

HONORABLE RICHARD A. JONES

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHEYANNE DIXSON,

Plaintiff,

v.

CITY OF ISSAQUAH POLICE  
DEPARTMENT, *et al.*,

Defendants.

Case No. 2:22-cv-1771 RAJ

**ORDER GRANTING MOTION  
FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

This matter comes before the Court on Defendant’s motion for summary judgment. Dkt. # 21. For the reasons below, the Court **GRANTS** the motion.

**II. BACKGROUND**

In September 2021, the City of Issaquah (“City”) imposed a vaccination requirement for City employees in response to a spike during the COVID-19 pandemic. Dkt. # 23-1 at 17. Plaintiff Cheyanne Dixon, a patrol officer in the City’s Police Department, requested a religious exemption from the requirement. *Id.* at 27. Dixon

1 believes in the Christian religion. *Id.* She sought a religion exemption based on: (1) the  
2 betrayal of faith as God as her ultimate healer; (2) the corruption of blood with unnatural  
3 components not created by God; and (3) the use of aborted fetal tissue in the manufacture  
4 of COVID-19 vaccine in disregard of the sanctity of life. *Id.*

5 On October 1, 2021, the City informed Dixon that it was granting her exemption  
6 request, but it would need more time to evaluate whether a reasonable accommodation  
7 was available and whether that accommodation posed an undue hardship. *Id.* at 32-33.  
8 Several weeks later, the City sent Dixon a letter explaining that it would not be able to  
9 accommodate her in performing her police officer duties unvaccinated without imposing  
10 an undue hardship on the City. *Id.* at 35. In analyzing whether an accommodation could  
11 be made, the City explained that it would evaluate the duties, responsibilities and  
12 working conditions of the police officer position. *Id.* at 33. Relevant factors included: the  
13 daily direct contact that police officers have with the public when delivering services, the  
14 workplace environment where police officers are subject to close contact with other  
15 employees and developments with the virus that have made COVID-19 more contagious  
16 and easier to transmit. *Id.* at 33. Although the City determined that it would impose an  
17 undue hardship to allow Dixon to continue performing her duties unvaccinated on an  
18 ongoing basis, the City offered to accommodate her for a limited period through  
19 December 15, 2021. *Id.* at 36. During this intermediate period, Dixon was required to  
20 take a COVID-19 test two times a week at the beginning of her shift under the  
21 supervision of her supervisor. *Id.* at 34-36. She was also required to wear an N-95 mask  
22 at all times and eat in her vehicle, outside, or off site. *Id.*

23 Dixon received a Notice of Intent to Separate on February 2, 2022, after which  
24 she requested, and received, a Loudermill hearing. *Id.* at 43. At the expiration of the  
25 extended MOU period, Dixon had not become fully vaccinated. Dixon was separated  
26 from the City effective February 16, 2022.

27 On December 15, 2022, Dixon filed her complaint in federal court against “the

1 City of Issaquah Police Department, Mayor Mary Lou Pauly, Wally Bobkiewicz, and  
2 DOES 1-25.” Dkt. # 1. She asserted three causes of action: (1) a failure to accommodate  
3 her religious beliefs as required by Title VII of the Civil Rights Act of 1964, as amended,  
4 42 U.S.C. § 2000e; (2) a parallel claim under Washington’s Law Against Discrimination,  
5 RCW 49.60; and (3) a due process claim under 42 U.S.C. § 1983 based on alleged  
6 violations of RCW 41.12.050 and the Issaquah Civil Service. *Id.* Dixson subsequently  
7 stipulated to the dismissal of Defendants Pauly and Bobkiewicz. Dkt. # 14.

### 8 **III. LEGAL STANDARD**

9 On a motion for summary judgment, the court must draw all inferences from the  
10 admissible evidence in the light most favorable to the non-moving party. *Addisu v. Fred*  
11 *Meyer, Inc.*, 198 F.3d 1130, 1134 (9th Cir. 2000). Summary judgment is appropriate where  
12 there is no genuine issue of material fact and the moving party is entitled to a judgment as  
13 a matter of law. Fed. R. Civ. P. 56(a). The moving party must initially show the absence  
14 of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).  
15 The opposing party must then show a genuine issue of fact for trial. *Matsushita Elect.*  
16 *Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The opposing party must  
17 present probative evidence to support its claim or defense. *Intel Corp. v. Hartford Accident*  
18 *& Indem. Co.*, 952 F.2d 1551, 1558 (9th Cir. 1991). The court defers to neither party in  
19 resolving purely legal questions. *See Bendixen v. Standard Ins. Co.*, 185 F.3d 939, 942  
20 (9th Cir. 1999).

### 21 **IV. DISCUSSION**

#### 22 **I. The Issaquah Police Department Cannot Be Sued**

23 The Issaquah Police Department is the only remaining defendant and argues that it  
24 is not an entity that can sue or be sued. Dkt. # 21 at 15. “The capacity of a governmental  
25 body to be sued in the federal courts is governed by the law of the state in which the  
26 district court is held.” *Bondurant v. City of Battleground*, 2016 WL 6973267, at \*7 (W.D.  
27 Wash. Nov. 28, 2016) (quoting *Avery v. Cnty. of Burke*, 660 F.2d 111, 113-14 (4th Cir.

1 1981)). The Court agrees with the Issaquah Police Department that it is not a proper  
2 defendant and that Washington courts have reached this conclusion on several occasions.  
3 *Lumsden v. City of Bremerton Police Dep't*, 2020 WL 2512880, at \*2 (W.D. Wash. May  
4 15, .2020); *Bondurant*, 2016 WL 6973267, at \*7; *Runnels v. City of Vancouver*, 2011 WL  
5 1584442, at \*10–11 (W.D. Wash. Apr. 27, 2011) (citing *Nolan v. Snohomish Cty.*, 59  
6 Wn. App. 876, 883 (1990)) (“because current Washington case law indicates that a police  
7 department is not a legal entity with the capacity to be sued, Defendants are entitled to  
8 summary judgment of [the plaintiff’s] claims against [the police department].”)

9 Dixson responds that she named the City of Issaquah as a party within her  
10 Complaint and referred to “the City” within the body of the complaint and other  
11 pleadings. Dkt. # 26 at 15. She also argues that the Issaquah Police Department has not  
12 claimed a failure of service against the City and that this defect is curable through  
13 amendment. *Id.* at 15-16.

14 However, Dixson has not created a dispute of fact as to whether she has named or  
15 served a proper defendant. First, Dixson did not include the City of Issaquah in her  
16 complaint caption, and the docket in this matter shows the City is not listed as a party to  
17 this case. Second, Dixson also did not obtain or serve a summons that named the City of  
18 Issaquah, and thus, she did not properly serve the City with process.<sup>1</sup> *See* Dkt. # 3. Under  
19 Rule 4(a), the summons must bear the name of the party to whom it is directed. Fed. R.  
20 Civ. P. 4(a). Finally, the issue was specifically raised in Defendant’s amended answer  
21 which states that “[p]laintiff has failed to name the proper party as defendant, as the  
22 Issaquah Police Department is not a legal entity capable of being sued.” Dkt. # 10 at 6.

23 Because the City of Issaquah Police Department lacks the capacity to be sued, it  
24 must be dismissed from this action. *See Shaw v. City of Bremerton Police Dep't*, 2020

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26 <sup>1</sup> Although Dixson did serve the Mayor, the summons makes clear that the Mayor was  
27 sued and served as an individual, and not on behalf of the City of Issaquah. Dkt. # 3.  
28 Dixson then dismissed her claims against the Mayor with prejudice. Dkt. # 14.

1 WL 816046, \*2 (W.D. Wash. Feb. 19, 2020) (stating that the corrective for the failure to  
2 name the correct party is the dismissal of the wrongly-named party).

## 3 II. Leave to Amend

4 In her response to the City of Issaquah Police Department’s motion for summary  
5 judgment, Plaintiff asks for leave to amend to substitute the City of Issaquah. Dkt. # 26 at  
6 16.

7 “[W]hen a party seeks to amend a pleading after the pretrial scheduling order’s  
8 deadline for amending the pleadings has expired, the moving party must satisfy the ‘good  
9 cause’ standard of Federal Rule of Civil Procedure 16(b)(4), which provides that ‘[a]  
10 schedule may be modified only for good cause and with the judge’s consent,’ rather than  
11 the liberal standard of Federal Rule of Civil Procedure 15(a).” *In re W. States Wholesale*  
12 *Nat. Gas Antitrust Litig.*, 715 F.3d 716, 737 (9th Cir. 2013). This good cause standard  
13 “primarily considers the diligence of the party seeking the amendment.” *Johnson v.*  
14 *Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). “If the moving party ‘was  
15 not diligent, the inquiry should end.’ ” *Neidermeyer v. Caldwell*, 718 F. App’x 485, 489  
16 (9th Cir. 2017), *cert. denied*, 17-1490, 2018 WL 2046246 (U.S. Oct. 1, 2018)  
17 (quoting *Johnson*, 975 F.2d at 609).

18 As noted, the City of Issaquah Police Department filed its amended answer to  
19 Dixson’s complaint on February 9, 2023 asserting affirmative defenses including failure  
20 to name a proper party as a defendant. Dkt. # 10 at 6. The deadline to amend pleadings  
21 was August 2, 2023. Dkt. # 12. However, Dixson only now seeks to amend the pleading  
22 in response to the motion for summary judgment and has offered no explanation for the  
23 undue delay. Therefore, the Court finds that Dixson has not been diligent in seeking  
24 amendment and the inquiry ends there. *Neidermeyer*, 718 F. App’x at 489.

## 25 V. CONCLUSION

26 Therefore, it is hereby **ORDERED** that the City of Issaquah Police Department’s  
27 motion for summary judgment, Dkt. # 21, is **GRANTED**.

1 The Clerk shall enter a **JUDGMENT** and close the case.

2  
3 DATED this 9th day of January, 2024.

4 A handwritten signature in black ink that reads "Richard A. Jones". The signature is written in a cursive style and is positioned above a horizontal line.

5  
6 The Honorable Richard A. Jones  
7 United States District Judge  
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