

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT J. KING,

Plaintiff,

v.

CLALLAM BAY CORRECTIONS
CENTER, et al.,

Defendants.

CASE NO. C11-5269RBL/JRC

ORDER ASKING THE PARTIES FOR
CLARIFICATION AND DENYING
PLAINTIFF'S MOTION FOR
ALTERNATE SERVICE

This is a state tort action with a civil rights claim in it and not, as the Attorney General's Office asserts, solely a federal cause of action (ECF No. 1, page 2 ¶ 5). Therefore, further clarification is required.

The Attorney General's Office removed the action from state court because of the federal claim (ECF No. 1). Plaintiff states that all defendants, except Physician Assistant Gregory C. Miller, have been personally served (ECF No. 11). Plaintiff has a motion pending asking the court to serve defendant Miller (ECF No. 11). Mr. Miller no longer works for the Washington State Department of Corrections and plaintiff does not have a current address for Mr. Miller. Plaintiff asks that the Attorney General's Office accept service on behalf of Mr. Miller (ECF No.

1 11). Plaintiff argues that the defendant is being sued in his official capacity pursuant to RCW
2 4.92.020.

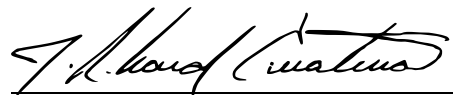
3 The Attorney General's Office has withdrawn from the representation of Mr. Miller and
4 Mr. Miller is now represented by William H. Walsh and Margaret J. Pak (ECF No. 8 and 9).
5 Plaintiff has filed a motion to proceed in forma pauperis, which if granted would obligate the
6 court to attempt service on Mr. Miller on plaintiff's behalf.
7

8 Before considering the motion to proceed in forma pauperis, the court needs to inquire
9 from the parties if service of process on Mr. Miller is still an issue in this action. If Mr. Miller is
10 not contesting service of process, then there is no need for the court to grant in forma pauperis
11 status in this action, since the filing fee has been paid and service has apparently been completed
12 on the other defendants. Therefore, Mr. Miller's counsel will inform the court if their client is
13 contesting service of process on or before July 15, 2011.
14

15 The motion for substitute service, (ECF No. 11), is DENIED. The Washington State
16 Attorney General's Office may accept service on behalf of the state itself, or the state in a state
17 tort action, but that does not make it proper for the Attorney General's Office to accept service
18 on behalf of a person who is now represented by another attorney.

19 The motion to proceed in forma pauperis, (ECF No. 14), is re-noted on the court's own
20 motion for July 15, 2011.
21

22 DATED this 21st day of June, 2011.

23
24 

25 J. Richard Creatura
26 United States Magistrate Judge