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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 QUENTIN ELLIS POOR BEAR,

9 Plaintiff,

Case No. C17-1229-RSM-JPD

10 v.

ORDER TO SHOW CAUSE

11 KENNY NAPIER, *et al.*,

12 Defendants.

13  
14 Plaintiff Quentin Poor Bear is currently confined at the King County Correctional Facility  
15 in Seattle, Washington. He has filed a civil rights complaint under 42 U.S.C. § 1983 in which he  
16 seeks to challenge the revocation of his probation in a 2009 King County Superior Court  
17 criminal case. (*See* Dkt. 3-1 at 3.) Plaintiff appears to assert that the statutory maximum  
18 sentence for his 2009 conviction expired in August 2014, but Washington Department of  
19 Corrections (DOC) personnel nonetheless revoked his probation in July 2017 and sanctioned him  
20 to an additional 476 days of confinement. (*See id.*) Plaintiff identifies DOC Probation Officer  
21 Kenny Napier, DOC Hearings Officer Jason Alty, Community Corrections Officer Dickerson,  
22 and DOC Hearings Supervisor Kathy Cavanaugh as defendants in this action. (*See id.* at 2.)  
23 Plaintiff seeks an Order from this Court directing the DOC to correct the error pertaining to his

ORDER TO SHOW CAUSE - 1

1 2009 case, and to restore probation time on a 2013 case, so that he can begin his probation on yet  
2 another, more recent, case. (See Dkt. 3-1 at 4.)

3 In order to sustain an action under § 1983, a plaintiff must show (1) that he suffered a  
4 violation of rights protected by the Constitution or created by federal statute, and (2) that the  
5 violation was proximately caused by a person acting under color of state law. See *Crumpton v.*  
6 *Gates*, 947 F.2d 1418, 1420 (9<sup>th</sup> Cir. 1991). To satisfy the second prong, a plaintiff must allege  
7 facts showing how individually named defendants caused, or personally participated in causing,  
8 the harm alleged in the complaint. See *Arnold v. IBM*, 637 F.2d 1350, 1355 (9<sup>th</sup> Cir. 1981).

9 Where a prisoner challenges the fact or duration of his confinement, his sole federal  
10 remedy is a writ of habeas corpus, to which the exhaustion requirement applies. *Preiser v.*  
11 *Rodriguez*, 411 U.S. 475, 489-90 (1973); *Young v. Kenny*, 907 F.2d 874, 875 (9<sup>th</sup> Cir. 1990),  
12 *cert. denied*, 498 U.S. 1126 (1991). In *Heck v. Humphrey*, 512 U.S. 477 (1994), the United  
13 States Supreme Court held that a § 1983 claim that calls into question the lawfulness of a  
14 plaintiff's conviction or confinement does not accrue "unless and until the conviction or sentence  
15 is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus." *Heck*,  
16 512 U.S. at 489.

17 Plaintiff's complaint is deficient because he fails to state any claim upon which relief  
18 may be granted in this civil rights action. Plaintiff does not allege in his complaint any violation  
19 of a federally protected right, and the facts set forth in the complaint do not implicate federal  
20 constitutional concerns. Rather, the facts alleged suggest that plaintiff's claim arises out of what  
21 he believes to be an improper application of state law. Violations of state law do not give rise to  
22 a cause of action under § 1983. Additionally, it appears that plaintiff may be attempting to  
23 challenge in this action the lawfulness of his current confinement, but he makes no showing that

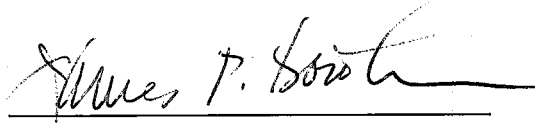
1 his current confinement has been invalidated in any fashion. It therefore appears that even if  
2 plaintiff could identify a federal constitutional basis for his claims, those claims would be barred  
3 by *Heck*.

4 Accordingly, the Court hereby ORDERS as follows:

5 (1) Plaintiff shall SHOW CAUSE not later than *thirty (30) days* from the date of this  
6 Order why this action should not be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B). Failure to  
7 timely respond to this Order will result in a recommendation that this action be dismissed.

8 (2) The Clerk is directed to send copies of this Order to plaintiff and to the Honorable  
9 Ricardo S. Martinez.

10 DATED this 21<sup>st</sup> day of September, 2017.

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13 JAMES P. DONOHUE  
14 Chief United States Magistrate Judge  
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