEY KIST,

Defendants.

No. 4:22-CV-5113-TOR

ORDER OF DISMISSAL

1915(g)

By Order filed October 25, 2022, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty days. ECF No. 7. Plaintiff had commenced this action while a pretrial detainee at the Benton County Jail, and the Court granted him leave to proceed *in forma pauperis* on October 25, 2022. ECF No. 6. Mail sent to Mr. Hopkins at the Benton County Jail was returned as undeliverable on November 15, 2022, ECF No. 11, and then regenerated to Plaintiff at the Washington Corrections Center on the same date. At that time, Plaintiff's deadline to amend or voluntarily dismiss his

1 complaint was extended until January 13, 2022, and he was so notified.
2 Nevertheless, Plaintiff did not comply with the Order to Amend or Voluntarily
3 Dismiss and has filed nothing further in this action.

4 The Court found that Plaintiff's allegations against Benton County were
5 insufficient to state a cognizable claim. *See City of St. Louis v. Praprotnik*, 485
6 U.S. 112, 121 (1988); *Monell v. New York City Dep't of Soc. Servs.*, 436 U.S. 658,
7 690 (1978); *Pembaur v. City of Cincinnati*, 475 U.S. 469, 479-81 (1986). His
8 allegation that Defendant Kist advised him to call his attorney directly failed to state
9 a claim upon which relief may be granted. *See Ramirez v. Galaza*, 334 F.3d 850,
10 860 (9th Cir. 2003); *Mann v. Adams*, 855 F.2d 639, 640 (9th Cir. 1988).

11 The Court cautioned Plaintiff that if he failed to amend his complaint to state
12 a claim upon which relief may be granted, the action would be dismissed, and such
13 dismissal would count as one under 28 U.S.C. § 1915(g). ECF No. 7 at 10. Plaintiff
14 did not amend as directed and has filed nothing further in this action.

15 **ACCORDINGLY, IT IS ORDERED:**

16 1. The claims asserted in Plaintiff's Complaint, ECF No. 1, are **DISMISSED**
17 **with prejudice.**

18 2. This dismissal will count as a "strike" under 28 U.S.C. § 1915(g).

19 3. Plaintiff's *in forma pauperis* status is hereby **REVOKED**.

20 4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this

1 Order would not be taken in good faith and would lack any arguable basis in
2 law or fact.

3 5. The Clerk of Court is further directed to forward a copy of this Order to the
4 Office of the Attorney General of Washington, Criminal Justice Division.

5 The Clerk of Court is directed to enter this Order and Judgment accordingly,
6 forward copies to Plaintiff at his last known address, and **CLOSE** the file.

7 **DATED** this 24th day of January 2023.



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Thomas O. Rice
THOMAS O. RICE
United States District Judge