

1 HONORABLE RICHARD A. JONES

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JERARDO RODRIGUEZ,

11 Plaintiff,

12 v.

13 SOHI HEMIT, et al.

14 Defendants.

Case No. C16-778-RAJ

ORDER

15 This matter comes before the Court *sua sponte* on this Court's Order's dismissing
16 Plaintiff's complaint with leave to amend. Dkt. # 76. Plaintiff filed this action
17 complaining about his mail carrier and mail service. Dkt. ## 1-1, 41. Defendants filed a
18 Motion to Dismiss for lack of subject matter jurisdiction and for failure to state a claim
19 upon which relief can be granted. Dkt. ## 58, 66. On July 30, 2018, the Court granted
20 Defendant's Motion to Dismiss and dismissed Plaintiff's Complaint. Dkt. # 76. The
21 Court dismissed the complaint on the grounds that the Court lacked subject matter
22 jurisdiction because Plaintiff failed to exhaust his administrative remedies, and because
23 Plaintiff failed to state a claim. *Id.* The Court instructed that Plaintiff must file an
24 amended complaint within fourteen (14) days of the date of the Order. *Id.* at 10-11. The
25 Court explicitly warned Plaintiff: "If Plaintiff fails to adequately allege subject matter
26 jurisdiction, or if Plaintiff fails to file an amended pleading by this deadline, this Court
27 will dismiss this action with prejudice either *sua sponte* or by motion." *Id.*

28 ORDER – 1

1 Over two weeks have passed since the Court's July 30, 2018 Order, and Plaintiff
2 has not complied and has not filed any amended pleading. Plaintiff's Amended
3 Complaint still fails for lack of subject matter jurisdiction and still fails to set forth any
4 actionable legal claim. The Court cannot see how Plaintiff's complaint would be saved
5 with further amendment. *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995)
6 (dismissal without leave to amend is proper where "it is absolutely clear that no
7 amendment can cure the defect").

8 Accordingly, the Court **DISMISSES WITHOUT LEAVE TO AMEND**
9 Plaintiff's Amended Complaint (Dkt. # 41). Plaintiff's claims as to all Defendants are
10 hereby **DISMISSED WITH PREJUDICE**.

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12 Dated this 15th day of August, 2018.

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16 The Honorable Richard A. Jones
17 United States District Judge