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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 PATRICK ELLIOT PEARSON,

No. 4:15-CV-05006-EFS

8 Plaintiff,

**ORDER GRANTING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

9 v.

10 DEPUTY JASON BALL and GRANT
11 COUNTY,

12 Defendants.

13
14 Before the Court, without oral argument, is the Defendants'
15 Motion for Summary Judgment, ECF No. 30. In this suit, Plaintiff
16 Patrick Elliot Pearson alleges that Grant County Deputy Sheriff Jason
17 Ball violated his rights under the Fourth Amendment of the U.S.
18 Constitution and is suing Deputy Ball and Grant County pursuant to 42
19 U.S.C. § 1983. ECF No. 9. Specifically, Mr. Pearson claims that Deputy
20 Ball requested a search warrant using false information and then
21 executed the search warrant, which was issued without the requisite
22 probable cause. *Id.* Defendants contend that Deputy Ball never
23 intentionally provided incorrect information to the magistrate judge,
24 that he executed a validly issued search warrant, and that he is
25 protected by qualified immunity. ECF No. 16.
26

1 **I. Statement of Facts¹**

2 On January 24, 2014, Grant County Deputy Sheriff Jason Ball
3 applied for a search warrant requesting to search the property located
4 at 4562 Road N N.E. in Moses Lake, Washington, and any and all
5 buildings on the property, including a large yellow shop on the south
6 east corner of the property. ECF No. 34, Ex. C. Deputy Ball believed
7 that the property and the buildings contained stolen property. ECF No.
8 31 at 1. This belief was based in part on information provided to
9 Deputy Ball by a confidential informant (CI). ECF No. 34, Ex. C at 4.
10 The search warrant was issued on January 27, 2014. ECF No. 34, Ex. B.
11 at 2. Law enforcement officers arrived at the property and executed
12 the search warrant. *Id.*

13 During the execution of the warrant, law enforcement discovered
14 a number of stolen items as well as a locked toolbox containing
15 methamphetamine and drug paraphernalia. *Id.* Mr. Pearson was
16 subsequently arrested. ECF No. 34, Ex. A. A Grant County Superior
17 Court Judge later found the search warrant lacked probable cause and
18 dismissed the charges against Mr. Pearson. ECF No. 34, Ex. B at 8.
19 Plaintiff then filed this lawsuit claiming that the search warrant was
20 fraudulently obtained in violation of his Fourth Amendment rights. ECF
21 No. 9. Defendants claim they are protected by qualified immunity.

22 ¹ Because Mr. Pearson did not file any documents in response to
23 Defendants' summary-judgment motion, this background is based on the
24 facts contained in Defendants' summary-judgement materials. See Fed.
25 R. Civ. P. 56(e); LR 56.1(b).
26

1 **II. Standard of Review**

2 Summary judgment is appropriate if the record establishes "no
3 genuine dispute as to any material fact and the movant is entitled to
4 judgment as a matter of law." Fed. R. Civ. P. 56(a). The party
5 opposing summary judgment must point to specific facts establishing a
6 genuine dispute of material fact for trial. *Celotex Corp. v. Catrett*,
7 477 U.S. 317, 324 (1986); *Matsushita Elec. Indus. Co. v. Zenith Radio*
8 *Corp.*, 475 U.S. 574, 586-87 (1986). If the non-moving party fails to
9 make such a showing for any of the elements essential to its case for
10 which it bears the burden of proof, the trial court should grant the
11 summary-judgment motion. *Celotex Corp.*, 477 U.S. at 322.

12 **III. Analysis**

13 In a judicial deception claim, "the plaintiff must 1) make a
14 'substantial showing' of deliberate falsehood or reckless disregard
15 for the truth and 2) establish that, but for the dishonesty, the
16 challenged action would not have occurred." *Liston v. Cty. of*
17 *Riverside*, 120 F.3d 965, 973 (9th Cir. 1997), as amended (Oct. 9,
18 1997) (quoting *Hervey v. Estes*, 65 F.3d 784 (9th Cir.1995)). "If a
19 plaintiff satisfies these requirements, the matter should go to
20 trial." *Id.* (internal quotations omitted).

21 Mr. Pearson claims the "search warrant was issued because Deputy
22 Jason Ball knowingly falsified and omitted information causing a
23 magistrate [to] believe he had probable cause." ECF No. 9 at 6.
24 Specifically, Mr. Pearson argues that Deputy Ball "made no reference
25 to a shop or any outbuildings" in his affidavit and that he "purposely
26 and knowingly left out the identity of his informant and misled the

1 magistrate into thinking his informant had validity." *Id.* at 5. Mr.
2 Pearson relies largely on the order issued from the Grant County
3 Superior Court Judge. ECF No. 9 at 5-6. However, in looking at the
4 affidavit, this Court notes that Deputy Ball listed the "large shop"
5 and all "other outbuildings" on the property right at the top of the
6 affidavit. ECF No. 34, Ex. C at 1. Furthermore, while the identity of
7 the confidential informant was not revealed by Deputy Ball in his
8 affidavit, no evidence has been submitted to the Court to support a
9 claim that this was done intentionally to mislead the magistrate. In
10 his affidavit, Deputy Ball declares that he kept his CI's name off of
11 the document to protect the CI's identity and at the CI's request. ECF
12 No. 34, Ex. C at 4. Mr. Pearson has submitted nothing to this Court to
13 contradict this declaration. By his own admission, this claim is based
14 solely on Mr. Pearson's personal belief. ECF No. 9 at 5 ("[T]his is my
15 belief").

16 The Court finds that Mr. Pearson has failed to make a
17 substantial "showing of deliberate falsehood or reckless disregard for
18 the truth" on the part of Deputy Ball as he applied for the search
19 warrant. Therefore, the Court finds that Mr. Pearson has failed to
20 make a showing for an element essential to his case and grants
21 summary-judgment in favor of Defendants.²

22 Accordingly, **IT IS HEREBY ORDERED:**

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24 _____
25 ² Because Mr. Pearson failed to any present evidence establishing a
26 required element of a judicial deception claim, the Court need not conduct a
qualified immunity analysis.

1 1. Defendants' Motion for Summary Judgment, **ECF No. 30**, is
2 **GRANTED.**

3 2. The Clerk's Office is directed to enter judgment in
4 Defendants' favor.

5 3. All pending dates and deadlines are **STRICKEN.**

6 4. The file shall be **CLOSED.**

7 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
8 Order and provide copies to all counsel and to Mr. Pearson.

9 **DATED** this 24th day of February 2016.

10 _____
11 s/Edward F. Shea

EDWARD F. SHEA

Senior United States District Judge