

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 27, 2016

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

LAWRENCE JOHN ROTHWELL,

Plaintiff,

v.

SUPERIOR COURT OF
WASHINGTON, COUNTY OF
SPOKANE, and STATE OF
WASHINGTON,

Defendants.

NO: 2:16-CV-00285-SMJ

ORDER DISMISSING FIRST
AMENDED COMPLAINT

BEFORE THE COURT are Plaintiff's First Amended Complaint, ECF No. 11, and a Statement of Claim, ECF No. 12. Plaintiff, a pre-trial detainee at the Spokane County Jail, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

By Order filed September 14, 2016, the Court advised Plaintiff of the deficiencies of his initial complaint and directed him to amend or voluntarily dismiss. After liberally construing Plaintiff's submissions in the light most

ORDER DISMISSING FIRST AMENDED COMPLAINT--1

1 favorable to him, the Court finds that he has failed to cure the deficiencies in the
2 initial complaint.

3 **PLAINTIFF'S ALLEGATIONS**

4 Plaintiff is seeking monetary damages, as well as the dismissal of current
5 criminal charges for failure to register. He appears to allege his prior incarceration
6 was illegal because, he “was convicted and sentenced before the crime they say
7 [he] committed.” ECF No.11 at 5. In essence, Plaintiff is complaining that his
8 felony judgment and sentence filed on February 22, 2013, was dated February 22,
9 2012.


10 Plaintiff asserts that, because he was not permitted to take anything with him
11 to prison, he did not receive a copy of this judgment and sentence until March
12 2016, when the Department of Corrections apparently “served violations.” At
13 worst, Plaintiff has alleged a clerical error in the dating of a prior judgment and
14 sentence. This alone does not render his prior incarceration invalid. Plaintiff’s
15 allegations are insufficient to state a plausible claim upon which relief may be
16 granted. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009); *Bell Atl. Corp. v. Twombly*,
17 550 U.S. 544, 555 (2007).

18 For the reasons set forth above and in the Court’s prior order, **IT IS**
19 **ORDERED** this action is **DISMISSED without prejudice** to Plaintiff seeking
20 appropriate remedies in state court. Because this matter is not one purely under

1 *Heck v. Humphrey*, 512 U.S. 477, 487 (1994), and the Court has determined that
2 abstention is warranted under *Younger v. Harris*, 401 U.S. 37, 53-4 (1971), this
3 dismissal will not count as a strike under 28 U.S.C. § 1915(g). *See Washington v.*
4 *Los Angeles Cty. Sheriff's Dep't*, 833 F.3d 1048, 1058 (9th Cir. 2016).

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order, enter Judgment, forward copies to Plaintiff at his last known address, and
7 CLOSE the file. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any
8 appeal of this Order would not be taken in good faith and would lack any arguable
9 basis in law or fact.

10 **DATED** this 27th day of December 2016.

11 
12 SALVADOR MENDEZ, JR.
13 United States District Judge
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