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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KINTA HOLLINS,)	CASE NO. C06-1225-MJP
)	
Plaintiff,)	
)	
v.)	REPORT AND RECOMMENDATION
)	
METRO TRANSIT DIVISION, et al.,)	
)	
Defendants.)	
_____)	

Plaintiff Kinta Hollins (a.k.a. Ken Hollins), proceeding *pro se*, filed an *in forma pauperis* application, a proposed 42 U.S.C. § 1983 complaint, and a motion for appointment of counsel. (Dkt. 1) His complaint concerns an injury sustained while riding on a bus and names the bus driver "Fintch" and Metro Transit Division as defendants.

In order to state a claim under § 1983, a complaint must establish "the violation of a right secured by the Constitution and the laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law." *West v. Atkins*, 487 U.S. 42, 48 (1988). A plaintiff must allege facts showing how individually named defendants caused or personally participated in causing the harm alleged in the complaint. *Arnold v. IBM*, 637 F.2d

01 1350, 1355 (9th Cir. 1981). In this case, plaintiff alleges that he was injured as a result of a bus
02 making an abrupt stop. This is not a violation of a right secured by the Constitution and the laws
03 of the United States. Rather, it is a personal injury claim that appears to sound in negligence.

04 A local government unit or municipality can be sued as a “person” under § 1983. *Monell*
05 *v. Dep’t of Soc. Servs. of N.Y.*, 436 U.S. 658, 691-94 (1978). However, a municipality cannot be
06 held liable under § 1983 solely because it employs a tortfeasor. *Id.* A plaintiff seeking to impose
07 liability on a municipality under § 1983 must identify municipal “policy” or “custom” that caused
08 his or her injury. *Bd. of County Comm’rs v. Brown*, 520 U.S. 397, 403 (1997) (citing *Monell*, 436
09 U.S. at 694). Accordingly, to hold the Metro Transit Division liable, plaintiff must establish that
10 the entity itself caused a constitutional deprivation pursuant to some official policy or custom. *See*
11 *Gillette v. Delmore*, 979 F.2d 1342, 1346 (9th Cir. 1992) (citing *Monell*, 436 U.S. at 691).
12 Plaintiff does not make or support an allegation of such a policy or custom in his proposed
13 complaint.

14 Accordingly, because of the deficiencies in plaintiff’s proposed complaint, his *in forma*
15 *pauperis* application and motion for appointment of counsel should be denied and this action
16 dismissed with prejudice. A proposed Order accompanies this Report and Recommendation.

17 DATED this 29th day of August, 2006.

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20 Mary Alice Theiler
United States Magistrate Judge