

EXHIBIT "A"

"Order Dismissing Complaint With Prejudice"

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES BENJAMIN BARSTAD,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF CORRECTIONS, STEPHEN SINCLAIR, ROBERT HERZOG, JOHN C. DIRETTA, and HJR-192, UCC 101 and UCC 1918(g)

For My REVENGE, I ACCORD AND RELEASED my Accounts, and the Future(s) in Accordance with the Order(s) with the Public Policy, IMMEDIATELY in the Value - EXEMPT FROM LEVY

NO: 2:19-CV-5195-TOR

ORDER DISMISSING COMPLAINT WITH PREJUDICE

By Order filed September 13, 2019, the Court advised Plaintiff, a prisoner at the Coyote Ridge Corrections Center, that a temporary property restriction (i.e., denial of a tablet for 30 days) did not state a viable due process claim under 42 U.S.C. § 1983 and granted him the opportunity to voluntarily dismiss his complaint. ECF No. 8. Ten days later, Plaintiff submitted a 101-page document titled, "Opening Brief." ECF No. 9.

Plaintiff challenges the Group Violence Reduction Strategy (GVRS) set forth

ORDER DISMISSING COMPLAINT WITH PREJUDICE -- 1

EXHIBIT "A"

1 in Department of Corrections (DOC) Policy 470.540 which allegedly punishes
2 prisoners because they have some social interaction with perpetrators of violent acts.
3 ECF No. 9 at 2. Application of this policy apparently resulted in the denial of
4 Plaintiff's tablet for 30 days. Contrary to Plaintiff's assertions, the temporary
5 deprivation of property is insufficient to invoke procedural due process protections
6 under *Sandin v. Conner*, 515 U.S. 472, 483–84 (1995).

7 For the reasons set forth above in and in the Court's prior Order, **IT IS**
8 **ORDERED** the complaint, ECF No. 1, is **DISMISSED** with prejudice as frivolous
9 and for failure to state a claim upon which relief may be granted. 28 U.S.C. §§
10 1915A(b)(1) and 1915(e)(2).

11 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
12 brings three or more civil actions or appeals which are dismissed as frivolous or for
13 failure to state a claim will be precluded from bringing any other civil action or
14 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious
15 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
16 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**
17 **count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may**
18 **adversely affect his ability to file future claims.**

19 Accordingly, IT IS HEREBY ORDERED:

20 1. The complaint, ECF No. 1, is **DISMISSED** with prejudice as frivolous and

1 for failure to state a claim upon which relief may be granted under 28 U.S.C.

2 §§ 1915(e)(2) and 1915A(b)(1).

3 2. Plaintiff's *in forma pauperis* status is revoked.

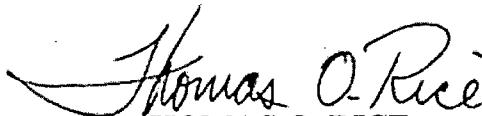
4 3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this

5 Order would not be taken in good faith.

6 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
7 enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE**
8 the file. The Clerk of Court is further directed to forward a copy of this Order to the
9 Office of the Attorney General of Washington, Corrections Division.

10 **DATED** November 12, 2019.



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12 THOMAS O. RICE
13 Chief United States District Judge
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EXHIBIT "B"

"Order Denying Petition for Review"

FILED
SUPREME COURT
STATE OF WASHINGTON
7/10/2019
BY SUSAN L. CARLSON
CLERK

THE SUPREME COURT OF WASHINGTON

JAMES BENJAMIN BARSTAD,) No. 97026-2
Petitioner,)
v.)
STATE OF WASHINGTON,)
Respondent.)
ORDER

Department I of the Court, composed of Justices Fairhurst and Justice Johnson,
Owens, Wiggins and Gordon McLeod, considered at its 2018-0433 EIN No. 32089993
review should be granted pursuant to RAP 192, UCR 10-104 and UCC 1-104
immediately in accordance with the Order(s) to Me
Accepted for Value - EXEMPT FROM LEVY
For My Remedy, Release of
Accounts, and fixtures in the Proceeds, Products,
immediately in accordance with the Public Policy,
Value: \$47,000,000.00; UCC Contract No. 2018-0433 Date: January 30, 2019
EIN No. 32089993 Date: January 30, 2019
Motion Calendar whether
be entered.

IT IS ORDERED:

That the petition for review is denied.

DATED at Olympia, Washington, this 10th day of July, 2019.

For the Court

Fairhurst, C.J.
CHIEF JUSTICE

EXHIBIT "B"

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAN 24 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JAMES BENJAMIN BARSTAD,

Plaintiff-Appellant,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS; et al.,

Defendants-Appellees.

No. 20-35011

D.C. No. 4:19-cv-05195-TOR
Eastern District of Washington,
Richland

ORDER

Before: PAEZ, M. SMITH, and N.R. SMITH, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the notice of appeal, dated December 31, 2019 and filed on January 6, 2020, was not filed or delivered to prison officials within 30 days after the district court's judgment entered on November 12, 2019. *See* 28 U.S.C. § 2107(a); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement of timely notice of appeal is jurisdictional). Consequently, this appeal is dismissed for lack of jurisdiction.

DISMISSED.

**Additional material
from this filing is
available in the
Clerk's Office.**