

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ARTEMUS BLANKENSHIP,

Plaintiff,

V.

SONJA M. BLANKENSHIP, et al.,

Defendants.

NO: 2:16-CV-0291-TOR

ORDER ADOPTING REPORT AND
RECOMMENDATION, DISMISSING
ACTION FOR LACK OF
JURISDICTION AND DENYING
LEAVE TO PROCEED *IN FORMA
PAUPERIS*

Magistrate Judge Dimke filed a Report and Recommendation on September

16, 2016, recommending this action be dismissed for lack of jurisdiction and to deny

leave to proceed *in forma pauperis* (ECF No. 8). Plaintiff, a *pro se* prisoner at the

Salinas Valley State Prison in Soledad, California, attempted to sue the widow and

executrix of his father's estate to compel the production of his father's "last will and

testament” and its execution.

The Court found that Ms. Blankenship's conduct as a private individual,

would not subject her to liability under 42 U.S.C. § 1983. *Gomez v. Toledo*, 446 U.S.

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1 635, 640 (1980); *Ouzts v. Maryland Nat'l Ins. Co.*, 505 F2.d 547, 559 (9th Cir. 1974);
2 *Van Ort v. Estate of Stanewich*, 92 F. 3.d 831, 835 (9th Cir. 1996). Plaintiff had
3 presented no facts showing the John Doe Defendants, acting under color of state law,
4 violated Plaintiff's constitutional rights. *West v. Atkins*, 487 U.S. 42, 48 (1988).
5 Furthermore, the remedies Plaintiff sought, including property from his deceased
6 father's estate, were matters best deferred to the state probate courts. *Marshall v.*
7 *Marshall*, 547 U.S. 293, 298-299 (2006).

8 Objections to the Report and Recommendation were to be filed no later than
9 September 30, 2016. There being no objections filed, the Court **ADOPTS** the
10 Report and Recommendation (ECF No. 8). This action is **DISMISSED** and the
11 application to proceed *in forma paupers* (ECF No. 2) is **DENIED**.

12 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
13 enter judgment, forward copies to Plaintiff at his last known address and close the
14 file.

15 **DATED** October 14, 2016.



16 A handwritten signature in blue ink that reads "Thomas O. Rice".
17 THOMAS O. RICE
18 Chief United States District Judge
19
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