

1 HONORABLE RONALD B. LEIGHTON

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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 MACK WORLEY,

10 Plaintiff,

11 v.

12 CITY OF VANCOUVER, et al.,

13 Defendants.

CASE NO. C16-5572-RBL

ORDER GRANTING DEFENDANTS'  
MOTION FOR PARTIAL  
DISMISSAL

DKT. #12

14 THIS MATTER is before the Court on Defendants' Partial Motion for Dismissal [Dkt.  
15 #12]. Plaintiff Mack Worley recorded himself walking through the streets of Vancouver with his  
16 rifle slung over his shoulder. Defendant police officers stopped him to inspect the rifle and  
17 arrested him, which he claims violated his right to be free from unreasonable seizures. He asks  
18 for injunctive relief against the officers and Vancouver. Defendants ask the Court to dismiss  
19 Worley's claims for injunctive relief because he cannot establish that an actual controversy exists.

20 Dismissal under Rule 12(b)(6) may be based on the lack of a cognizable legal theory. *See*  
21 *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990). "[A] plaintiff's obligation to  
22 provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a  
23 formulaic recitation of the elements of a cause of action will not do. Factual allegations must be  
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1 enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S.  
2 544, 555 (2007) (citations and footnotes omitted). This requires a plaintiff to plead “more than an  
3 unadorned, the-defendant-unlawfully-harmed-me-accusation.” *Iqbal*, 129 S. Ct. at 1949 (citing  
4 *Twombly*). A court may deny leave to amend if the facts are not in dispute, and the sole issue is  
5 whether there is liability as a matter of substantive law. *See Albrecht v. Lund*, 845 F.2d 193, 195-  
6 96 (9th Cir. 1988).

7 To satisfy Article III’s case and controversy requirements on a claim for equitable relief, a  
8 plaintiff must show a real or immediate threat he will be wronged again. *See City of Los Angeles*  
9 *v. Lyons*, 461 U.S. 95, 111, 103 S. Ct. 1660 (1983) (citing *O’Shea v. Littleton*, 414 U.S. 488, 502,  
10 94 S. Ct. 669 (1974)). Past exposure to illegal conduct does not in itself show a present case or  
11 controversy regarding injunctive relief. *See id.* at 105. Without such showing, the federal courts  
12 lack jurisdiction to entertain a claim for injunctive relief.

13 Worley has failed to demonstrate a case or controversy with Defendants that would  
14 justify the equitable relief he seeks. His standing on these claims depends on whether there is a  
15 likely threat of Defendants again seizing him to examine his rifle and arresting him. That Worley  
16 might have been improperly seized and arrested once for unlawfully displaying a weapon does  
17 nothing to establish that he will be again. His move to Kansas makes any threat of future harm  
18 by Defendants that much more unlikely and that much more indistinguishable from any other  
19 citizen’s potential claim. Because there is no real or immediate threat to Worley that Defendants  
20 will unconstitutionally seize and arrest him, the Court lacks Article III jurisdiction to grant him  
21 injunctive relief.

