

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES BENJAMIN BARSTAD,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS, STEPHEN
SINCLAIR, ROBERT HERZOG and
JOHN C. DITTMAN,

Defendants.

NO: 2:19-CV-5195-TOR

ORDER DISMISSING COMPLAINT
WITH PREJUDICE

1915(g)

By Order filed September 13, 2019, the Court advised Plaintiff, a prisoner at the Coyote Ridge Corrections Center, that a temporary property restriction (i.e., denial of a tablet for 30 days) did not state a viable due process claim under 42 U.S.C. § 1983 and granted him the opportunity to voluntarily dismiss his complaint. ECF No. 8. Ten days later, Plaintiff submitted a 101-page document titled, "Opening Brief." ECF No. 9.

Plaintiff challenges the Group Violence Reduction Strategy (GVRS) set forth

1 in Department of Corrections (DOC) Policy 470.540 which allegedly punishes
2 prisoners because they have some social interaction with perpetrators of violent acts.
3 ECF No. 9 at 2. Application of this policy apparently resulted in the denial of
4 Plaintiff's tablet for 30 days. Contrary to Plaintiff's assertions, the temporary
5 deprivation of property is insufficient to invoke procedural due process protections
6 under *Sandin v. Conner*, 515 U.S. 472, 483–84 (1995).

7 For the reasons set forth above in and in the Court's prior Order, **IT IS**
8 **ORDERED** the complaint, ECF No. 1, is **DISMISSED with prejudice** as frivolous
9 and for failure to state a claim upon which relief may be granted. 28 U.S.C. §§
10 1915A(b)(1) and 1915(e)(2).

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

19 Accordingly, IT IS HEREBY ORDERED:

20 1. The complaint, ECF No. 1, is **DISMISSED with prejudice** as frivolous and

1 for failure to state a claim upon which relief may be granted under 28 U.S.C.
2 §§ 1915(e)(2) and 1915A(b)(1).

3 2. Plaintiff's *in forma pauperis* status is revoked.

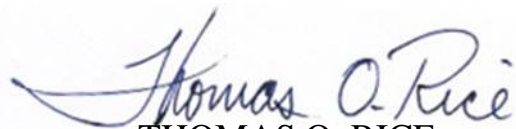
4 3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this
5 Order would not be taken in good faith.

6 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
7 enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE**
8 the file. The Clerk of Court is further directed to forward a copy of this Order to the
9 Office of the Attorney General of Washington, Corrections Division.

10 **DATED** November 12, 2019.



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THOMAS O. RICE
Chief United States District Judge