

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

Jun 25, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MICHAEL R. GREENE,
Plaintiff,

v.

SPOKANE COUNTY DETENTION
SERVICES and OZZIE KNEZOVICH,
Defendants.

NO. 2:20-CV-00028-SAB

**ORDER DISMISSING
COMPLAINT**

By Order filed April 17, 2020, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. ECF No. 7. Plaintiff, a pretrial detainee at Spokane County Detention Services, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served. The Court cautioned Plaintiff that if he failed to comply with the directives in the Order, the Court would dismiss his Complaint. ECF No. 7 at 6. Plaintiff did not comply with the Order and has filed nothing further in this action.

As the Court previously explained, Plaintiff presented no facts from which the Court could infer that Defendant Ozzie Knezovich personally participated in a

1 deprivation of his constitutionally protected rights. *Leer v. Murphy*, 844 F.2d 628,
2 632-33 (9th Cir. 1988); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989);
3 *Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011). Furthermore, for purposes of
4 42 U.S.C. § 1983, the term “person” does not encompass municipal or county
5 departments. *See United States v. Kama*, 394 F.3d 1236, 1239-40 (9th Cir. 2005)
6 (Ferguson, J., concurring). Therefore, a county correctional facility/jail is not a
7 proper Defendant to this action. *See Nolan v. Snohomish Cty.*, 59 Wash. App. 876,
8 883 (1990). Plaintiff did not adequately allege that Spokane County engaged in a
9 pattern or practice that resulted in the deprivation of his constitutional rights.

10 Plaintiff did not comply with the Court’s directive to properly amend or
11 voluntarily dismiss his complaint. For the reasons set forth above and in the
12 Court’s prior order, ECF No. 7, **IT IS ORDERED** the Complaint, ECF No. 1, is
13 **DISMISSED with prejudice** for failure to state a claim upon which relief may be
14 granted. 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

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

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

6 **DATED** this 25th day of June 2020.



10 *Stanley A. Bastian*

11 Stanley A. Bastian
12 United States District Judge
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