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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JASON SMITH,

Plaintiff,

v.

CHARLES NAGEL, *et al.*,

Defendants.

Case No. C08-0789RSL

ORDER GRANTING
MOTION TO AMEND

This matter comes before the Court on a motion to amend the complaint filed by plaintiff Jason Smith. During the relevant time, plaintiff was an inmate at Federal Detention Center SeaTac. He alleges that he was seriously injured after receiving negligent health care from defendants. Plaintiff seeks to dismiss with prejudice his constitutional claim against defendant Dr. Becky Bay and any implied constitutional claim against the United States.

Pursuant to Federal Rule of Civil Procedure 15(a), courts “should freely give leave when justice so requires.” In this case, there is no evidence of bad faith, undue delay, prejudice or futility. Accordingly, plaintiff’s motion to amend (Dkt. #26) is GRANTED. Plaintiff may file his first amended complaint in the docket within ten days of the date of this order. The first amended complaint should reflect the fact that Dr. Bay is no longer a party; the United States has formally substituted itself for her. Dkt. #35.

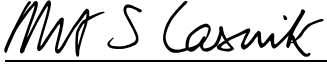
ORDER GRANTING
MOTION TO AMEND - 1

1 Defendant Dr. Charles Nagel did not oppose the motion to amend but requested that the
2 Court add the following language to its order:

3 IT IS FURTHER ORDERED that nothing in this Order precludes Defendant Charles D.
4 Nagel, M.D., if he is the sole remaining defendant, from alleging that Dr. Bay is a
5 nonparty entity at fault pursuant to RCW § 4.22.070(1) for purposes of apportioning
6 percentages of total fault.

7 The Court expresses no opinion on the merits of that issue at this time. Including the requested
8 language in this order is unnecessary because Dr. Nagel is not the sole remaining defendant.
9 Moreover, the requested language is in a stipulated order the Court signed on December 1, 2008
10 dismissing another defendant (Dkt. #25). Therefore, it is unnecessary to include the language
11 again.

12 DATED this 9th day of January, 2009.

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15 Robert S. Lasnik
16 United States District Judge
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