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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FRANCISCO J. FENTANES,

Plaintiff,

No. C 09-0383 PJH (PR)

vs.

ORDER OF DISMISSAL

CONTRA COSTA SHERIFF DEPT.,

Defendant.

This is a civil rights case filed by a former prisoner at the Contra Costa Jail. In the initial review order, the court noted that plaintiff had listed the Contra Costa Sheriff's Department as the only defendant. To state a claim against a California sheriff's department a plaintiff must allege that the violations of his rights were pursuant to a custom or policy of the department. *See Shaw v. Cal. Dep't of Alcoholic Beverage Control*, 788 F.2d 600, 610-11 (9th Cir. 1986). Plaintiff had not done this, so the complaint was dismissed with leave to amend.

Plaintiff has filed an amendment. He still names only the sheriff's department as a defendant. He does not allege that the purported violations of his rights were pursuant to a policy or practice of the department, and the nature of the factual allegations is such that it is unlikely they were done pursuant to such a policy or practice. In fact, in several places plaintiff alleges that the deputies were acting contrary to policy.

Plaintiff has failed to state a claim against the only defendant. The Amended Complaint is **DISMISSED** with prejudice. The clerk shall close the file.

IT IS SO ORDERED.

Dated: April 13, 2010.



PHYLLIS J. HAMILTON
United States District Judge

United States District Court
For the Northern District of California