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2
3 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
4

5 QUINTON P. BROWN,

6 Plaintiff,

7 v.

8 EMERALD STATE OF
WASHINGTON, BERNIE WARNER,
and HENRY BROWNE,

9 Defendants.
10

No. 2:13-CV-00428-SMJ

**ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS**

11 Before the Court, without oral argument, is Defendants' Motion to Dismiss,
12 ECF No. 27. Defendants ask the Court to dismiss Plaintiff's First Amended
13 Complaint, ECF No. 14, under Federal Rule of Civil Procedure 12(c). Having
14 reviewed the pleadings and the file in this matter, the Court is fully informed and
15 grants Defendants' construed Motion to Dismiss.

16 **I. BACKGROUND¹**

17 Plaintiff, an inmate proceeding *pro se* and *in forma pauperis*, filed his First
18 Amended Complaint, ECF No. 14, on April 20, 2014. In it, Plaintiff names the

19 _____
20 ¹ This section is based on the allegations contained in the complaint. *See Ashcroft v. Iqbal*, 556
U.S. 662, 678 (2009). This Court construes pleadings in the light most favorable to the plaintiff
and accepts all material factual allegations in the complaint, as well as any reasonable
inferences drawn therefrom, as true. *Broam v. Bogan*, 320 F.3d 1023, 1028 (9th Cir. 2003).

1 State of Washington; Bernard Warner, the Secretary of the Washington State
2 Department of Corrections (“DOC”); and Henry Browne, a business advisor at the
3 Airway Heights Corrections Center as Defendants. Plaintiff has previously filed a
4 number of lawsuits against various DOC officials, including *Brown v. Alden, et al.*
5 NO. CV-09-5089-RFW (E.D. Wash.), which resulted in a settlement. ECF No. 14.

6 Here, Plaintiff brings a claim under 42 U.S.C. § 1983 after Defendants
7 withdrew some of the settlement funds from his personal inmate account. ECF
8 No. 14 at 18. Specifically, Plaintiff argues that RCW 72.09.111 and RCW
9 72.09.480, the statutes authorizing the withdrawal of legal financial obligations
10 and other fees and costs from prisoner accounts, are unconstitutional under Article
11 I, Section 15 of the Washington State Constitution and the withdrawal goes
12 against RCW 9.92.110. *Id.* at 3-4. He also alleges that the withdrawal violates the
13 Due Process and Equal Protection Clauses of the Fifth and Fourteenth
14 Amendments to the United States Constitution. *Id.*

15 Defendants have asked to dismiss Plaintiff’s allegations under Rule 12(c).
16 ECF No. 27 at 1. Defendants argue that dismissal on the pleadings is proper as a
17 matter of law because (1) Plaintiff has waived his ability to challenge the
18 mandatory statutory deduction taken from his account by the terms of the
19 settlement; (2) he has failed to sufficiently allege a Fourteenth Amendment equal
20 protection violation, (3) he cannot establish a Fifth Amendment due process

1 violation, (4) he has failed to show an unconstitutional forfeiture in violation of
2 the Washington State Constitution or law, (5) he has failed to adequately allege
3 the personal participation of Defendants Browne and Warner, and (6) the Eleventh
4 Amendment bars suit against Washington State and the DOC. *Id.* at 8-17.

5 In turn, Plaintiff responds that he did not waive his right to pursue
6 constitutional claims, that his constitutional claims have merit, that RCW 4.92.090
7 serves to abrogate sovereign immunity in the suit, and that he has sufficiently pled
8 Defendant Warner's and Defendant Browne's personal involvement to survive the
9 motion to dismiss. ECF No. 31. Further, in his response, Plaintiff also claims that
10 the withdrawal of funds from his account went against the terms of his original
11 plea agreement and was therefore improper. *Id.* at 18-19.

12 Even after a liberal construction of the complaint, this Court finds that
13 Plaintiff cannot prevail on his claims as a matter of law. Indeed, the Washington
14 State Supreme Court and the Ninth Circuit have previously dismissed like
15 challenges to the same statutes Plaintiff seeks to invalidate.²

16 **II. ANALYSIS**

17 **A. Legal standard.**

18 A party may move for judgment on the pleadings after the pleadings are
19 closed but within such time as not to delay trial. Fed. R. Civ. P. 12(c). Pursuant to
20

² The Court does not address Defendants' waiver or Eleventh Amendment immunity argument.

1 Federal Rule of Civil Procedure 7(a), pleadings consist of a complaint and an
2 answer. Defendants have not filed an answer in the present case. While a motion
3 for judgment on the pleadings may not be filed before an answer is submitted,
4 such a motion may be treated by the Court as one to dismiss pursuant to Rule
5 12(b)(6). 2 James Wm. Moore et al., Moore's Federal Practice § 12.38 (3d ed.
6 2005). This Court opts to treat Defendants' Motion to Dismiss, ECF No. 27, as
7 such.

8 A motion to dismiss pursuant to Rule 12(b)(6) tests the legal sufficiency of
9 a claim. *Conservation Force v. Salazar*, 646 F.3d 1240, 1241-42 (9th Cir. 2011)
10 (quotation marks and citations omitted). Generally, a court's review is limited to
11 the complaint. *Daniels-Hall v. National Educ. Ass'n*, 629 F.3d 992, 998 (9th Cir.
12 2010). Courts may, however, consider matters subject to judicial notice and
13 documents incorporated by reference in the complaint. *United States v. Ritchie*,
14 342 F.3d 903, 908 (9th Cir. 2003). The Court must accept the well-pled factual
15 allegations as true and draw all reasonable inferences in favor of the non-moving
16 party. *Daniels-Hall*, 629 F.3d at 998.

17 To survive a motion to dismiss, the "complaint must contain sufficient
18 factual matter, accepted as true, to 'state a claim of relief that is plausible on its
19 face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 667 (2009) (quoting *Bell Atlantic Corp. v.*
20 *Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the

1 plaintiff pleads factual content that allows the court to draw the reasonable
2 inference that the defendant is liable for the misconduct alleged.” *Id.* (citing
3 *Twombly*, 550 U.S. at 556). But, in this Circuit, prisoners proceeding pro se are
4 entitled to have their pleadings liberally construed and to have any doubt resolved
5 in their favor. *Wilhelm v. Rotman*, 680 F.3d 1113, 1121 (9th Cir. 2012).

6 **B. State law claims.**

7 By statute, “[w]hen an inmate . . . receives any funds from a settlement or
8 award resulting from a legal action, the additional funds shall be subject to the
9 deductions in RCW 72.09.111(1)(a).” RCW 72.09.480(3). In turn, the referenced
10 statute mandates the secretary of the DOC to “deduct taxes and legal financial
11 obligations” from these funds and sets-up a percentage scheme to do so. *See* RCW
12 72.09.111(1)(a). Plaintiff argues that these statutes contravene the commands of
13 article I, section 15³ of the Washington State Constitution and RCW 9.92.110.⁴

14 This claim necessarily fails. Under article I, section 15, “a conviction only
15 works a prohibited forfeiture if it incapacitates the convict from owning property.”
16 *State v. Wiens*, 77 Wn. App. 651, 656 (1995).

17 It does not prohibit forfeiture for a variety of other rational and
18 legitimate purposes, such as punishing the defendant to a degree

19 ³ Article I, section 15 establishes that “[n]o conviction shall work corruption of blood, nor
forfeiture of estate.”

20 ⁴ In relevant part, RCW 9.92.110 establishes that “A conviction of crime shall not work a
forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in
the nature of deodands, or in case of suicide or where a person flees from justice, are
abolished.”

1 commensurate with the crimes (fines); rehabilitating the defendant by
2 requiring restitution or other monetary payments; or depriving the
defendant of the fruits or instrumentalities of the crime.

3 *State v. Young*, 63 Wn. App. 324, 328-29 (1991) (citing *Leonard v. Seattle*, 81
4 Wn.2d 479, 485 (1972); *State v. Barr*, 99 Wn.2d 75, 77 (1983); *Crape v. Mount* ,
5 32 Wn. App. 567 (1982)). Here, as a matter of law, withdrawing legal financial
6 obligations from inmate accounts pursuant to RCW 72.09.110 serves the rational
7 and legitimate purpose of ensuring that “[a]ll citizens, the public and inmates
8 alike, have a personal and fiscal obligation in the corrections system.” *In re*
9 *Pierce*, 173 Wn.2d 372, 387 (2011) (quoting RCW 72.09.010(5)(e)). Plaintiff has
10 not sufficiently pled and, as a matter of law, cannot establish that RCW 72.09.110
11 and RCW 72.09.480 incapacitate his ability to own property as a result of
12 conviction. Accordingly, this Court grants Defendants’ motion to dismiss as to
13 Plaintiff’s claim that the withdrawal of settlement funds from his inmate account
14 violates article I, section 15 of the Washington State Constitution.

15 Plaintiff’s statutory claim fails for much the same reason. There is no
16 violation of RCW 9.92.110 when the DOC seizes property because of a person’s
17 confinement following a conviction and not because of the person’s underlying
18 conviction. *Willoughby v. Dep’t of Labor and Indus.*, 147 Wn.2d 725, 732 (2002).
19 While Plaintiff is confined because of his conviction, RCW 72.09.110 and RCW
20 72.09.480 authorize the DOC to withdraw funds from his inmate account because

1 of his confinement and not because of his conviction. *See Greenhalgh v. Dep't of*
2 *Corrections*, 180 Wn.2d 876, 889 (2014). Plaintiff has not sufficiently pled and,
3 as a matter of law, cannot establish that RCW 72.09.110 and RCW 72.09.480
4 authorized withdrawal of funds from his inmate account as a result of his
5 conviction and not his confinement. Accordingly, the Court grants Defendants'
6 motion to dismiss as to Plaintiff's contention that the withdrawal of settlement
7 funds from his inmate account violates RCW 9.92.110.

8 In his response to the Motion to Dismiss, Plaintiff also argues, for the first
9 time, that the withdrawal of funds violates the terms of his judgment and sentence
10 in which the trial court waived payment of costs of incarceration. ECF No. 31 at
11 17-19. Even if this claim were sufficiently pled in Plaintiff's complaint, it would
12 still fail. The Washington Supreme Court has explicitly held that "the [DOC] may
13 collect costs of incarceration under RCW 72.09.111 and RCW 72.08480
14 regardless of the trial court's waiver of costs of incarceration." *In re Pierce*, 173
15 Wn.2d at 387.

16 Properly understood, Plaintiff's complaint, in large part, asks this Court to
17 disregard or overrule existing state court case law interpreting state statutes and
18 the Washington State Constitution. This Court cannot do so. State courts are the
19 final arbiters of the state's own law, and this Court is not in a position to examine
20 the correctness of the state court decisions. *See Mullaney v. Wilbur*, 421 U.S. 684,

1 691 (1975); *Wardius v. Oregon*, 412 U.S. 470, 477 (1973). On the state law issues
2 in the present matter, Washington State courts have interpreted the relevant
3 statutes and constitution in such a way that no set of facts could support Plaintiff's
4 argument. Accordingly, dismissal of these claims on Defendants' motion is
5 warranted.

6 **C. Federal law claims.**

7 In his complaint, Plaintiff also claims that Defendants' withdrawing funds
8 from his inmate account pursuant to RCW 72.09.111 and RCW 72.09.480
9 violated his right to substantive due process and equal protection under the Fifth
10 and Fourteenth Amendments of the Constitution. ECF No. 14 at 4-6. Plaintiff is
11 mistaken. Given that the purposes of RCW 72.09.111 and RCW 72.09.480 are
12 rationally related to a legitimate state interest and have a valid public purpose,
13 Plaintiff's constitutional claims necessarily fail.

14 It is well established that a court will only "strike down a statute on
15 substantive due process grounds if it is arbitrary and irrational" *Richardson v. City*
16 *and County of Honolulu*, 124 F.3d 1150, 1162 (9th Cir. 1997) (citing *Del Monte*
17 *Dunes v. City of Monterey*, 920 F.2d 1496, 1508 (9th Cir. 1990)). To survive a
18 substantive due process challenge, the legislation in question must have "a valid
19 public purpose." *Id.* Similarly, to survive an equal protection challenge when no
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1 suspect or quasi-suspect class is implicated, the legislation in question must be
2 “rationally related to a legitimate state interest.” *Id.* at 1163.

3 With regard to RCW 72.09.111 and other related statutes, the Ninth Circuit
4 has held in an unpublished opinion that “[n]either substantive due process nor
5 equal protection are implicated because the Washington legislature’s stated
6 reasons for the statutes provide a rational basis for their enactment.” *Peterson v.*
7 *Lowry*, 151 F.3d 13 at *1 (1998) (unpublished). This Court finds this reasoning
8 persuasive. As discussed above, the legislature’s stated purpose of ensuring that
9 “[a]ll citizens, the public and inmates alike, have a personal and fiscal obligation
10 in the corrections system,” RCW 72.09.010(5)(e), is sufficient to survive
11 Plaintiff’s substantive due process and equal protection challenges.⁵ Accordingly,
12 dismissal of these claims on Defendants’ motion is warranted.

13 **III. CONCLUSION**

14 This court is mindful that prior to dismissal of a *pro se* prisoner’s
15 complaint, it must ordinarily instruct the litigant as to the deficiencies in his
16 complaint and grant him leave to amend it. *See Eldridge v. Block*, 832 F.2d 1132,
17 1136 (9th Cir. 1987). However, a court may dismiss a *pro se* complaint outright in
18 situations where it is “absolutely clear that the deficiencies of the complaint could
19 not be cured by amendment.” *Broughton v. Cutter Lab.*, 622 F.2d 458, 460 (9th

20 _____
⁵ Plaintiff does not claim that he is a member of a suspect or quasi-suspect class.

1 Cir. 1980) (per curiam). Here, Plaintiff's challenges to RCW 72.09.111 and RCW
2 72.09.480 cannot prevail under any factual scenario. Washington State courts
3 have resolved Plaintiff's state law arguments. The Ninth Circuit has done the
4 same with the federal law claims, albeit in an unpublished opinion. This Court is
5 in no position to disregard existing precedent.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 **1.** Defendants' construed Motion to Dismiss, **ECF No. 27**, is
8 **GRANTED.**

9 **2.** Plaintiff's claims against Defendants are **DISMISSED WITH**
10 **PREJUDICE.**


11 **3.** All other pending motions are **DENIED AS MOOT.**

12 **4.** All hearings and other deadlines are **STRICKEN.**

13 **5.** The Clerk's Office is directed to **CLOSE** this file.

14 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
15 and provide copies to all counsel and to Plaintiff.

16 **DATED** this 22nd day of October 2014.

17 
18 **SALVADOR MENDOZA, JR.**
19 United States District Judge
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