

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

PRINCE MIGUEL ISMAEL,

Plaintiff,

2:16-cv-00683-MC

v.

ORDER

JASON BELL, et al.,

Defendants.

McShane, District Judge.

Plaintiff's allegations against defendants Bell and Jones fail to state a claim for the reasons set forth in defendants Motion to Dismiss (#16). It is well settled that respondeat superior is not a proper basis for liability under § 1983. Plaintiff's Amended complaint does not allege any facts that would subject to either defendant Bell or Jones to liability for the alleged actions of John W. Kile - who has yet to be served or waive service and is not properly before the court

at this stage of the proceedings.¹

However, plaintiff's Response (#24) to defendants' motion requests that he be allowed to file a third amended complaint. Plaintiff's request is allowed. Plaintiff is allowed 30 days from the date of this order to file a third amended complaint. No further amendments will be allowed.

Defendants' Partial Motion to Dismiss (#16) is denied without prejudice to request reconsideration after plaintiff has filed an amended pleading.

IT IS SO ORDERED.

DATED this 29 day of December, 2016.



Michael J. McShane
United States District Judge

¹

The court will not request waiver of service on Mr. Kile unless and until plaintiff files an amended complaint that sufficiently alleges a basis for liability against him request waiver of service until