

EXHIBIT "A"

"Order Dismissing Complaint With Prejudice"

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JAMES BENJAMIN BARSTAD,

Plaintiff,

NO: 2:19-CV-5195-TOR

v.

WASHINGTON DEPARTMENT OF CORRECTIONS, STEPHEN (s) SINCLAIR, ROBERT FERNANDEZ, JOHN C. DITTMER, and FERNANDEZ

ORDER DISMISSING COMPLAINT WITH PREJUDICE

UCC No. 32-6089993  
UCC No. 2016-201-0433  
Date: January 30, 2020  
HJR-192, UCC 10-100 and UCC 1-103(g)  
For My Release in the Order (s) with the Public Policy  
Accounts, Immediately in Accordance with UCC 1-103(g)  
Value: \$17,000,000.00;  
UCC Contradicts.

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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*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge

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EXHIBIT "B"

"Order Denying Petition for Review"

# THE SUPREME COURT OF WASHINGTON

JAMES BENJAMIN BARSTAD,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

No. 97026-2

**ORDER**

Court of Appeals  
No. 35809-7-III

Department I of the Court, composed of Chief Justice Fairhurst and Justices Johnson, Owens, Wiggins and Gordon McCLOUD, considered at its July 9, 2019, Motion Calendar whether review should be granted pursuant to RAP 4(2) and unanimously agreed that the following order 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, CJ.  
CHIEF JUSTICE

EXHIBIT "B"

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

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.**