

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

Nov 29, 2018

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAURICE BROWN,

Plaintiff,

v.

DR. JOHN F. SMITH, PA-C JO ELLA
PHILLIPS, DR. KENNETH SAWYER,
DR. DALE FETROE, ARNP EDITH
KROHA, PA-C JACKIE PETERSON,
DR. JULIA BARNETT, DR. JANITZA
SCHURCH, ARNP LINDA HEDGES,
PA-C BO STANBURY, PA-C PHU NGO,
PA-C ROBIN SMITH, PA-C JACOB
GRILLO, ARNP SHERYL ALBERT,
ARNP MARTHA NEWTON, DR.
FRANK LONGANO, DR. J. DAVID
KENNEY, PA-C LAURA MANIGO-
HEDT, PA-C JOAN PALMER, PA-C
KEN E. MOORE, PA-C MATTHEW
DEMPSTER-SUMMERS, PA-C JAMES
DUNCAN, and DR. STEVEN G.
HAMMOND,

Defendants.

4:18-cv-05106-SAB

**ORDER DISMISSING
COMPLAINT**

1915(g)

By Order filed September 17, 2018, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. ECF No. 8. Plaintiff, a prisoner at the Washington State

1 Penitentiary, is proceeding *pro se* and *in forma pauperis*; Defendants have not
2 been served.

3 In the Order, the Court found that Plaintiff failed to set forth facts
4 demonstrating how each Defendant caused or personally participated in causing a
5 deprivation of Plaintiff's protected rights. *Id.* He presented no facts from which the
6 Court could infer that identified Defendants denied Plaintiff needed medical care in
7 deliberate indifference to his suffering. *Id.* In addition, Plaintiff's allegation that
8 Defendant Peterson acted negligently is insufficient to establish a constitutional
9 deprivation under the Eighth Amendment." *Id.*

10 Although granted the opportunity to do so, Plaintiff has failed to amend his
11 complaint to state a claim upon which relief may be granted. The Court had
12 cautioned Plaintiff that the failure to amend or voluntarily dismiss would result in
13 the dismissal of this complaint and a possible "strike" under 28 U.S.C. § 1915(g).
14 He has filed nothing further.

15 For the reasons set forth above and in the Order to Amend or Voluntarily
16 Dismiss, ECF No. 8, **IT IS ORDERED** the Complaint, ECF No. 7, is
17 **DISMISSED with prejudice** for failure to state a claim upon which relief may be
18 granted. 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

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

9 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
10 enter judgment, provide copies to Plaintiff at his last known address, and close the
11 file. The Clerk of Court is further directed to forward a copy of this Order to the
12 Office of the Attorney General of Washington, Corrections Division. The Court
13 certifies any appeal of this dismissal would not be taken in good faith.

14 **DATED** this 29th day of November 2018.



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A handwritten signature in blue ink that reads "Stanley A. Bastian".

22 Stanley A. Bastian
23 United States District Judge
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