

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 09, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RAMON RAMIREZ SILVA,

Plaintiff,

v.

CHERYL STRANGE,

Defendant.

No. 4:22-CV-5112-TOR

ORDER DISMISSING ACTION

28 U.S.C. § 1915(g)

By Order filed October 25, 2022, the Court advised Plaintiff Ramon Ramirez Silva, a prisoner currently housed at the Washington State Penitentiary (“WSP”), of the deficiencies with his *pro se* civil rights complaint and directed him to file an amended civil rights complaint within sixty (60) days if he intended to proceed with this action. ECF No. 9 at 13–17. Plaintiff was cautioned that if he failed to either file an amended complaint or a motion to voluntarily dismiss his complaint by December 27, 2022 as directed, the Court would dismiss the complaint for failure to state a claim under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2). *Id.* at 15–16. Plaintiff has filed nothing further in this action.

ORDER DISMISSING ACTION--1

1 For the reasons set forth in the Court's Order to Amend or Voluntarily
2 Dismiss Complaint and Order Denying Motion for Temporary Restraining Order
3 and Motion for Preliminary Injunction, ECF No. 9, Plaintiff's complaint, ECF No.
4 1, is **DISMISSED** without prejudice for failure to state a claim against Defendant
5 upon which relief may be granted. 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2).

6 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
7 brings three or more civil actions or appeals which are dismissed as frivolous or for
8 failure to state a claim will be precluded from bringing any other civil action or
9 appeal *in forma pauperis* "unless the prisoner is under imminent danger of serious
10 physical injury." 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
11 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint**
12 **counts as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may**
13 **adversely affect his ability to file future claims.**

14 **Accordingly, IT IS ORDERED:**

- 15 1. Plaintiff's complaint, ECF No. 1, is **DISMISSED without prejudice** for
16 failure to state a claim upon which relief may be granted under 28 U.S.C.
17 §§ 1915A(b)(1) and 1915(e)(2).
- 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

1 4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of
2 this Order would not be taken in good faith.

3 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
4 enter judgment, provide copies to Plaintiff, and **CLOSE** the file. The Clerk of Court
5 is further directed to forward a copy of this Order to the Office of the Attorney
6 General of Washington, Corrections Division.

7 **DATED** this 9th day of January 2023.



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