IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES D. SMITH,

Plaintiff,

vs.

COUNTY OF ALAMEDA, et al.,

Defendants.

No. C 11-02651 EJD (PR)

ORDER OF DISMISSAL

Plaintiff, an inmate at the Correctional Training Facility in Corcoran, California, filed a civil action under 42 U.S.C. § 1983, against the County of Alameda and the Santa Rita County Jail, among other Defendants, for alleged violations of his rights during his detention at Santa Rita County Jail. Plaintiff's motion for leave to proceed in forma pauperis (Docket No. 3) will be granted in a separate order.

DISCUSSION

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review the Court must identify any

cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. Id. at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege that (1) a person was acting under the color of state law, and (2) the person committed a violation of a right secured by the Constitution or laws of the United States. West v. Atkins, 487 U.S. 42, 48 (1988).

B. Plaintiff's Claims

Plaintiff claims that during his stay at Santa Rita County Jail, he made requests for information under the Federal Freedom of Information Act ("FOIA") and the State Public Records Act, to which Defendants failed to respond. (Compl. at 3.) The requested information included the following: 1) information about the Legal Research Associates ("LRA"); 2) copy of the agreement between the LRA and Santa Rita County Jail; 3) how to get a hold of the American Correctional Association; 4) "a copy of the petition that was filed for closure of the law library at Santa Rita County Jail"; 5) a "copy of the filed order for the removal and destruction of all law books from Santa Rita County Jail"; and 6) "a copy of the order that was produced that stated inmates are not allowed access to the law library at Santa Rita County Jail." (Id.)

The FOIA mandates a policy of broad disclosure of government documents when production is properly requested of an agency. See 5 U.S.C. § 552(a). However, the FOIA is generally limited to agencies of the executive branch of the federal government. See 5 U.S.C. § 552(e). It does not include state agencies, St. Michaels Convalescent Hosp. v. California, 643 F.2d 1369, 1373 (9th Cir. 1981), or courts, Warth v. Dep't of Justice, 595 F.2d 521, 523 (9th Cir. 1979); see also United States v. Miramontez, 995 F.2d 56, 59 n.3 (5th Cir. 1993) (federal courts expressly

excluded from definition of "agency"). Accordingly, Plaintiff fails to state a cause of action under the FOIA against the County of Alameda, or departments under its authority, as a state agency. See St. Michaels Convalescent Hosp., 643 F.2d at 1373.

Plaintiff's remaining claim that Defendants violated the state public records act is DISMISSED for failure to state a violation of a federal right under § 1983.

CONCLUSION

Plaintiff's complaint is hereby DISMISSED with prejudice for failure to state a cognizable claim for which relief may be granted. 28 U.S.C. § 1915A(b)(1), (2).

The Clerk shall terminate all pending motions and close the file.

DATED: 9/7/11

EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT

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Case Number: CV11-02651 EJD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 9/08/11, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James D. Smith H96603
CSATF State Prison
P. O. Box 5242
Corcoran, CA 93212

Dated: 9/08/11

Richard W. Wieking, Clerk
By: Elizabeth Garcia, Deputy Clerk