| 14 15 | On March 9, 2012, this Court is | sued an Orde | r granting Defendant's motion to dismiss |
|----------|---|--------------|--|
| 13 | Defendant. | / | |
| 12 | COUNTY OF MONTEREY, | | PROCESS" BRIEF AS SECOND AMENDED COMPLAINT AND DISMISSING ACTION WITH PREJUDICE |
| 11 | V. | | |
| 10 | Plaintiff, | | ORDER ACCEPTING "DUE |
| 9 | ROY JOHNSON, | | No. C 10-04633 JSW |
| 8 | FOR THE NORTHERN DISTRICT OF CALIFORNIA | | |
| 7 | | | |
| 6 | IN THE UNITED STATES DISTRICT COURT | | |
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(Docket No. 40 (Order Granting Motion to Dismiss First Amended Complaint).) Plaintiff had
asserted a claim that Defendant violated his due process rights, which he brought pursuant to 42
U.S.C. § 1983. The Court dismissed that claim, because Plaintiff had not alleged facts to show
that Defendant had a custom, policy or practice relating to the alleged constitutional violations.
(*See id.* at 7:1-8:2.) However, the Court granted Plaintiff one final opportunity to amend, and it
directed that Plaintiff file his amended complaint by no later than April 27, 2012.

On April 9, 2012, the Court received an envelope of materials from Plaintiff. According
to the proof of service submitted with those materials, Plaintiff submitted a "due process brief"
and "various attachments." The Court only received pages 17 and 18 of the purported brief.
Because the Court did not receive a complete copy of the "due process brief," the Court could
not construe the documents it did receive as an amended complaint. As such, it required
Plaintiff to file a complete copy of his brief by April 20, 2012, if he wanted the Court to
consider it.

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On April 18, 2012, the Court received a fully copy of the due process brief, which shall be filed forthwith. The Court liberally construes this brief to be Plaintiff's Second Amended Complaint. When Plaintiff filed his original complaint, he was granted leave to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915. The in forma pauperis statute provides that the Court shall dismiss the case if at any time the Court determines the action (1) is frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

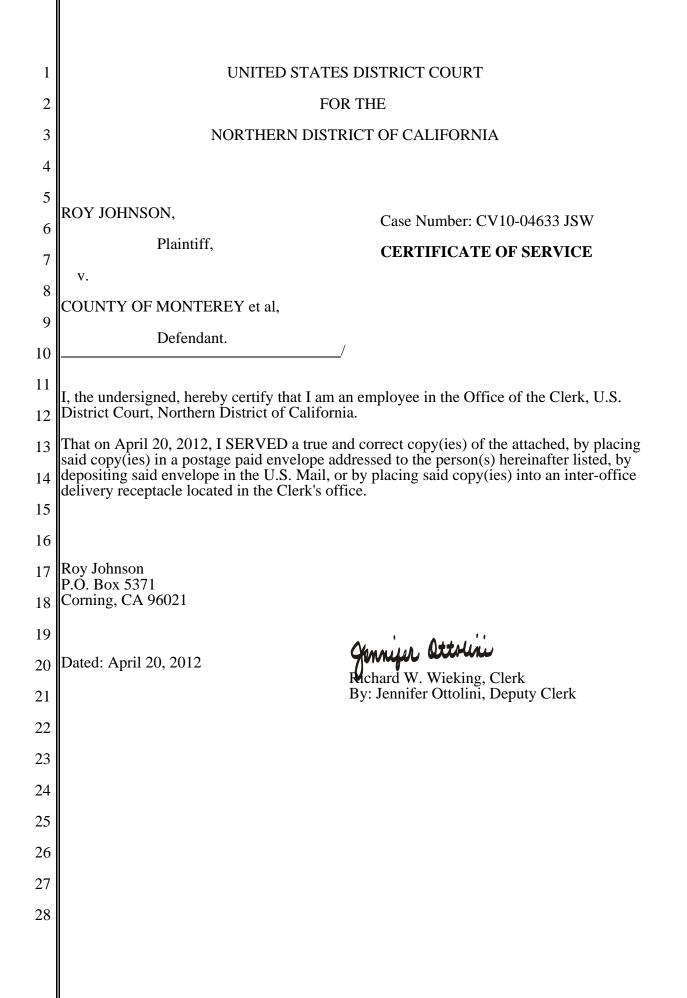
8 The Court has reviewed the Second Amended Complaint. Plaintiff still fails to allege any facts that show the Defendant has a custom, policy or practice that relates to his alleged violations of his due process rights. Accordingly, Plaintiff still fails to state a claim against the Defendant under 42 U.S.C. § 1983. See Monell v. New York City Dep't of Social Services, 436 U.S. 658, 691 (1978); Blair v. City of Pomona, 223 F.3d 1074, 1079 (9th Cir. 2000); Oviat v. Pearce, 954 F.2d 1470, 1474 (9th Cir. 1992). The Court also advised Plaintiff that it was his 13 final opportunity to amend his claims. Having failed to state a claim, the Court DISMISSES this action WITH PREJUDICE.

The Court shall issue a separate judgment, and the Clerk shall close this file.

IT IS SO ORDERED.

18 Dated: April 20, 2012 Lot

ŠTATES DISTRICT JUDGE



United States District Court For the Northern District of California

