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

10 FRANCIS ANTHONY TREVINO,
11 et al.,

12 Plaintiffs,

13 v.

14 KEVIN W. QUIGLEY, et al.,

15 Defendants.

CASE NO. C18-0487JLR

ORDER

16 On April 17, 2018, the court ordered Plaintiffs Francis Anthony Trevino and Mark
17 Newton Kelly (collectively, “Plaintiffs”) to show cause why their claims against Spokane
18 County Superior Court Judge Gregory D. Sypolt; Spokane County Superior Court Judge
19 James M. Murphy; Washington State Supreme Court Clerk Erin L. Lennon; and
20 Washington State Supreme Court Clerk Susan L. Carlson (collectively, “Judicial
21 Defendants”) should not be dismissed. (*See* OSC (Dkt. # 3).) The court noted that “the
22 allegations in the complaint suggest that Judicial Defendants are entitled to some form of

1 judicial immunity, and therefore the court has no subject matter jurisdiction as to those
2 defendants.” (*Id.* at 2.) The court informed Plaintiffs that judges are absolutely immune
3 for acts taken in their judicial capacity and that judicial clerks enjoy quasi-judicial
4 immunity when acting in their official capacities. (*Id.* at 3 (citing *Ashelman v. Pope*, 793
5 F.2d 1072, 1075 (9th Cir. 1986) (en banc); *In re Castillo*, 297 F.3d 940, 951-52 (9th Cir.
6 2002)).) The court further stated that Plaintiffs did not allege Judicial Defendants were
7 acting outside their official capacities for the acts of which Plaintiffs complain. (*Id.*)

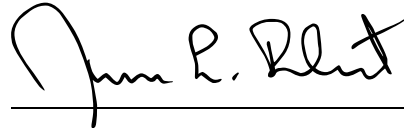
8 In their response to the court’s order to show cause, Plaintiffs have not established
9 that the court has subject matter jurisdiction over Judicial Defendants. Indeed, their
10 allegations regarding Ms. Lennon and Ms. Carlson relate only to those defendants’
11 official capacities as judicial clerks. (OSC Resp. (Dkt. # 5) at 8 (stating that Ms. Lennon
12 “responded with the answer—‘I will place your motion in the “unfiled-papers
13 drawer.””); *id.* (alleging that Ms. Carlson stated Mr. Kelly “cites to no authority that
14 non-adherence to a court order requiring completion of sanity commission proceedings
15 under R.C.W. 10.77.060 within a specific time[]frame implicates the jurisdiction of the
16 court or otherwise requires dismissal”). In addition, as to Judges Sypolt and Murphy,
17 Plaintiffs state only that the judges “both acted upon the usurped authority”—a
18 conclusory allegation insufficient to show the judges acted without jurisdiction or outside
19 of their judicial function. (*Id.* at 10 (underlining omitted)); *see also Ashelman*, 793 F.2d
20 at 1075. Thus, Plaintiffs fail to establish the court’s subject matter jurisdiction over

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1 Judicial Defendants, and the court DISMISSES Plaintiffs' claims against those
2 defendants without prejudice.

3 Dated this 8th day of May, 2018.

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6 JAMES L. ROBART
7 United States District Judge
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