

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DRANOEL ENAJ BROWN,  
  
Plaintiff,  
  
v.  
  
KING COUNTY JAIL, *et al.*,  
  
Defendants.

Case No. C16-1332-JCC-JPD

ORDER DECLINING TO SERVE  
COMPLAINT AND GRANTING  
PLAINTIFF LEAVE TO AMEND

Plaintiff Dranoel Brown is currently confined at the Maleng Regional Justice Center in Kent, Washington. He has submitted to the Court for filing a civil rights complaint under 42 U.S.C. § 1983. The Court, having reviewed plaintiff’s complaint, hereby finds and ORDERS as follows:

(1) Plaintiff identifies in his complaint multiple claims for relief, most of which appear to be based on the alleged failure of the Maleng Regional Justice Center detention staff and/or medical services staff to provide any accommodation for plaintiff’s disability. Plaintiff does not specifically identify his disability, but the complaint makes clear that it involves mobility issues which plaintiff believes would have been better accommodated through provision of a wheelchair rather than the crutches he was forced to use. Plaintiff identifies as defendants in

ORDER DECLINING TO SERVE COMPLAINT  
AND GRANTING LEAVE TO AMEND - 1

1 his complaint the King County Jail, the Maleng Regional Justice Center (RJC) Detention and  
2 Medical Services Departments, and the State of Washington. Plaintiff seeks an unspecified  
3 amount of compensatory damages.

4 (2) In order to sustain a civil rights action, a plaintiff must show (1) that he suffered a  
5 violation of rights protected by the Constitution or created by federal statute, and (2) that the  
6 violation was proximately caused by a person acting under color of state or federal law. *See*  
7 *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9<sup>th</sup> Cir. 1991). To satisfy the second prong, a plaintiff  
8 must allege facts showing how individually named defendants caused, or personally participated  
9 in causing, the harm alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9<sup>th</sup> Cir.  
10 1981).

11 A defendant cannot be held liable solely on the basis of supervisory responsibility or  
12 position. *Monell v. Department of Social Servs., of City of New York*, 436 U.S. 658, 691-694  
13 (1978). Rather, a plaintiff must allege that a defendant's own conduct violated the plaintiff's  
14 civil rights. *City of Canton, Ohio v. Harris*, 489 U.S. 378, 385-90 (1989). A local government  
15 unit or municipality can be sued as a "person" under § 1983. *Monell*, 436 U.S. at 691. However,  
16 a municipality cannot be held liable under § 1983 solely because it employs a tortfeasor. *Id.* A  
17 plaintiff seeking to impose liability on a municipality under § 1983 must identify a municipal  
18 "policy" or "custom" that caused his or her injury. *Bryan County Commissioners v. Brown*, 520  
19 U.S. 397, 403 (1997) (citing *Monell* 436 U.S. at 694).

20 (3) The Court declines to order that plaintiff's complaint be served because it is  
21 deficient in the following respects:  
22  
23

1 (a) Plaintiff identifies the King County Jail and the RJC Detention and Medical  
2 Services Departments as defendants in this action. However, neither the King County Jail, nor  
3 the RJC, nor individual departments within the RJC, are proper defendants in this action. *See*  
4 *Nolan v. Snohomish County*, 59 Wn.App. 876, 883 (1990) (“in a legal action involving a county,  
5 the county itself is the only legal entity capable of suing and being sued”). Plaintiff may, if he  
6 deems it appropriate, pursue a claim against King County itself. However, if plaintiff elects to  
7 do so, he must specifically identify the County as a defendant in this action and he must identify  
8 the municipal “policy” or “custom” that he believes caused his injury. Plaintiff may also pursue  
9 claims against individual members of the RJC staff. This would require that plaintiff specifically  
10 identify those members of the RJC staff who caused him harm, the federal constitutional  
11 provision or federal statute which he believes was violated by the conduct of each individual  
12 staff member, and the facts which support each claimed violation.


13 (b) Plaintiff also identifies the State of Washington as a defendant in this action. The  
14 United States Supreme Court has made clear that states and state agencies are not “persons”  
15 subject to suit under § 1983. *See Will v. Michigan Department of State Police*, 491 U.S. 58  
16 (1989). In addition, it is well established that, under the Eleventh Amendment, an unconsenting  
17 state is immune from suits brought in federal courts by its own citizens. *See Edelman v. Jordan*,  
18 415 U.S. 651, 662-63 (1974). The State of Washington has not waived its Eleventh Amendment  
19 immunity for suits such as the one presented here. *See Whiteside v. State of Washington*, 534  
20 F.Supp. 774 (D.C. Wash. 1982). Thus, the State of Washington is not a proper defendant in this  
21 action.

1 (4) Plaintiff may file an amended complaint curing the above noted deficiencies  
2 within *thirty (30) days* of the date on which this Order is signed. The amended complaint must  
3 carry the same case number as this one. If no amended complaint is timely filed, the Court will  
4 recommend that this action be dismissed under 28 U.S.C. § 1915(e)(2)(B) for failure to state a  
5 claim upon which relief may be granted.

6 Plaintiff is advised that an amended pleading operates as a *complete* substitute for an  
7 original pleading. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (as amended)  
8 (citing *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990)).  
9 Thus, any amended complaint must clearly identify the defendant(s), the federal constitutional  
10 and/or statutory claim(s) asserted, the specific facts which plaintiff believes support each claim,  
11 and the specific relief requested.

12 (5) The Clerk is directed to send plaintiff the appropriate forms so that he may file an  
13 amended complaint. The Clerk is further directed to send copies of this Order to plaintiff and to  
14 the Honorable John C. Coughenour.

15 DATED this 8th day of September, 2016.

16   
17 \_\_\_\_\_  
18 JAMES P. DONOHUE  
19 Chief United States Magistrate Judge  
20  
21  
22  
23