

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

**Jun 13, 2023**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

LOUIS JAMES THIBODEAUX,

Plaintiff,

v.

SUPERINTENDENT PAUL H.  
DANIEL, CUSTODY UNIT  
SUPERVISOR LANDON W. ADAMS,  
SGT. ABEL URENO and HUGO J.  
REYES,

Defendants.

No. 2:23-cv-00037-MKD

ORDER DISMISSING ACTION

**1915(g)**

By Order entered April 10, 2023, the Court advised Plaintiff Louis James Thibodeaux, a *pro se* prisoner at the Airway Heights Correction Center, of the deficiencies of his First Amended Complaint and directed him to amend or voluntarily dismiss within sixty (60) days. ECF No. 17. Plaintiff did not comply with that Order and has filed nothing further in this action.

On December 30, 2022, Plaintiff paid the \$402.00 filing fee for this action in the Western District of Washington, and the case was transferred here on February

1 13, 2023. ECF Nos. 14, 15. The Court evaluated Plaintiff's First Amended  
2 Complaint on April 10, 2023 pursuant to the Prison Litigation Reform Act of 1995,  
3 28 U.S.C. § 1915A(a), and found that Plaintiff had failed to state a claim upon  
4 which relief may be granted. *See* ECF No. 17 at 4. Specifically, Plaintiff did not  
5 present facts showing that Defendant Superintendent Paul H. Daniel knew of a  
6 constitutional violation and "failed to prevent [it]," *Taylor v. List*, 880 F.2d 1040,  
7 1045 (9th Cir. 1989), or he established a custom or policy that led to the violation,  
8 *see Ybarra v. Reno Thunderbird Mobile Home Village*, 723 F.2d 675, 680 (9th Cir.  
9 1984); *see also Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011) (a supervisor  
10 can only be held liable for his or her own culpable action or inaction).

11 In addition, Plaintiff's contention that he was injured while housed at the  
12 WSP on October 25, 2021, and June 2, 2022, without stating the nature of those  
13 injuries, how he sustained them, or facts showing how identified Defendants  
14 violated his constitutionally protected rights, was insufficient to state an actionable  
15 claim. *See* ECF No. 17 at 7. Further, Plaintiff did not state who subjected him to  
16 Administrative Segregation from June 2, 2022 to August 9, 2022, nor did he  
17 present any facts from which the Court could infer that he was denied due process  
18 or subjected to retaliation. *Id.* at 7-11. Finally, Plaintiff failed to allege facts  
19 demonstrating that Defendants' actions caused an actual injury by hindering him  
20 from pursuing non-frivolous legal claims in court. *Id.* at 12-14. Therefore, his

1 allegations were insufficient to state an access to court claim upon which this Court  
2 could grant relief. *See Lewis v. Casey*, 518 U.S. 343, 351-52 (1996).

3 Although granted the opportunity to amend or voluntarily dismiss, ECF No.  
4 17 at 15-17, Plaintiff has filed nothing further in this action. The Court cautioned  
5 Plaintiff that if he failed to amend within 60 days as directed, the Court would  
6 dismiss the First Amended Complaint for failure to state a claim under 28 U.S.C.  
7 §§ 1915(e)(2) and 1915A(b)(1), and that such a dismissal would count as one of  
8 the dismissals under 28 U.S.C. § 1915(g).

9 For the reasons set forth above, and in the Order to Amend or Voluntarily  
10 Dismiss Complaint and Directing District Court Executive to Terminate and  
11 Modify Certain Defendants, ECF No. 17, this action is **DISMISSED** with  
12 prejudice for failure to state a claim against Defendants upon which relief may be  
13 granted. 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2).

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

1 **adversely affect his ability to file future claims *in forma pauperis*.**

2 Accordingly, **IT IS ORDERED:**

3 1. This action is **DISMISSED WITH PREJUDICE** for failure to state a  
4 claim upon which relief may be granted under 28 U.S.C. §§ 1915A(b)(1) and  
5 1915(e)(2).

6 2. The Court certifies that any appeal of this Order would not be taken in  
7 good faith and would lack any arguable basis in law or fact.

8 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
9 Order, enter judgment, provide copies to Plaintiff, and **CLOSE** the file. The District  
10 Court Executive is further directed to forward a copy of this Order to the Office of  
11 the Attorney General of Washington, Corrections Division.

12 **DATED** June 13, 2023.

13  
14 *s/Mary K. Dimke*  
MARY K. DIMKE  
15 UNITED STATES DISTRICT JUDGE  
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