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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEFFREY L. WILSON,

Plaintiff,

v.

STATE OF WASHINGTON, et al.,

Defendants.

CASE NO. C16-5366BHS

ORDER GRANTING MOTION
TO AMEND

This matter comes before the Court on Plaintiff Jeffrey Wilson’s (“Wilson”) motion for leave to file a second amended complaint (Dkt. 11). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On April 13, 2016, Wilson filed a civil rights complaint against Defendants Washington State Department of Health and Human Services (“DSHS”), Attorney General of the State of Washington Bob Ferguson, and Does 1 through 50 in Pierce County Superior Court for the State of Washington. Dkt. 1-1.

1 On April 28, 2016, Wilson filed an amended complaint adding Defendant State of
2 Washington. Dkt. 1–2 (“FAC”). On May 17, 2016, Defendants Bob Ferguson, State of
3 Washington, and DSHS (“Defendants”) removed to this Court. Dkt. 1.

4 On June 16, 2016, Wilson filed a motion requesting leave to file a second
5 amended complaint. Dkt. 11. On June 30, 2016, Defendants responded. Dkt. 13. Wilson
6 did not reply. On July 20, 2016, the Court denied the motion. Dkt. 14.

7 On August 4, 2016, Wilson filed the instant motion for leave to file a second
8 amended complaint. Dkt 15. On August 15, 2016, Defendants responded. Dkt. 17. On
9 August 19, 2016, Wilson replied. Dkt. 20.

10 **II. FACTUAL BACKGROUND**

11 Wilson alleges that he was unconstitutionally detained at Washington’s Special
12 Commitment Center for sexually violent predators from July 19, 2001 until April 19,
13 2013. FAC ¶¶ 18–24. Wilson seeks leave to amend for the following purposes: (1) to
14 name one of the Doe defendants; (2) “to add one additional cause of action . . . due to
15 violation of his Fourteenth Amendment Due Process right to reasonably safe conditions
16 of confinement, including adequate medical care”; and (3) “to add a few facts relating to
17 the denial of medical and dental care to him, as well as the unconstitutional conditions of
18 his confinement.” Dkt 15 at 2.

19 **III. DISCUSSION**

20 Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend a
21 complaint “shall be freely given when justice requires.” “[T]his policy is to be applied
22 with extreme liberality.” *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079

1 (9th Cir. 1990). The proposed amendments, however, shall not be made in bad faith,
2 result in undue delay, cause prejudice to the opposing party, or be futile. *DCD Programs,*
3 *Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987). The party opposing the amendment
4 bears the burden of showing it is improper. *Id.*

5 Defendants oppose amending the complaint on the basis that such an amendment
6 would be futile. They argue that the applicable three-year statute of limitations set forth
7 in RCW 4.16.080(2) has already run. Dkt. 17 at 3. Wilson responds that the statute of
8 limitations was tolled pursuant to RCW 4.16.190(1) or, in the alternative, RCW
9 4.100.090. Dkt. 20 at 3. He also contends that the limitation should be equitably tolled.
10 *Id.* at 3–4.

11 Wilson’s proposed new claim raises a concern regarding the statute of limitations,
12 especially where he seeks to add both a new claim and the facts supporting that claim.
13 *Martell v. Trilogy Ltd.*, 872 F.2d 322, 325 (9th Cir. 1989) (“[O]riginal and amended
14 pleadings [must] share a common core of operative facts so that the adverse party has fair
15 notice of the transaction, occurrence, or conduct called into question.”). Wilson’s
16 proposal to substitute a doe defendant raises the same concern. *See Cox v. Treadway*, 75
17 F.3d 230, 239–40 (6th Cir. 1996) (naming “John Doe” defendants in complaint does not
18 serve as commencement of case against real defendants unless requirements of Fed. R.
19 Civ. P. 15(c) for relation back of amended complaints are met); *Brink v. First Credit Res.*,
20 57 F. Supp. 2d 848, 856 (D. Ariz. 1999).

21 Nonetheless, Defendants have failed to show that Wilson’s claims are clearly
22 futile. Instead, Defendants raise issues that are more appropriately addressed in a fully

1 briefed dispositive motion. For example, the issues of tolling will most likely require
2 further development of the record as it is rarely clear from the complaint alone that a
3 party is not entitled to some form of tolling. Similarly, the Court need not address
4 Wilson's request that the amended complaint relate back until the issue is raised in a
5 dispositive motion.

6 Wilson may add his additional allegations and claims.

7 **IV. ORDER**

8 Therefore, it is hereby **ORDERED** that Wilson's motion to amend (Dkt. 15) is
9 **GRANTED.**

10 Dated this 13th day of September, 2016.

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14 BENJAMIN H. SETTLE
15 United States District Judge
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