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FILED
SUPERIOR COURT
THURSTON COUNTY, WA

2015 MAR 16 PM 4:41

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THURSTON COUNTY CLERK

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**SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY**

CULLEN HANKERSON, plaintiff,
vs.
CORRECTIONAL INDUSTRIES, et al,
defendants,

No. 14-2-00502-1
**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS
(Clerk's Action Required)**

The defendants in this case moved to dismiss this lawsuit under CR 12(b) based on lack of subject matter jurisdiction, failure to state a claim upon which relief may be granted, and lack of personal jurisdiction. The defendants also ask the court to rule that this is a "frivolous lawsuit" under RCW 4.24.430.

The court heard and considered oral argument in this case, and considered the contents of the court file, including:

1. the complaint,
2. plaintiff's motion for temporary injunction,
3. defendant's motion to dismiss (filed 10/23/14),
4. motion to amend complaint (filed 11/26/14);
5. amended complaint (filed 11/26/14); and

The plaintiff had presented two motions to present evidence, apparently related to this motion to dismiss. This court denied those motions on December 5, 2014, and accordingly does not consider the additional evidence presented.

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1 The court hereby GRANTS the defendants' motion to dismiss the complaint under CR 12(b). Initially,
2 the court notes that the plaintiff's complaint and companion motion for temporary injunction are not clear
3 regarding which causes of action are intended to support the factual allegations. The defendants
4 presented a motion to dismiss regarding each possible cause of action. The court is persuaded by the
5 motion to dismiss regarding this issue. First, this court does not have subject matter jurisdiction over
6 the federal claims of mail fraud, Sherman Act violations, and Clayton Act violations. Second, the plaintiff
7 lacks standing to bring a claim for false designation of a trademark. Next, the plaintiff has failed to state
8 a claim for which relief may be granted for violations of the RICO Act and Washington's Criminal
9 Profiteering Act. Fourth, any claims under 42 USC § 1983 must be dismissed for two reasons: the
10 State institutional parties are not proper defendants to such a claim, and there are no allegations
11 regarding personal participation of specific, individual defendants. Finally, the remaining laws cited by
12 the plaintiff, RFP 6184 and RCW 72.01.150, do not support private rights of action.

9 The court also GRANTS the motion to dismiss based on lack of personal jurisdiction over the
10 defendants, as an alternative basis for dismissal. The plaintiff asked the court to authorize alternative
11 service, and the court denied that motion. The defendants have not been properly served, although
12 they apparently submit to this court's jurisdiction for the limited purpose of resolving the motion to
13 dismiss the lawsuit for the reasons stated above.

13 The defendants move this court to find that the lawsuit is frivolous for purposes of RCW 4.24.430, which
14 prohibits waiver of filing fees when an inmate has been adjudicated to have filed three frivolous lawsuits
15 against government agencies or agents. "A lawsuit is frivolous if, when considering the action in its
16 entirety, it cannot be supported by any rational argument based in fact or law." *Wright v. Dave Johnson*
17 *Ins. Inc.*, 167 Wn. App. 758 (2012). The complaint alleges some isolated factual allegations regarding
18 prison food service that, if crafted differently, could theoretically support a viable cause of action.
19 However, when considered in its entirety, this lawsuit cannot be supported by any rational arguments.
20 This court holds that the action was frivolous. This case is dismissed entirely.

18 Signed on March 16th, 2015.

20 Carol Murphy
21 Superior Court Judge Carol Murphy

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MAR 19 2015

ATTORNEY GENERAL'S OFFICE
Corrections Division

SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY

In Re:

CULLEN HANKERSON,

Plaintiff,

and

CORRECTIONAL INDUSTRIES ET AL,
Defendant.

NO. 14-2-00502-1

DECLARATION OF SERVICE

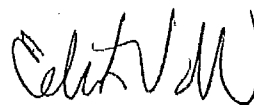
DECLARATION OF SERVICE BY MAIL

I, Edith VanderWal, certify and declare under penalty of perjury under the Laws of the State of Washington as follows: That on March 17, 2015 I mailed a copy of the Order Denying Plaintiff's Motion to File a Second Amended Complaint and Order Denying Additional Motions by Plaintiff, Order Granting Defendant's Motion to Dismiss, dated March 16, 2015, to:

Cullen Hankerson
DOC 959686
Coyote Ridge Corrections Center
PO Box 769
Connell WA 99326

Haley Beach
Attorney at Law
PO Box 40116
Olympia WA 98504

DATED: March 17, 2015



Edith VanderWal, Judicial Assistant

THURSTON COUNTY SUPERIOR COURT
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(360) 786-5560 fax: (360) 754-4060